



Washington
State Department of
Agriculture

2014 Annual Report to the Legislature
As Required by RCW 15.58.420 and RCW 17.21.350

Washington State Department of Agriculture
Pesticide Management Division
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List of Acronyms

ALJ	Administrative Law Judge
C&T	Certification & Training
DOH	Washington State Department of Health
Ecology	Washington State Department of Ecology
EPA	Environmental Protection Agency
FEP	Farmworker Education Program
L&I	Washington State Department of Labor and Industries
NAI	No Action Indicated
NOC	Notice of Correction
NOI	Notice of Intent
PCO	Pest Control Operator
PMD	Pesticide Management Division
PPE	Personal Protective Equipment
RCW	Revised Code of Washington
SPI	Structural Pest Inspector
WAC	Washington Administrative Code
WDO	Wood Destroying Organism
WPS	Worker Protection Standard
WSDA	Washington State Department of Agriculture

Executive Summary

As part of a legislative mandate contained in pesticide law, the Washington State Department of Agriculture's (WSDA) Pesticide Management Division (PMD) has submitted annual reports to the Washington Legislature each February since 1989. Starting with last year's report, two key changes have been made. Instead of reporting on the previous calendar year, which often resulted in incomplete data because of open investigations initiated in the latter part of the year, PMD now reports by fiscal year. Secondly, the report has been expanded to include not only more information on the activities of the pesticide compliance program but new information on other activities of the PMD that help ensure the safe and legal use of pesticides.

WSDA's PMD ensures the safe and legal use of pesticides through: the investigation of pesticide misuse; inspection of users, dealers and distributors; registration of pesticide products; testing, licensing and continuing education of those involved with pesticide use; and, disposal of waste pesticides.

The PMD has a well-defined process for investigating alleged violations of pesticide law to determine if there exists a preponderance of evidence that a violation has occurred. Pesticide drift is the most common complaint investigated by the PMD.

Once an investigation is complete, the PMD will proceed with the appropriate action using an established chain of command review process. Investigators forward their completed investigations to their Area Manager who evaluates possible options ranging from informal actions such as verbal warnings and Notices of Correction (NOC) to formal actions such as civil penalties and/or license suspensions. An NOC is considered a form of technical assistance that details the nature of the violation to the infractor and provides them an opportunity to correct the problem before more formal enforcement action is taken.

RCW 43.05.110 dictates how WSDA will respond to violations including the requirement that an NOC be issued for first time offenses that do not reach certain levels of severity. On one of these – that the violation has a probability of placing a person in danger of death or bodily harm – the PMD has evolved to move to formal action more quickly even if the exposure did not result in any symptoms of illness.

WSDA will proceed with formal enforcement action for repeat violations of the same offense for which an NOC has previously been issued and for those violations that exceed the levels of severity as defined in RCW 43.05.110. When the PMD intends to issue a fine and/or license suspension, the agency must follow due process that includes issuance of a Notice of Intent (NOI), appeal rights and a request for hearing form to the alleged infractor.

The PMD will often negotiate with alleged infractors in order to reach a settlement amenable to both parties. Those cases that are not settled proceed through a process dictated by the Administrative Procedures Act that begins with a hearing in front of an administrative law judge (ALJ) and can proceed through a number of appeal opportunities for the alleged infractor up to and including the Washington State Supreme Court.

PMD initiates investigations as the result of complaints, agency referrals, investigator surveillance and other sources of information. In FY14, the PMD conducted 104 investigations, responding to 100% of human exposure complaints and to 93% of all other complaints within one working day. Eastern Washington staff conducted 65 investigations while Western Washington staff conducted 39. Thirty-nine of the complaints involved drift or over-spray, with 18 of those drift complaints involving alleged human exposure. Of the 27 complaints that involved possible human exposure (18 from drift), some evidence of exposure was found in 17 cases with 15 of them involving an agricultural application. During this same period, the PMD investigated five incidents involving children. One of those investigations ended in a settlement for \$1,600 and a 14-day license suspension while NOIs are pending in the remaining cases.

At the completion of case investigations, the PMD assigns a severity rating of from 0 to 6 with 6 being the most severe and involving a human death. Approximately 76% of cases were given a severity rating of 0 to 2 indicating no health symptoms or environmental damage while 13.5% were classified with a 3 severity rating indicating minor short-term health effects or minor environmental damage. The remaining 10.5% had a severity rating of 4 or 5 indicating more serious health or environmental effects. No cases carried a severity rating of 6.

Of the 104 investigations conducted by the PMD, 58% resulted in some type of action. One third of the violations were the result of commercial applications¹. Fourteen were issued an NOI.

During FY14, the PMD conducted 166 inspections to ensure that applicators, dealers, manufacturers and employers complied with state and federal pesticide law. A significant effort is placed on ensuring compliance with the Worker Protection Standard (WPS), the purpose of which is to protect agricultural employees from exposure to pesticides. The PMD takes violation of the WPS very seriously, moving quickly to civil penalties even for first-time offenders when they place their employees in danger of bodily harm.

The PMD conducted 36 WPS inspections at farms that had used a pesticide in the previous 30 days. During these inspections, 95 distinct violations were found. This resulted in the issuance of 19 NOCs and three farms that are slated to receive an NOI.

The PMD's Certification & Training Program (C&T) helps ensure safe and legal pesticide use through strong certification and farmworker education programs. Many individuals who work with and around pesticides, as well as those performing structural pest inspections, must obtain a WSDA license through the passage of content-relevant exams and participate in continuing education in order to maintain them. C&T works closely with WSU Extension and industry representatives to provide training and testing opportunities throughout the state.

C&T's Farmworker Education Program (FEP) conducts a variety of innovative training programs in Spanish, many in partnership with the agricultural industry, to bring pesticide safety information to thousands of farmworkers each year. Many of these programs use hands-on, interactive techniques that are especially effective for adults with limited literacy skills. The popularity and quality of the programs provided by four highly effective bilingual trainers has resulted in a demand for training beyond the capacity of the program, supported 50% by WSDA funds and 25%

¹ Includes unlicensed commercial businesses that are required to be licensed.

each by L&I and EPA funds.

Legislative Mandate to Submit Annual Report

RCW 15.58.420 and RCW 17.21.350 require the Washington State Department of Agriculture (WSDA) to report annually to the appropriate committees of the House of Representatives and the Senate on the activities of WSDA under Chapters 15.58 RCW, the Washington Pesticide Control Act, and 17.21 RCW, the Washington Pesticide Application Act. These two laws, along with the Rules Related to General Pesticide Use, WAC 16-228, are administered by WSDA's Pesticide Management Division (PMD).

WSDA has submitted annual reports to the legislature since 1989. Whereas previous reports summarized activities that occurred during the calendar year, a change has been made in the reporting period. Starting with last year's report, WSDA now reports activities that occurred during the previous fiscal year, July 1 - June 30. This allows WSDA to provide a more complete review of the work conducted by WSDA in a 12-month period. Reporting by calendar year had resulted in an inability to report final information on investigations initiated later in the year.

The report includes a review of PMD's pesticide incident investigation and enforcement activities, including the number of investigations and the number and amount of civil penalties assessed. It also details the types of inspections conducted with a focus on those to determine compliance with the Worker Protection Standard (WPS). As with last year's report, the FY14 report is also supplemented with information that provides additional detail about compliance program activities including:

- Specific details about each investigation.
- Complaints by category (human exposure, crop damage, etc.) and urban vs. agriculture.
- Enforcement actions on human exposure investigations with specifics on those involving children.
- Investigations and violations by activity, method of application and license type.
- Active ingredients most commonly associated with investigations.

The greater detail being incorporated into this annual report will allow WSDA to provide an analysis of enforcement trends in future reports.

Lastly, the 2014 report provides information on the activities of the Certification & Training Program including the accomplishments of its Farmworker Education Program.

Pesticide Investigations and Enforcement

Under authorities granted by Chapters 15.58 and 17.21 RCW, PMD protects human health and the environment by ensuring the safe and legal distribution, use and disposal of pesticides in Washington. PMD investigates incidents of possible pesticide misuse, storage, sales, distribution, applicator licensing and building structure inspections for wood destroying organisms (WDO) such as termites. The agency also inspects marketplaces, importers, manufacturers, and pesticide application sites for compliance with state and federal requirements. Other activities of the PMD include registering over 13,000 pesticide products and issuing over 24,000 applicator, consultant, dealer and structural pest inspector licenses. PMD also has very active programs for farmworker education and the disposal of unusable pesticides. PMD works closely with other state and federal agencies and actively responds to stakeholder and citizen concerns.

In addition to registering over 13,000 pesticide products, the PMD is very active in the process of finding solutions for growers with particular pest problems for which there is not a registered pesticide available. PMD issues an average of 11 new Section 24c Special Local Need (SLN) registrations each year when there is an existing or imminent pest problem and there is no efficacious product sufficiently available. To qualify for a SLN registration on food crops, the pesticide must have an established tolerance on the crop. There are currently 178 SLNs available for use. SLNs are generally issued with a 5-year time frame to permit a periodic review of the use before reissuing the registration. When there is no tolerance established, PMD can submit a request to EPA for a Section 18 Emergency Exemption from registration. The applicant must demonstrate that the situation is urgent and will result in significant economic loss before EPA will issue a Section 18 and the registrant must be working towards federal registration of the particular use. PMD requests and receives approximately five Section 18s annually. Section 18s and SLNs have been estimated to save the grower community well over 100 million dollars annually in prevention of crop yield and quality losses. WSDA also reviews an average of 25 Experimental Use Permits yearly, which supports research and development of new pesticides and uses.

The PMD's Waste Pesticide Identification and Disposal Program collects unusable agricultural and commercial grade pesticides from residents, farmers, small businesses and public agencies free of charge. Events are held at locations across Washington State where customers can bring their unusable pesticides for proper disposal. In addition, the Program provides direct on-site technical assistance when requested, especially when the customer is unfamiliar with the pesticides or they are physically unable to prepare the chemicals for disposal. The goal of this program is to properly dispose of unused or unusable pesticides to prevent human and animal exposure, prevent use of cancelled pesticides on crops and to help eliminate the potential source of contamination to the environment.

Demand for the disposal program remains high. Since the Program began in 1988, it has safely collected and disposed of over 2.9 million pounds of unusable pesticides from over 7,500 customers. During the last three biennia new on-farm food safety requirements and notable pesticide phase-outs have increased demand for program services that exceeds resources, which are appropriated entirely from the state's Model Toxics Control Account.

Investigation and Enforcement Process

How does PMD's enforcement process work?

PMD has a consistent enforcement process as described below. However, within statutory requirements and limitations, a very unique case may warrant handling in a slightly different manner.

PMD has a well-established process for determining appropriate actions when violations occur. First though, the investigator must obtain sufficient evidence to prove a violation. The “burden of proof” for PMD (and other administrative agencies) is a “preponderance of evidence.” A simple definition of preponderance is “more likely than not.” If an investigator obtains evidence that it is more likely than not that a violation occurred, PMD will proceed with some type of action.

On the surface, “preponderance” seems like a simple way of proving violations of pesticide law but, in reality, it is sometimes very complex. This is especially true in drift complaints where more than one potential source is identified and the various sources use the same pesticides. Consider a drift complaint against an orchardist. If the orchard is the only potential source and the complainant's property tests positive for the same pesticide that the orchardist used, there is likely a preponderance of evidence that a violation occurred. But what if there are other orchards in the area and they use the same pesticides as the first orchardist? Maybe some of them are closer in proximity to the orchard from where the drift was alleged. Could the positive sample analysis be the result of an earlier drift from one of the other orchards? PMD must consider all of the other evidence such as eye-witness testimony, weather records and more in order to make a determination. The reason PMD does not take action in particular cases is the same - the burden of proof was not met.

Each investigation that involves potential violations of pesticide law is treated as unique to the circumstances of the incident. No determinations are made as to whether a violation has occurred until the investigation is completed.

Pesticide drift is the most common complaint investigated by PMD. Violations most commonly cited for drift incidents include the following:

- RCW 15.58.150(2)(c) which prohibits the use of pesticides “contrary to label directions”, and WAC 16-228-1500(1)(b) which prohibits the use of pesticides “inconsistent with the labeling...”
- RCW 17.21.150(4) and WAC 16-228-1500(1)(e) which prohibit operation in “a faulty, careless, or negligent manner.”
- WAC 16-228-1200(1) which prohibits the use of pesticides “in such a manner as to endanger humans and their environment...”
- WAC 16-228-1220(2) which prohibits application of pesticides in a manner that causes injury to humans.

PMD has an established review process for every case investigation. Upon completion of the case, the investigator forwards the entire case file via the Compliance Program's database to their Area Manager. The Area Manager then determines, according to program procedures, whether the case should be closed with no action, a Notice of Correction (NOC) or other informal action, or whether the case should be forwarded for formal action review. Decisions by the Area Manager are guided by the requirements in law (RCW 43.05.110) and program policy. While the occasional minor violation may warrant only a verbal warning or advisory letter, almost all violations result in either an NOC or formal action in the form of a civil penalty (monetary fine) and/or license suspension.

RCW 43.05.110 requires PMD to issue an NOC on all first-time violations unless the violation meets one of the following criteria. The violation:

- has a probability of placing a person in danger of death or bodily harm,
- has a probability of causing more than minor environmental harm,
- has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars, or
- was committed by a business that employs fifty or more employees on at least one day in each of the preceding twelve months.

PMD is required to treat all violations according to the requirements in RCW 43.05.110. Bound by law, PMD has been somewhat conservative in the past on human exposure violations. If a complainant claimed to be exposed to a pesticide, but reported no symptoms or ill effects, PMD usually issued a NOC. With new insight on applying the "probability of placing a person in danger" criteria, PMD's position on such cases has been evolving over the last few years. When people are exposed to a pesticide, they are placed in danger of bodily harm even if they do not become ill from the exposure. Further, persons may be placed in danger of bodily harm even when they are not exposed directly from drift. For example, a highly toxic pesticide drifts onto a residence, but not directly onto any person. Shortly after the drift, the homeowner comes into contact with the residues. In this case, the drift has placed someone in danger of bodily harm. For first-time violations², PMD will evaluate all of the evidence and circumstances and determine whether a civil penalty and/or license suspension is appropriate.

What is the process for formal action?

PMD's process for formal action applies to both inspections (discussed later in this report) and investigations. PMD uses enforcement discretion such as verbal warnings or advisory letters for very minor types of violations. All other types of violations are addressed either with an NOC (referred to as informal action) or by formal action in the form of monetary fines and/or license suspensions.

²The decision on whether a violation should be addressed with an NOC or move forward for formal action review only applies to a first-time violation. If an infractor has previously received an NOC for the same or similar type of violation, WSDA forwards the case for formal action review.

According to RCW 43.05.110, NOCs are a form of technical assistance since they give the infractor a chance to correct violations without receiving a fine or suspension. The NOC describes the violation, the necessary actions to correct it and the date by which it must be corrected. Since it is not a penalty, infractors have no legal right to appeal an NOC. However, PMD has on rare occasions rescinded NOCs when an infractor proved that the NOC was issued in error. One reason an infractor might be interested in getting a NOC rescinded is because the next step is formal action. Though an NOC is technical assistance and meant to provide an opportunity to come into compliance without receiving a fine or suspension, the NOC also becomes the legal foundation for proceeding to formal action if there is a repeat violation of the same or similar law or rule.

Assuming that an NOC was previously issued, or the violation meets one of the criteria in RCW 43.05.110, PMD will proceed with formal action. Any time PMD intends to issue a fine or license suspension, the alleged infractor has certain “due process” appeal rights provided for by law³.

The alleged infractor must first receive notice that PMD intends to assess a fine or suspend their license. PMD provides such notice in a legal document called a Notice of Intent (NOI). The NOI describes the evidence obtained by PMD during the investigation, the particular laws and rules that were violated, and the amount of fine or license suspension that PMD intends to impose. With the NOI, PMD also sends the alleged infractor their appeal rights and a Request for Hearing form, which must be filled out and submitted within 25 days. If the alleged infractor fails to submit the hearing form within the 25-day timeframe, the Director will issue a default order imposing the penalties in the NOI.

The Request for Hearing form allows the alleged infractor to respond in one of three ways. They can admit to the violations and waive their right to a hearing, in which case the director imposes the penalties in the NOI. They can appeal the allegations by requesting a hearing, or they can request to settle the matter while still reserving their rights to a hearing if settlement negotiations are unsuccessful. PMD attempts to settle almost all cases without a hearing. Often times the penalty in the settlement is somewhat reduced from the penalty in the NOI. While it may seem that penalties should not be reduced in settlement agreements, the reality is that administrative hearings are very resource and cost intensive. A reduction in the penalty is sometimes the only incentive for an alleged infractor to settle. Settlement agreements are the normal way of doing business for most administrative agencies.⁴

If a settlement cannot be reached, the case is heard in front of an administrative law judge (ALJ) that is assigned by the Office of Administrative Hearings. After the hearing is concluded, the ALJ issues an Initial Order with his or her conclusions. The ALJ’s Initial Order is reviewed by the Director who will then issue a Final Order. The Administrative Procedures Act (RCW 34.05) provides that the parties have the opportunity to ask for review of any of the findings or conclusions made by the ALJ in the Initial Order and the Director may issue a Final Order that is the same as, modifies or disagrees with the Initial Order. RCW 17.21.340 of the Washington Pesticide Application Act provides that any of the parties or a person aggrieved by a decision of the Director can ask for reconsideration. The Final Order (or order issued after the reconsideration

³WSDA must follow the Administrative Procedures Act, RCW 34.05, and its own administrative procedures policy.

⁴The Administrative Procedures Act strongly encourages agencies to settle matters informally rather than through administrative proceedings; RCW 34.05.060.

process if that occurs) may be appealed to an appropriate Superior Court. The process, called “judicial review”, may result in approval or disapproval of the Director’s Final Order or possibly a remand back for further proceedings before the Director. Further appeals are possible to the state Courts of Appeal or the Washington State Supreme Court. It is very rare for a case to be appealed, but it has happened more than once.

How does WSDA determine the amount of penalty?

As set by statute, the maximum civil penalty that PMD can assess for any single violation is \$7,500. To ensure that penalties are “fair and uniform” PMD uses a penalty matrix in rule, WAC 16-228-1130. The median penalty for a first-time violation when no adverse effects are probable is \$300 and a license suspension of three days. The median penalty for a first-time human exposure violation (or when other adverse effects are probable) is \$450 and a license suspension of seven days; however, PMD typically goes beyond the matrix penalty levels (as allowed by rule), when there are multiple people that are affected by a drift or when there are multiple growers that sustain damage from a single drift event. PMD may also refer appropriate cases to the U.S. Environmental Protection Agency (EPA) for criminal prosecution or civil action. For further explanation of the PMD’s penalty process and the rules that apply to penalties, see Appendix A.

Investigations

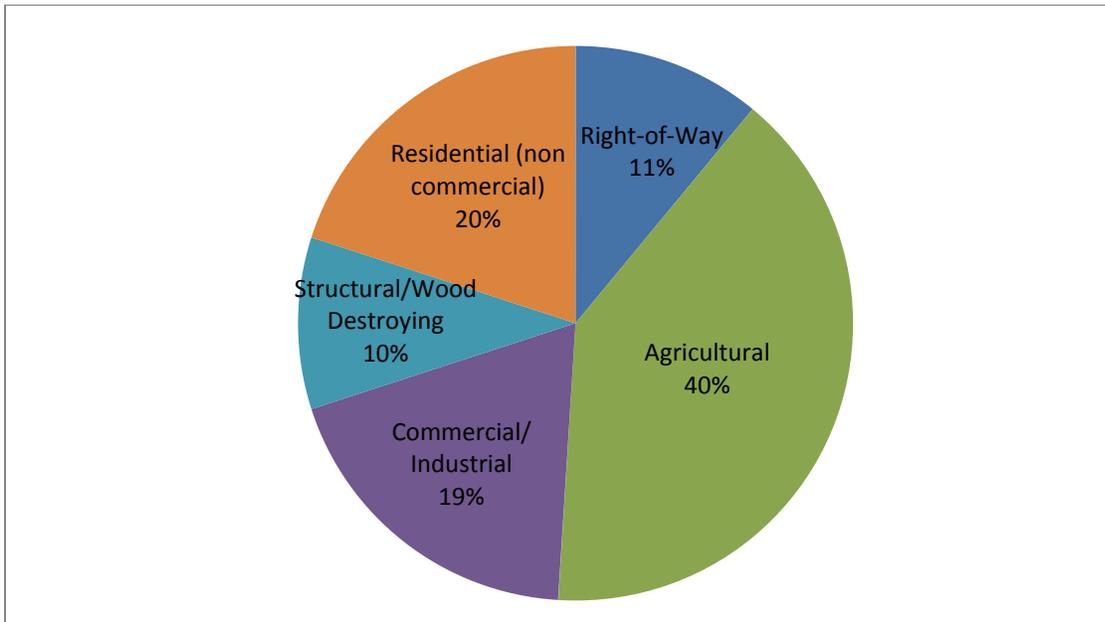
PMD initiates investigations as the result of complaints, agency referrals, investigator surveillance and other sources of information. During FY14 (July 1, 2013 - June 30, 2014), PMD conducted 104 investigations. Nearly 85% of those investigations (88) involved pesticide application, storage, or disposal issues with the remaining 15% unrelated to actual applications (e.g., structural pest inspections, licensing, or distribution incidents).

PMD has a statutory requirement to respond to all human exposure complaints immediately and to all other complaints within 48 hours. PMD responded to 100% of all human exposure incidents and to 93% of all other complaints within one working day. Of those cases that did not involve human exposure, all met the 48-hour response requirement except two, both of which were responded to within 72 hours).

Investigations are classified by PMD according to the following activities:

- Agricultural incidents that occur in farming, forestry or greenhouses.
- Commercial/industrial incidents by licensed operators in offices, restaurants, homes or landscapes.
- Applications or inspections for wood destroying organisms.
- Residential pesticide applications by a homeowner, resident or neighbor.
- Right-of-Way applications made to locations including public and private roadways, electric lines, irrigation canal banks, etc.
- Other including licensing, storage, registration and records.

Figure 1. FY14 PMD Investigations by Type of Activity.



Agricultural Investigations

WSDA conducted 42 agricultural investigations with 39 of them involving drift. Sixteen of those 42 investigations involved orchard applications, and 15 of those sixteen applications were made by air-blast sprayer. The remaining 26 agricultural investigations were comprised of a diversity of cropping systems, application methods, and pesticide types. Orchards tend to be located in more populous areas on the east side of the state and may be on smaller acreages intermixed with other crops, housing and heavily traveled roads. Investigation distribution has been consistent over the years and points to the need for greater education of applicators, particularly in regards to operation of air-blast sprayers and drift reduction techniques.

Non-Agricultural Investigations

Similar to the agricultural investigations but to a lesser extent, drift investigations rank number one for cases within the non-agricultural sector. Other frequent investigations include the failure to obtain the proper license type for the application, inadequate record keeping and the intentional spraying of another person's property.

Location and Frequency of Investigations

There are significant differences in population dynamics, types of pest problems and the nature of investigations between Eastern and Western Washington. Most investigations in Western Washington involved structural pest inspections, residential pesticide applications by a homeowner, resident or neighbor, intentional misuse and unlicensed applicators. Most investigations from Eastern Washington involved agricultural applications, license issues and drift.

Eastern Washington staff conducted 26 more investigations than Western Washington staff (Table 1).

Table 1. Number of FY14 Investigations by County.

Eastern WA Counties	No. of Investigations	Western WA Counties	No. of Investigations
Adams	2	Clallam	0
Asotin	0	Clark	7
Benton	4	Cowlitz	2
Chelan	7	Grays Harbor	0
Columbia	0	Island	0
Douglas	4	Jefferson	0
Ferry	0	King	5
Franklin	6	Kitsap	1
Garfield	0	Lewis	3
Grant	10	Mason	1
Kittitas	0	Pacific	1
Klickitat	1	Pierce	5
Lincoln	0	San Juan	0
Okanogan	2	Skagit	2
Pend Oreille	1	Skamania	0
Spokane	6	Snohomish	4
Stevens	1	Thurston	5
Walla Walla	4	Wahkiakum	0
Whitman	5	Whatcom	3
Yakima	12	W. WA Total	39
E. WA Total	65	Combined WA Total	104

Type of Pesticide Involved

As indicated in Table 2, the vast majority of incidents investigated by PMD in FY14 involved herbicides and insecticides. These two pesticide types are used most frequently and there are more obvious detrimental effects from herbicide and insecticide misuse. Herbicides and insecticides are also generally applied at a higher frequency with power equipment over larger areas. Herbicides in particular are also widely applied by the general public.

Table 2. FY14 Investigations by Pesticide Type.

Pesticide Type	Number of Investigations
Herbicides Only	56
Herbicides Combined w/Other Pesticide Types	2
Insecticides Only	13
Insecticides Combined w/Other Pesticide Types	3
Lime Sulfur as Blossom Thinner	3
Fungicides, Alone and Combined w/Other Types	4
Other Pesticide Types	6

Herbicides constituted the greatest number of investigations with two herbicide active ingredients, glyphosate and 2,4-D, the most frequently involved (Table 3).

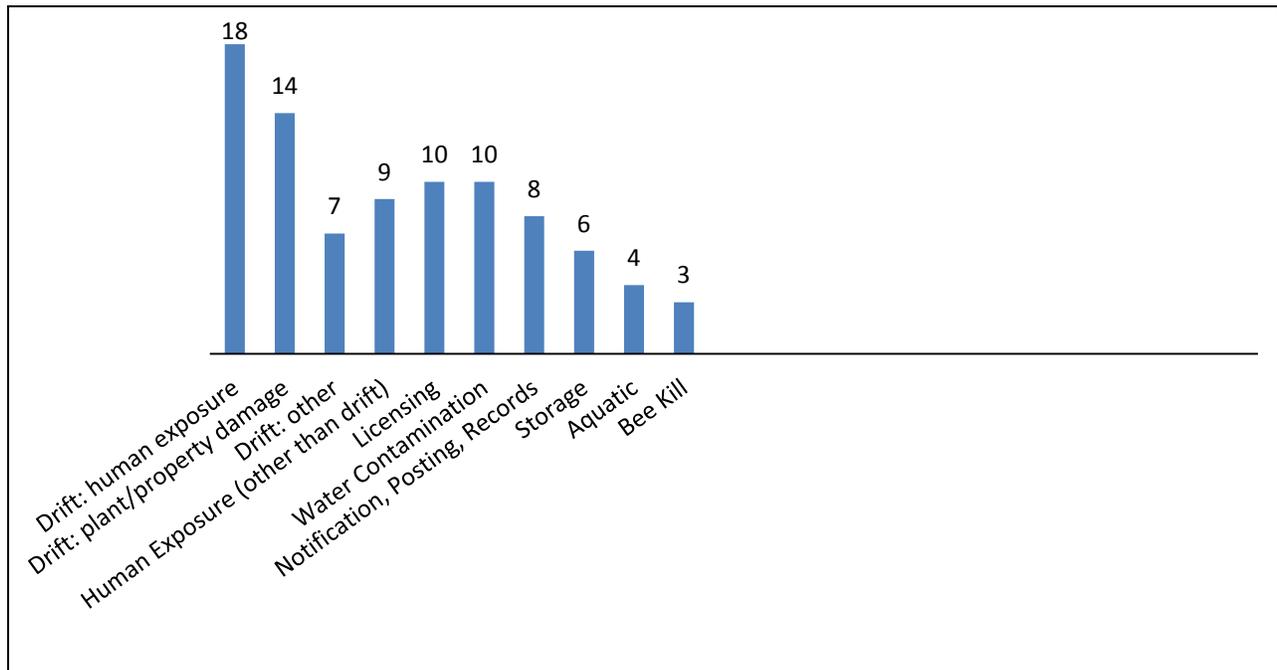
Table 3. Most Common Herbicide Active Ingredients in FY14 Investigations.

Active Ingredient	No. of Complaints
Glyphosate	25
2,4-D	16
Dicamba	7
Triclopyr	7

Nature of Investigations

Drift continues to be the most frequent type of investigation involving pesticide applications. However, investigations of potential misuse – the wrong product used to control pests or complaints about a neighbor’s use – remain frequent. Alleged violations involving licensing, records, notification and pest inspections were the most frequent non-application investigations. Investigations are categorized by the nature of the initial complaint as shown in Figure 2.

Figure 2. Major Categories of Investigations by WSDA in FY14.



An investigation may reveal that the complaint is not valid, substantiate the initial complaint, or find more violations than originally suspected. For example, PMD may investigate an initial complaint about drift but then determine that drift did not occur. However, the investigator may find that the applicator applied at the wrong rate or did not keep proper records. Although the applicator would not be cited for drift, he or she could be cited for being faulty, careless and negligent, use inconsistent with label requirements or for recordkeeping violations.

In this report, when complaints involve multiple categories, the most serious complaint is used to categorize the case. For example, a complaint involving human exposure caused by drift from an application by an unlicensed applicator would be categorized as *human exposure* even if the final

outcome of the case was no action needed or a Notice of Correction for recordkeeping. The initial complaint is usually a fairly reliable indicator of the final outcome of the case and reflects the concerns of the complainant.

Drift and Direct Human Exposure

Though there can be serious incidents of human exposure that are not related to drift, those incidents are the exception rather than the rule. For FY14, the severity rating for investigation findings (discussed later in this report) was very low for all human exposure investigations that were not related to drift with no incident rated higher than a “2” in severity. That is in contrast to drift-related human exposure incidents where 13 of the 18 incidents rated a “3” or higher (Table 4).

Table 4. Severity of Human Exposure, Drift vs. Non-Drift

Human Exposure Incidents	Severity of Findings (see explanation and Table 8, below)						
	“0”	“1”	“2”	“3”	“4”	“5”	“6”
Drift-related	1	2	2	3	3	7	0
Not related to Drift	6	1	2	0	0	0	0

Of the 104 total investigations by PMD in FY14, 39 involved drift. By far, most were the result of ground applications (35 of the 39 investigations). Eighteen of the drift complaints involved possible human exposures while 14 involved alleged plant or property damage (Table 5).

Table 5. FY14 PMD Drift Investigations and Number of Actions Taken.

Category	Human Exposure	Plant/Property Damage	Other*	Total	Total with Action
Aerial Drift Investigations	1	3	0	4	3
Ground Drift Investigations	17	11	7	35	25
Total	18	14	7	39	28

*animal, vehicle and other potential exposures

Of the 18 drift complaints alleging human exposure, some evidence of exposure was found in 15 cases. In three of the cases, there was insufficient or conflicting evidence to support an infraction. Seventeen of the human exposure drift complaints were from agricultural applications while the one other involved a commercial application to a residential landscape.

In April and early May of FY14, WSDA received an unusually high number of complaints of human exposure due to drift from agricultural applications. Most of those applications involved air-blast applications to orchards as discussed below. WSDA issued a news release and other alerts

about the incidents warning applicators that they were responsible to make sure their applications do not drift off-target. Other than out-of-the-ordinary seasonal weather-related factors, the cause of the spike in drift incidents was not determined. Fortunately, the trend did not continue over the season.

Sixteen of the drift investigations involved orchard applications and 15 of those sixteen applications were made by air-blast sprayer. Thirteen of the 16 orchard-related incidents involved applications of insecticides or insecticides in combination with other pesticides (e.g., fungicides, miticides, etc.). The remaining three orchard-related investigations involved applications of lime sulfur as a blossom thinner. There were allegations of human exposure (or exposure to vehicles occupied by persons) in all 16 incidents involving orchard applications. Of the 16 investigations involving orchards, nine resulted in an NOI, two resulted in an NOC, three resulted in no action, one is under legal review and one received an advisory letter. Of the three investigations with no action, there was insufficient evidence to prove a violation in two investigations, and the third investigation was found to involve a fertilizer (no pesticides). Table 6, below, shows the breakdown of actions taken in the orchard-related incidents.

Table 6. Actions on Orchard-Related Investigations

Orchard-Related Investigation Actions	
NOI	9
Currently Under Legal Review	1
NOC	2
Advisory Letter	1
No Action	3
Total	16

Investigations involving Children

During this reporting period, five investigations involved children as detailed in Table 7.

Table 7. PMD FY14 Investigations Involving Children.

Case Summary	Active Ingredient(s)	Outcome of Case
BAO-0002-14: A mother and her two children (ages 14 and 8) were preparing to paint the outside of their house when they were exposed to spray from an air-blast pesticide application at an orchard in close proximity to their home. They experienced sore throats and burning eyes from the exposure, classified by DOH as “confirmed pesticide related illnesses.”	Chlorpyrifos	NOI
MJW-0004-14: A mother, her infant child and the infant’s grandmother were exposed to spray from an	Fipronil	NOI

air-blast pesticide application at an orchard in close proximity to their home. The three people experienced sore throats from the exposure, classified by DOH as “confirmed pesticide related illnesses.”		
RDS-0018-14: A mother and her infant child were exposed to spray drift from a powered backpack sprayer application at a Christmas tree farm next to their property. Mother experienced headache, burning eyes and throat. Mother and child were examined by a physician who did not find any health effects.	Endosulfan	NOI
RDS-0020-14: A husband and wife and their one-year old son were exposed to spray drift from a helicopter application to a strawberry field next to their property. The mother experienced a headache and all three had nausea, classified by DOH as “confirmed pesticide related illnesses.”	bifenthrin Cyprodinil fludioxonil	NOI
VJD-0004-14: A family and friends, including four small children, were exposed to spray drift from a ground-boom application to a fescue field approximately 700 feet away. Some adults experienced headache and burning on face and arms. The children did not experience any reported symptoms.	Azoxystrobin Propiconazole Trinexapac-ethyl	NOC (Note: WSDA issued an NOC rather than an NOI due to reluctance from Complainant to pursue.

Severity of Findings in an Investigation

Upon completion of each investigation, PMD rates the severity of their findings in a particular investigation from 0 to 6, with 6 being the most severe (Table 8).

Table 8. Number and Percentage of FY14 PMD-Investigations by Severity Rating.

Rating	No. of complaints (% of total)	Criteria
0	30 (28.8%)	Problem not due to pesticides and/or no cause determined; Structural Pest Inspection with no violations.
1	31 (29.8%)	Pesticides involved, no residue, no symptoms occurred; possible pesticide problem, not substantiated; issues involving records, registration, posting, notification (multiple chemical sensitivity) or licensing; Classified by DOH as "unlikely" or "insufficient information".

2	18 (17.3%)	Residue found, no health symptoms (human, animal); health symptoms not verified; multiple minor violations; off label use; worker protection violations; PPE violations with no health symptoms; plants with temporary or superficial damage only; Structural Pest Inspection faulty inspections; Health classified "possible".
3	14 (13.5%)	Minor short-term health symptoms (rash, eye irritation, shortness of breath, dizzy, nausea, vomiting); bee kills of less than 25 hives; minor fish kills; economic plant damage under \$1000; evidence of deliberate economic fraud; Health classified "probable".
4	4 (3.8%)	Short-term veterinary or hospital care; bee kills of greater than 25 hives; significant fish kills; significant economic plant damage (over \$1000); environmental damage; illness involving children; Health classified "probable".
5	7 (6.7%)	Veterinary or hospital care overnight or longer; physician diagnosed children's illness as caused by pesticides; animal death due to pesticides; significant environmental damage; Health classified "definite".
6	0	Human death due to pesticides.
Total	104	

Cooperation with Other Agencies

PMD cooperated with other federal, state and local agencies in 33 of the 104 investigations to collect evidence and testimony. Some investigations involved multiple other agencies. Cooperating agencies may independently investigate and report their involvement in these cases. The agencies most frequently consulted were DOH (24) and Ecology (7).

Violations

Investigations may conclude that state or federal laws or rules were violated. Of the 104 complaints investigated, 60 of them resulted in formal and/or informal actions. This equates to approximately 58% of the investigations resulting in an enforcement action. (Refer to Appendix B for a review of all PMD investigations and Appendix C for details of those investigations with formal enforcement action).

Fifty-eight percent of PMD's investigations resulted in some type of action (Table 9).

Table 9. FY14 PMD Investigations and Actions by Type of Activity.

Activity	No. of Investigations	No. With Actions	Percent with Actions
Agricultural	42	27	64%
Commercial/Industrial	35	21	60%

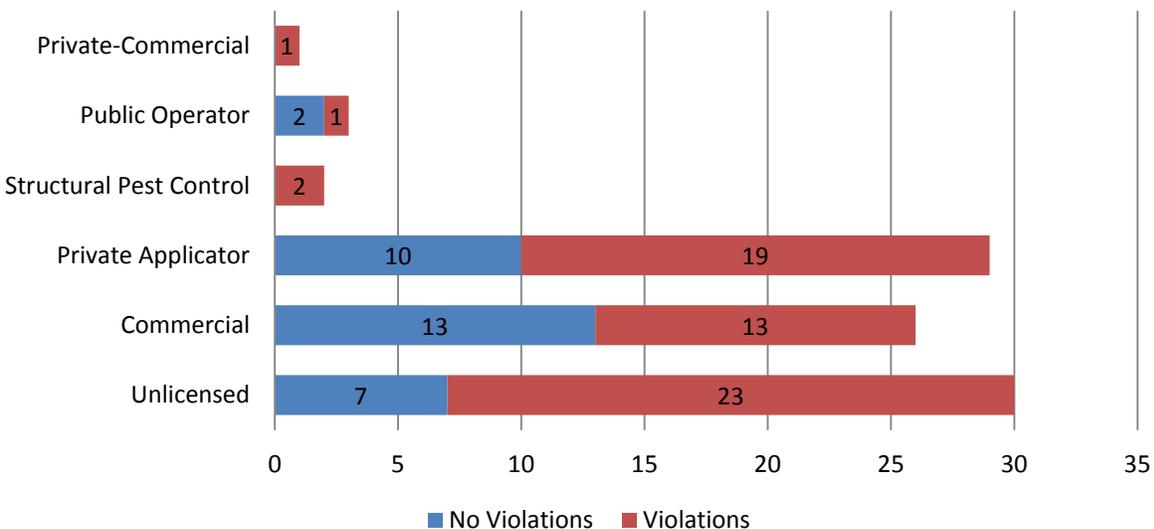
Structural/Wood Destroying	10	4	40%
Residential (noncommercial)	7	3	43%
Right of Way	10	5	50%
Total	104	60	58%

Type of License in Complaints with Violations

PMD licensed about 5,200 Commercial Applicators and Operators and 11,500 Private Applicators in FY14 (Commercial Applicators are in charge of companies that commercially apply pesticides and Commercial Operators are their pesticide-applying employees. Private Applicator licenses are held by farmers and their employees). PMD also issued about 7,300 other license types for a total of about 24,000 licenses.

Commercial applicators and operators were involved in 26 investigations with 13 resulting in an action. Private Applicators were involved in 29 investigations with 19 resulting in an action. Unlicensed individuals were involved in 30 investigations with 23 resulting in an action (Figure 3).

Figure 3. Type of Licensee Involved in Investigations With and Without Violations, FY14.



Enforcement Actions

In FY14, 60 corrective actions were taken or are pending (Table 10). Sometimes, more than one corrective action is taken on a case. In this report, only one corrective action per category is identified. For example, if more than one NOC was issued for a case, it is only counted once. However, if more than one type of corrective action was taken, such as a NOC and a NOI (which could happen if several applicators were involved in the same investigation), both types are listed.

Table 10. Corrective Actions Taken by PMD in FY14.

Action Type	Actions Taken Or Pending
Notice of Correction	44
Notice of Intent	11
Currently under Legal Review	5
Total	60

PMD posts all Notice of Intent information at agr.wa.gov/PestFert/enforcementactions.aspx. This site lists the parties involved as well as the penalty (amount of civil penalty and/or license suspension). PMD does not post information related to NOCs. At the publication of this report, two NOIs were pending final action and five cases were under legal review. Appendix B provides a review of all PMD investigations, and Appendix C details those investigations with formal enforcement actions.

INSPECTION OVERVIEW

PMD Compliance staff based in five statewide locations conducts close to 200 inspections annually. While some inspections are conducted by appointment, most are unannounced and conducted under a cooperative agreement with the EPA.

Inspectors use a standard checklist to measure the level of compliance. The inspections are intended to detect minor problems and correct them before they become unmanageable and potentially dangerous. In addition, they provide a mechanism to educate the regulated community about their legal requirements in order to prevent future violations of pesticide law. While some inspections may take less than 30 minutes to conduct, others may take several hours.

Following is a description of the types of inspections conducted by PMD.

1. **Agricultural Use Inspections** – These inspections are conducted at farms and to commercial operations that conduct pesticide applications in an agricultural setting. They are often the result of inspectors finding applications underway as they are conducting surveillance. All aspects of the application, including label compliance, equipment condition, licensing and proper use of personal protective equipment (PPE) are reviewed in order to determine if the applicator is operating in a safe and legal manner.
2. **Non-Agricultural Use Inspections** – These inspections are similar to agricultural use inspections except they are conducted in non-agricultural settings and involve mostly commercial and public entities. Examples of non-agricultural settings where inspections are conducted include landscapes, structures, athletic fields, parks, schools and rights-of-ways.
3. **Applicator Licensing/Records Inspections** - These inspections are targeted primarily at businesses that commercially apply pesticides. The focus of the inspections is to determine if the business, employees and equipment are properly licensed with PMD, ensure that they are maintaining the required pesticide application records and that their use and storage practices are in compliance with pesticide law.
4. **Dealer Records Inspection** - These inspections are conducted at pesticide sales outlets that distribute non-home and garden pesticides. Inspectors determine if the outlet is properly licensed as a Pesticide Dealer and ensure that an individual licensed as a Dealer Manager is on site whenever pesticides are distributed. They also ensure that the dealer is maintaining the proper sales records, distributing restricted pesticides to only those with a proper license and maintaining their pesticide inventory in a safe, clean and legal manner.
5. **Marketplace Inspections** - These inspections are conducted at facilities that distribute any type of pesticide including those labeled for home and garden use. Examples include grocery, hardware, general merchandise and drug stores. The focus of these inspections is to search for canceled, suspended and unregistered products, check for required child resistant packaging and detect products in leaking or otherwise damaged containers. These inspections provide a means to remove violative products from the marketplace before they can cause harm to consumers.
6. **Producer Establishment Inspections** - These inspections are conducted at facilities that produce or repackage pesticides. The purpose of these inspections is to detect violations of federal law related to the labeling, distribution, storage and disposal of the establishment's

pesticides before the pesticides are distributed.

7. **Worker Protection Standard (WPS) Inspections** - These inspections are conducted at agricultural establishments with employees that work directly with pesticides or who enter fields that have been recently treated. The purpose of the inspections, which are very detailed in nature, is to determine if the employer is in compliance with the state and federal WPS, which requires an array of protections including training, notification of pesticide applications, field posting and proper use of PPE.

Table 11. Number of FY14 Inspections Conducted and Enforcement Actions Taken.

Inspection type	Number inspected	Enforcement actions	
		NOCs	NOIs
Agricultural Use	64	33	2
Non-Agricultural Use	34	23	1
Applicator Licensing/Records	9	16	0
Dealer Records	17	6	2
Market Place	14	5	0
Worker Protection Standards	36	19	2
Producer Establishment	4	All referred to EPA for potential action.	

Worker Protection Standard Inspections

A significant portion of PMD's compliance and outreach efforts are focused on ensuring compliance with the Worker Protection Standard (WPS). Since the inception of the WPS, PMD staff has conducted numerous outreach, training and inspection efforts across the state to explain the rule's requirements and to assist with compliance. While all types of agricultural establishments must comply with WPS, the majority of outreach and compliance work is directed at orchards as indicated in Table 12.

Table 12. FY14 WPS Inspection Sites.

Inspection Site	No. of Inspections
Orchards	18
Row Crops	5
Nursery/Greenhouse	4
Vineyards	2
Combinations of Above	4
Other (turf, Ag Research)	3
Total	36

WSDA's outreach, training and inspection efforts are performed with the primary goal of gaining compliance without having to issue an enforcement action. However, repeat violations and those that pose imminent danger to employees are taken very seriously and dealt with to the fullest

extent even for first-time violations. In 2008, PMD implemented a policy that elevates certain first-time violations of the WPS for formal action review. Within the parameters of RCW 43.05.110, this policy recognizes that pesticide handlers (those who work directly with pesticides) are indeed placed in danger of bodily harm when they are not provided with personal protective equipment (PPE) or decontamination supplies. The probability of placing a person in danger also exists when handlers are not informed of label safety requirements, not properly trained to apply Category I (highly toxic) pesticides and when they are not monitored at least every two hours while applying Category I pesticides.

Determining when a worker⁵ is placed in danger of bodily harm is more difficult since workers are not directly exposed to pesticide concentrates or to pesticides during applications. After a pesticide is applied, the danger that it will cause harm decreases as time passes. In order to account for this lesser exposure, PMD developed a matrix to determine when a worker has been placed in danger of bodily harm. The matrix takes into account the toxicity of the pesticide, how much time has elapsed since the application, whether PPE and decontamination supplies were readily available and whether notification of the application was provided. A point scale is associated with each of these elements. The decision for formal action review is based upon the accumulation of a specific number of points from all the elements. (See Appendix D for PMD’s WPS Civil Penalty Policy.)

During FY14, 36 Tier 1 WPS inspections⁶ were conducted by PMD’s compliance staff, almost all of them were unannounced. A total of 19 NOC’s were issued to the first time violators. Inspections at three farms were found to have significant violations and have received or are slated to receive an NOI.

Elements of Inspections

WPS inspections entail a number of major elements as detailed in Table 13. The 19 NOCs and two NOIs issued for the 36 FY14 WPS inspections included 95 distinct violations. Note: The elements listed are those which are included on the WPS Compliance Checklists, versions of which are available online at <http://agr.wa.gov/PestFert/Pesticides/WorkerProtection.aspx#Resources>.

Table 13. Number of Violations by Element for FY14 WPS Inspections.

Inspection Elements	Violations
Pesticide Safety training	25
Decontamination	20
Central posting	19
Personal Protective Equipment	16
Notice of Application	11
Emergency Assistance	2
Mix/Loading, Applications and Equipment	1
Information Exchange	1
Total	95

⁵ A “worker” is an individual who works in areas where pesticides have been applied but who does not directly handle pesticides.

⁶ Tier 1 WPS inspections are those inspections that are conducted at the time an application is occurring or within 30 days of the last pesticide application.

Certification & Training

PMD’s Certification & Training (C&T) program is responsible for licensing pesticide applicators, consultants, dealers and structural pest inspectors (SPI) and administering a continuing education program for them know as recertification. C&T also conducts a variety of pesticide licensing, recertification and safety courses through its Farmworker Education Program.

Licensing

Pesticide Licensing works to ensure that those involved with pesticide use and structural pest inspections are competent and provided opportunities to continually develop their knowledge, skills and abilities. All licenses administered by PMD require applicants to pass one or more closed book exams that address pesticide law, safety and category specific information. SPIs are required to accurately identify structurally destructive pests and their damage. Five of the most commonly taken exams are available in Spanish. This is critical for Washington agriculture since the majority of the workforce is Hispanic. PMD’s and WSU’s Pesticide Education Program work closely together and with subject matter experts from industry to develop and maintain relevant exams and study material in both English and Spanish.

PMD strives to provide a variety of testing options for its customers. License testing occurs at all PMD offices on a weekly or monthly basis, at the conclusion of large WSU pre-license training programs in English and Spanish pre-license training courses administered by PMD, at many county extension offices and by request to groups of 15 or more. Table 14 details testing data for calendar year 2013.

Table 14. 2013 Totals for PMD Pesticide and SPI Exams.

Testing Totals		
Location	Testers	No. of Tests
Everett	491	915
Olympia	1451	2,700
Yakima	999	1,616
Spokane	431	779
Moses Lake	335	454
E Wenatchee	229	332
WSDA Pre-license (Spanish)	279	281
WSU Pre-license	667	1,465
Other	351	454
Total All Sites	5,233	8,996

In 2013, PMD issued over 24,000 licenses to approximately 22,000 individuals. A number of exams were developed or revised. These included slight revision of the three weed exams (ornamental, rights-of-way and agricultural), implementation of a new Post Harvest Potato Storage Exam and moderate revision of the Private Applicator Exam.

Since the inception of a new database in 2007, PMD has worked diligently to provide licensees with the information they need to manage their license accounts. Records, including completed recertification credit reports, are displayed online and licenses can be renewed electronically. In addition, licensees can search for open recertification courses by location, language and topic.

Recertification

License holders are required to meet recertification credit requirements every five years or retest. Private Applicators (farmers and their licensed employees) are required to earn 20 credits over the five year period while all other license types must earn 40. Over 90% of licensees choose to meet the credit requirement rather than retest.

With the exception of its Farmworker Education Program (FEP), PMD does not sponsor recertification courses but accredits those conducted by a variety of sponsors. For calendar year 2013, PMD accredited approximately 1,540 recertification sessions included within over 610 courses. A growing number of these sessions are provided in Spanish to better serve the Hispanic licensed community. PMD's Farmworker Education Program staff sponsor or are invited as speakers at a large number of these Spanish-language courses.

Farmworker Education Program

Each year, WSDA's Pesticide Management Division's (PMD) Farmworker Education Program (FEP) provides pesticide safety training directly to thousands of farmworkers and indirectly to many more through its Worker Protection Standard (WPS) Train-the-Trainer program and partnerships with employers and groups. PMD has four farmworker education trainers on staff. All are native Spanish speakers with extensive experience in production agriculture. These four positions are funded approximately 50% by EPA grant dollars and L&I's accident account and 50% by ag local funds. *Note: Because of the very high demand for the services offered by the FEP and its limited resources, the program has been forced to turn away requests for training in recent years.*

PMD's training focuses primarily on farmworkers who handle and apply pesticides, but the FEP also provides some training to fieldworkers who work in fields and orchards where pesticides have been applied. Most training is conducted in partnership with agricultural organizations, growers and non-profit organizations. These partnerships are a key to PMD maximizing its limited resources. In FY14, our partners included the WA State Migrant Council, KDNA Radio, Farm Bureau, Growers Clearing House, Association of Wine Grape Growers, GS Long Co., Wilbur Ellis, Ste. Michelle Farms and individual growers/employers. The program also partners with L&I, DOH, Employment Security, WSU, UW and community colleges.

Specifically, the FEP conducts the following types of training programs:

- **Worker Protection Standard (WPS) training:** Agricultural employers are required to provide specific protections and training to their employees who work with pesticides or in

recently treated fields, nurseries and greenhouses. PMD provides a variety of training programs on WPS.

- ◆ WPS Worker & Handler Training – 2-4 hour pesticide safety training for farmworkers and pesticide handlers covered by WPS.
- ◆ WPS Hands-on Handler Training – Full-day workshop for up to 50 pesticide handlers in safe pesticide handling techniques. The workshops provide practical, hands-on training in small groups that rotate through modules on mixing and loading, selection, removal and decontamination of personal protective equipment, proper application techniques and clean-up and disposal. In FY14, 583 handlers from 133 agricultural establishments received training at 15 workshops and through the assistance of 17 community partners.
- ◆ WPS Hybrid Hand-on Handler Training – In FY12, the FEP was approached by GS Long, a large agrochemical dealer in eastern Washington, with the idea of conducting a hybrid version of the very successful and interactive Hands-on Handler Training for up to 250 participants. While our training team was initially reluctant to attempt to replicate this interactive training on such a large scale, they agreed to conduct a pilot workshop. GS Long committed to putting forth all logistical resources necessary for success and PPE suppliers agreed to donate the additional supplies and equipment necessary to train such a large group. While there were challenges that had to be overcome, the training was a big success. In FY13, with lessons learned from the pilot incorporated into both logistical support and the curriculum, three of the hybrid workshops were conducted for 514 pesticide handlers from 117 agricultural establishments. In FY14, four hybrid workshops were conducted for 728 handlers from 162 establishments.
- ◆ WPS Train-the-Trainer Training – This one-day workshop prepares trainers from farms and orchards to effectively deliver WPS-mandated pesticide safety training to their employees. Participants learn what topics need to be covered, effective training methods, how to handle cultural differences and how to create a good learning environment. During FY14, the FEP conducted two Train-the-Trainer workshops for 51 trainers, supervisors and safety officers from 18 separate agricultural establishments. WSDA inspectors find that farms that employ an individual who has completed this training have greater compliance with WPS.
- ◆ **Piloted in 2014 – Respirator Fit-test Train-the-Trainer** – This one-day pilot workshop was conducted in partnership with the Washington Growers League. Another is scheduled for 2015.
- **Pesticide Licensing training:** Some farmworkers need to have a pesticide applicator license to perform their work duties. PMD’s Farmworker Education Program provides the following Spanish-language training to help farmworkers obtain and maintain needed pesticide licenses.
 - ◆ Pre-license training – Six-day/two-hour-per-day intensive course that covers pesticide law, safety, and application techniques. Prepares participants for the Private Applicator exam. In FY14, the FEP conducted eight pre-license courses for 363 participants.
 - ◆ Recertification – PMD trainers are involved in planning, organizing, coordinating and/or presenting Spanish-language continuing education programs on a range of topics

including pesticide safety, pest control, and integrated pest management. Many of these recertification courses are conducted in cooperation with agricultural industry groups, providing information particularly relevant to the target audience. Because of the time invested in this effort, the number and quality of Spanish-language recertification courses has improved dramatically over the past decade. PMD staff has been instrumental in assisting WSU's Pesticide Education Program in developing and implementing online pre-license and recertification courses in Spanish.

In addition to these workshops and training sessions, PMD Farmworker Education specialists provide trainings requested by growers on such topics as properly using personal protective equipment, calibrating air blast sprayers, combating heat stress, and how to perform respirator fit tests. The training is conducted on site, is as interactive and hands-on as possible, and is specifically targeted to the needs of the farm. This training is often conducted following an inspection by PMD and assists growers to come into compliance with pesticide law.

PMD trainers also regularly participate in radio programs providing pesticide safety information to the farmworker community, translate materials into Spanish, and work with other agencies, farmworker advocacy groups, and the agricultural community to address farm worker safety issues.

Table 15. FEP Training Totals for Non-Recertification Courses, FYs 10-14.

Training	FY 10	FY 11	FY 12	FY 13	FY 14
Hands-on Handler (Traditional & Hybrid)	462	600	1,057	1,183	1,311
Train-the-Trainer	161	59	75	71	51
Pre-license	302	323	331	418	363
Other Worker & Handler	142	589	983	434	406
Total Non-Recertification	1,067	1,571	2,446	2,106	2,131

Appendix A

WSDA Penalty Process and Rules

How does WSDA determine the amount of penalty?

As set by statute, the maximum penalty that WSDA can assess for any single violation is \$7,500. To ensure that penalties are “fair and uniform” WSDA uses a penalty matrix in rule (WAC 16-228-1130). The matrix takes into account the seriousness of the violation, whether it is a first or a repeat offense, and whether there are any aggravating or mitigating factors involved. Larger penalties often reflect repeat offenses or multiple violations within the same incident.

If the violation involves human exposure, property damage, or environmental harm, it is assessed on the “adverse effects probable” side of the matrix. All other violations are assessed on the “adverse effects not probable” side. As required by rule, WSDA assesses the median penalty unless there are mitigating or aggravating factors involved for which they would assess the minimum or maximum penalty, respectively.

WSDA cannot assess a penalty higher than \$7,500 for a single violation, but the penalty rules (WAC 16-228-1100 through 16-228-1130; below) do allow WSDA to assess penalties beyond the levels in the matrix when there are aggravating factors present. For example, WSDA finds that a pesticide applicator drifted onto several farmworkers causing them all to become ill. If it is a first-time violation, the matrix indicates a penalty of \$450 and/or a 7-day license suspension. Even considering the aggravating factors in this case, the matrix only allows a \$550 fine and/or 9-day license suspension for the maximum penalty. The rules specifically allow WSDA to go beyond this maximum penalty for particularly egregious violations. WSDA uses this authority with discretion, typically when there is willful negligence, when multiple people are affected by a drift, or when multiple growers sustain damage from a single drift event.

According to WAC 16-228-1100(1), “regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation...”. Typically PMD assesses both the civil penalty and the license suspension as provided in the penalty matrix. PMD considers the two components essentially equal in weight. When PMD determines that a license suspension would not be an effective deterrent, WAC 16-228-1120(2) allows PMD to “proportionately increase the civil penalty and proportionately decrease the licensing action...” In such cases, PMD doubles the civil penalty while eliminating the license suspension. This occurs most frequently when an infractor does not have a license to suspend although there can be other circumstances that merit a proportional increase.

Specific requirements for determining the “level of violation” are found in WAC 16-228-1110(2). When a past action has placed an infractor at a specific level of violation, and the infractor commits another violation, PMD must take into account at what point the past action was fully adjudicated. (An action is fully adjudicated on the date that a Final Order is issued by the Director.) If the past action has been fully adjudicated, the current violation will normally be assessed at the next level of violation. However, if the current violation is committed prior to the last action being fully adjudicated, the level of violation stays at the same level as the past action. This can happen when there is a series of violations that occur over a short time frame.

The penalty rules, including the penalty matrix, are as follows:

16-228-1100 What is the basis for penalties?

For the purpose of fair, uniform determination of penalty as set forth in WAC [16-228-1110](#) through [16-228-1150](#), the director hereby declares:

(1) Regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation(s); and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapter [17.21](#) RCW, chapter [15.58](#) RCW, and/or rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

16-228-1110 What are the definitions specific to penalties?

In addition to the definitions set forth in RCW [17.21.020](#), [15.58.030](#), and WAC [16-228-1010](#), the following shall apply to WAC [16-228-1100](#) through [16-228-1150](#):

(1) "Adverse effect(s)" means that the alleged activity actually causes, or creates the possibility of damage, injury or public health threat, to humans, animals, plants, property or the environment. In those situations involving a wood destroying organism inspection, adverse effects exist when the inspection has been performed in a faulty, careless or negligent manner.

(2) "Level of violation" means that the alleged violation is a first, second, third, fourth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior incident(s) which resulted in a violation or violations within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior incident which resulted in a violation or violations within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(e) For purposes of calculating the level of violation, prior incidents will be measured from the date that a final order or stipulated order resolved the prior violation(s), and not from the date that the incident(s) occurred.

(3) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(4) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(5) "Violation" means commission of an act or acts prohibited by chapter [17.21](#) RCW, chapter [15.58](#) RCW, and/or rules adopted thereunder.

(6) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law, or rules. The term does not include any criminal penalty, damage assessment, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(7) "Notice of Correction" means a document issued by the department that describes a condition or conduct that is not in compliance with chapter [15.58](#) or [17.21](#) RCW, or the rules adopted under the authority of chapter [15.58](#) or [17.21](#) RCW and is not subject to civil penalties as

provided for in RCW [43.05.110](#). A notice of correction is not a formal enforcement action, is not subject to appeal and is a public record.

(8) "Notice of intent" means a document issued by the department that alleges specific violations of chapter [15.58](#) or [17.21](#) RCW, or any rules adopted under the authority of those chapters. A notice of intent is a formal enforcement document issued with the intent to assess civil penalties to the alleged violator and/or to suspend, deny or revoke the alleged violator's pesticide license.

16-228-1115 When can the department issue a civil penalty without first issuing a notice of correction?

(1) Pursuant to RCW [43.05.100](#) a notice of correction may be issued by the department when they become aware of conditions and/or conduct that are not in compliance with the applicable laws and rules enforced by the department. The issuance of a notice of correction by the department shall not constitute a previous violation for purposes of WAC [16-228-1110](#)(2), but may, at the discretion of the department, be considered as an aggravating factor for the purposes of WAC [16-228-1120](#)(2).

(2) Prior to issuing a civil penalty for a violation of chapter [15.58](#) or [17.21](#) RCW, and the rules adopted under the authority of chapter [15.58](#) or [17.21](#) RCW the department shall comply with the requirements of RCW [43.05.110](#). RCW [43.05.110](#) provides that the department of agriculture may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months.

16-228-1120 How are penalties calculated?

(1) Median penalty selection. In the disposition of administrative cases, the department shall use the penalty assignment schedule listed in WAC [16-228-1130](#) to determine appropriate penalties. The department shall calculate the appropriate penalty based on the level of violation and the adverse effect(s) or potential adverse effects at the time of the incident(s) giving rise to the violation. The median penalty shall be assessed unless a proportionate adjustment is warranted and/or there are aggravating or mitigating factors present. The median penalty as listed in WAC [16-228-1130](#) may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation in the penalty assignment schedule table. The median penalty under the penalty assignment schedule may not be proportionately adjusted and/or mitigated to a level less than the minimum penalty listed for the violation.

(2) Proportionate adjustment of median penalty.

(a) The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action under certain circumstances. Such circumstances

include situations where licensing action(s) as a deterrent are ineffective and include, but are not limited to:

(i) Violations by persons who are not licensed; and

(ii) Situations where the civil penalty assessed is not substantially equivalent to the violator's economic benefit derived from the violation.

(b) The department also reserves the right to proportionately decrease the civil penalty and increase the licensing action in circumstances that demonstrate the ineffectiveness of a civil penalty as a deterrent. Nothing shall prevent the department from proportionally adjusting a licensing action to a level greater than the maximum licensing action listed in the penalty assignment schedule.

(3) Aggravating factors. The department may consider circumstances enhancing the penalty based on the seriousness of the violation. Aggravating factors include, but are not limited to, the following:

(a) The number of separate alleged violations contained within a single notice of intent.

(b) The high magnitude of the harm, or potential harm, including quantity and/or degree, to humans, animals, plants, property or the environment caused by the violation(s).

(c) The similarity of the current alleged violation to previous violations committed within the last three years.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct.

(4) When the department determines that one or more aggravating factors are present, the department may assess the maximum penalty as listed within the level of violation or may, in its discretion, increase the penalty to a level greater than the maximum penalty, including but not limited to revocation of the license.

(5) Mitigating factors. The department may consider circumstances reducing the penalty based upon the seriousness of the violation. Mitigating factors include but are not limited to, the following:

(a) Voluntary disclosure of a violation.

(b) The low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

(c) Voluntary taking of remedial measures that will result in increased public protection, or that will result in a decreased likelihood that the violation will be repeated.

(6) When the department determines that one or more mitigating factors are present, the department may assess the minimum penalty for the violation from the penalty schedule.

(7) The department considers each violation to be a separate and distinct event. When a person has committed multiple violations, the violations are cumulative for purposes of calculating the appropriate penalty. Penalties are added together.

(8) Violation(s) committed during the period when an individual's license is suspended or revoked shall be subject to the maximum civil penalty of seven thousand five hundred dollars and/or revocation of the license for a period of up to five years. Violation(s) committed by unlicensed individuals are subject to the provisions of this chapter, including the penalty provision.

16-228-1125 When can the department revoke or deny a license?

(1) The department retains the sole discretion to determine when an individual license should be revoked rather than suspended. Revocation of a license shall be an option for the department in those circumstances where:

- (a) The penalty schedule allows for revocation; and/or
- (b) One or more aggravating factors are present; and/or
- (c) The duration of the licensure action exceeds six months.

In circumstances where the department determines revocation to be appropriate, the period of revocation shall be determined at the discretion of the department, but in no instance shall the revocation exceed five years.

(2) The department may deny an applicant a license when the applicant has committed a violation(s) of chapters [15.58](#) and [17.21](#) RCW and/or the rules adopted under those chapters. The duration of denial shall be determined based upon the penalty provisions of this chapter. In circumstances where the department determines denial to be appropriate, the period of denial shall not exceed five years.

(3) Nothing shall prevent the department from denying an applicant a license when the applicant has an outstanding civil penalty owed to the department from a previous violation(s).

(4) The department may, at its discretion, suspend a license without also seeking a civil penalty. Such circumstances include, but are not limited to, those incidents where a civil penalty is not available as an appropriate penalty pursuant to RCW [43.05.110](#). The appropriate period of suspension shall be determined from the penalty schedule.

16-228-1130 What is the penalty assignment schedule?

This assignment schedule shall be used for violations of chapter [17.21](#) or [15.58](#) RCW or chapter [16-228](#) WAC. (See WAC [16-228-1150](#) for other dispositions of alleged violations, including Notice of Corrections.)

LEVEL OF VIOLATION	ADVERSE EFFECTS NOT PROBABLE			ADVERSE EFFECTS PROBABLE		
	MINIMUM	MEDIAN	MAXIMUM	MINIMUM	MEDIAN	MAXIMUM
FIRST	\$200 and or 2 days license suspension	\$300 and or 3 days license suspension	\$500 and or 6 days license suspension	\$350 and or 5 days license suspension	\$450 and or 7 days license suspension	\$550 and or 9 days license suspension
second	\$350 and or 3 days license suspension	\$500 and or 6 days license suspension	\$1000 and or 9 days license suspension	\$600 and 10 days license suspension denial or revocation	\$1300 and 20 days license suspension denial or revocation	\$2000 and 30 days license suspension denial or revocation
third	\$700 and or 4 days license suspension	\$1000 and or 9 days license suspension	\$2000 and or 12 days license suspension	\$800 and 30 days license suspension denial or revocation	\$2400 and 40 days license suspension denial or revocation	\$4000 and 50 days license suspension denial or revocation
fourth or more	\$900 and or 5 days license suspension denial or revocation	\$2000 and or 12 days license suspension denial or revocation	\$3000 and or 15 days license suspension denial or revocation	\$1000 and 50 days license suspension denial or revocation	\$4250 and 70 days license suspension denial or revocation	\$7500 and 90 days license suspension denial or revocation

16-228-1150 What are the other dispositions of alleged violations that the department may choose?

Nothing herein shall prevent the department from:

(1) Choosing not to pursue a civil penalty, license suspension or license revocation.

(2) Issuing a notice of correction in lieu of pursuing a civil penalty, license suspension or license revocation.

(3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

(4) Referring violations or alleged violations, to any federal, state or county authority with jurisdiction over the activities in question, including but not limited to the Environmental Protection Agency (EPA) and the Federal Aviation Administration (FAA).

Appendix B

FY14 Investigations Data

ACB-0024-13 Allegation or Issue Investigated:	Herbicide application on river bank, insufficient posting distance downstream (Ecology permit requirement).
County:	Pend Oreille
Pesticide Type (active ingredient):	Herbicide (diquat)
License Type:	Commercial Applicator
Human Exposure people/description:	None
Severity:	1
Application Site and Equipment:	Aquatic; Injection from boat
Other Agencies Involved:	Ecology
WSDA Response Time:	Next day
Final Action:	No Action: No violation of WSDA pesticide laws/rules.

ACB-0025-13 Allegation or Issue Investigated:	City maintenance crew drifted onto residential property, failed to notify the resident on pesticide sensitive registry.
County:	Walla Walla
Pesticide Type (active ingredient):	Herbicides (glyphosate, aminopyralid, metsulfuron-methyl)
License Type:	unlicensed
Human Exposure people/description:	1 adult (pesticide sensitive)
Severity:	3
Application Site and Equipment:	City park; hand gun and hand spreader
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Licensing and failure to notify.

BAO-0021-13 Allegation or Issue Investigated:	Right-of-way application sprayed either into or too close to an irrigation ditch.
County:	Okanogan
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	Public Operator
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Right-of-Way; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction for recordkeeping. No evidence that herbicide contacted the irrigation ditch.

BAO-0023-13 Allegation or Issue Investigated:	Damage to alfalfa from roadside herbicide application.
County:	Okanogan
Pesticide Type (active ingredient):	Herbicide (2,4-D and dicamba)
License Type:	Commercial Applicator

Human Exposure people/description:	None
Severity:	0
Application Site and Equipment:	Roadside; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Unable to confirm damage caused by herbicide.

CJS-0019-13 Allegation or Issue Investigated:	Grape vineyard damaged from herbicides applied to adjacent corn field.
County:	Benton
Pesticide Type (active ingredient):	Herbicide (aminopyralid)
License Type:	Commercial Applicator
Human Exposure people/description:	None
Severity:	3
Application Site and Equipment:	Border of ag field; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation and recordkeeping. Investigation concluded that damage was likely from herbicide applied by contractor along border between corn and grapes.

CJS-0020-13 Allegation or Issue Investigated:	Air-blast application of insecticide to cherries, blowing across road and stopping traffic.
County:	Yakima
Pesticide Type (active ingredient):	Insecticide (dimethoate)
License Type:	unlicensed
Human Exposure people/description:	None
Severity:	2
Application Site and Equipment:	Cherries; air-blast sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Faulty, careless, negligent operation.

CJS-0021-13 Allegation or Issue Investigated:	Air-blast application to orchard drifted onto neighboring orchard exposing 21 workers.
County:	Yakima
Pesticide Type (active ingredient):	Insecticide (azinphos-methyl), miticide (spirodiclofen)
License Type:	Private Applicator
Human Exposure people/description:	22 adult workers
Severity:	5
Application Site and Equipment:	Apples; air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Settlement: \$5,000 + 45-day license suspension.

CJS-0022-13 Allegation or Issue Investigated:	Ineffective bed bug control application.
County:	Yakima
Pesticide Type (active ingredient):	Multiple insecticides in series of treatments
License Type:	Commercial Applicator and Commercial Operator

Human Exposure people/description:	None
Severity:	0
Application Site and Equipment:	Indoor; hand-held equipment
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: No violations found.

DAS-0008-13 Allegation or Issue Investigated:	Unlicensed Structural Pest Inspector reporting on Wood Destroying Insects.
County:	King
Pesticide Type (active ingredient):	Not applicable
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Licensing, failure to obtain Inspection Control Numbers.

DLZ-0012-13 Allegation or Issue Investigated:	Unlicensed commercial landscape company making pesticide applications.
County:	Chelan
Pesticide Type (active ingredient):	Lawn weed and feed
License Type:	unlicensed
Human Exposure people/description:	Not applicable
Severity:	1
Application Site and Equipment:	Lawns/turf; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	Notice of Correction: Licensing.

DLZ-0013-13 Allegation or Issue Investigated:	Unlicensed commercial lawn care company making pesticide applications.
County:	Franklin
Pesticide Type (active ingredient):	Herbicides (glyphosate and 2,4-D)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Residential properties – backpack aprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Licensing.

DTB-0013-13 Allegation or Issue Investigated:	Homeowner and garden sprayed by commercial spray service applying pesticide to the residence next door.
County:	Grant
Pesticide Type (active ingredient):	Insecticides (cyfluthrin and bifenthrin)
License Type:	Commercial Applicator

Human Exposure people/description:	One adult
Severity:	2
Application Site and Equipment:	Residential property; Power sprayer
Other Agencies Involved:	Moses Lake Police Department
WSDA Response Time:	Same day
Final Action:	\$450 fine and 7-day license suspension.

DTB-0014-13 Allegation or Issue Investigated:	Damage to residential landscape caused by herbicides over-sprayed into irrigation canal.
County:	Grant
Pesticide Type (active ingredient):	Herbicides (glyphosate, pendamethalin, bromocil, diuron)
License Type:	Not applicable
Human Exposure people/description:	Not applicable
Severity:	1
Application Site and Equipment:	Irrigation canal; ground equipment
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action; WSDA could not determine source of herbicides.

DTB-0016-13 Allegation or Issue Investigated:	Damage from drift to landscape during windy conditions when neighboring farm was applying herbicides.
County:	Walla Walla
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	Private Applicator
Human Exposure people/description:	Not applicable
Severity:	3
Application Site and Equipment:	Crop borders/non-crop areas of farm; ground boom on quad
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation, and faulty/careless/negligent application.

DTB-0019-13 Allegation or Issue Investigated:	Herbicide drift onto residence, pilot did not shut off boom during application to potato field across the street.
County:	Grant
Pesticide Type (active ingredient):	Herbicide/desiccant (diquat)
License Type:	Commercial Applicator
Human Exposure people/description:	None
Severity:	3
Application Site and Equipment:	Potatoes; fixed-wing aircraft
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Faulty/careless/negligent operation.

DTB-0022-13 Allegation or Issue Investigated:	Horse death caused by chemigation of fumigant to adjacent field one year prior.
County:	Franklin
Pesticide Type (active ingredient):	Fumigant (metam sodium)
License Type:	Commercial Operator

Human Exposure people/description:	Not applicable
Severity:	0
Application Site and Equipment:	Field prep; Irrigation system
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: WSDA could not establish a link between the horse death and the fumigant application.

DTB-0024-13 Allegation or Issue Investigated:	Residents complained of odor from neighboring orchard application during windy conditions.
County:	Franklin
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	Private Applicator
Human Exposure people/description:	None
Severity:	1
Application Site and Equipment:	Orchard; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Advisory letter: Informed orchard owner of odor complaint and need for proper records.

GRB-0025-13 Allegation or Issue Investigated:	Anonymous caller saw someone spraying in a seasonal wetland that is currently dry; area borders wildlife area.
County:	Klickitat
Pesticide Type (active ingredient):	Herbicide (unknown)
License Type:	Not Applicable
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Weed control
Other Agencies Involved:	County Sherriff; Ecology
WSDA Response Time:	Same day
Final Action:	No Action: No violations found.

JGA-0007-13 Allegation or Issue Investigated:	Apartment resident was not notified of application, no posting occurred, and MSDS was not available.
County:	Benton
Pesticide Type (active ingredient):	Herbicide (Bromoxynil)
License Type:	Commercial Applicator and Commercial Operator
Human Exposure people/description:	One adult
Severity:	0
Application Site and Equipment:	New seeded lawn; ground boom and hand-held
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No action: Investigator attempted to contact complainant multiple times, but no response.

JGA-0008-13 Allegation or Issue Investigated:	Concern that fence-line spraying is drifting into their sheep pasture.
County:	Benton

Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	Not Applicable
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Fence-line; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action; No site visit conducted since complainant and alleged infractor both applied same pesticides in proximity.

JKZ-0010-13 Allegation or Issue Investigated:	Drift of unknown pesticide onto grapes.
County:	Whitman
Pesticide Type (active ingredient):	unknown
License Type:	Not applicable
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Grapes; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Insect damage and chemical burn on grapes, which may have been caused by the grape grower. No evidence of drift.

JKZ-0011-13 Allegation or Issue Investigated:	Alleged aerial drift of herbicide onto wheat.
County:	Walla Walla
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	Commercial Operator
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Wheat; fixed-wing aircraft
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Investigation findings were inconclusive.

MJW-0001-13 Allegation or Issue Investigated:	Drift from corn onto beans.
County:	Grant
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	Commercial Applicator
Human Exposure people/description:	Not Applicable
Severity:	4
Application Site and Equipment:	Corn; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Settlement: \$850 + 5-day license suspension

MJW-0002-13	Unlicensed commercial lawn care company making
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Allegation or Issue Investigated:	pesticide applications.
County:	Douglas
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	unlicensed
Human Exposure people/description:	Not applicable
Severity:	1
Application Site and Equipment:	Residential landscape; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	Notice of Correction: Label violation, licensing and recordkeeping.

MJW-0005-13 Allegation or Issue Investigated:	Unlicensed commercial lawn care company making pesticide applications.
County:	Chelan
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	unlicensed
Human Exposure people/description:	Not applicable
Severity:	1
Application Site and Equipment:	Residential landscape; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	Notice of Correction: Licensing

MJW-0006-13 Allegation or Issue Investigated:	Illegal disposal of pesticides and pesticide containers.
County:	Adams
Pesticide Type (active ingredient):	Multiple
License Type:	Private Applicator
Human Exposure people/description:	Not applicable
Severity:	0
Application Site and Equipment:	Orchard
Other Agencies Involved:	Ecology
WSDA Response Time:	Same day
Final Action:	No Action: Allegations could not be substantiated.

MJW-0007-13 Allegation or Issue Investigated:	Unlicensed commercial lawn care company making pesticide applications.
County:	Chelan
Pesticide Type (active ingredient):	Not Applicable
License Type:	unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	No Action: Could not substantiate that company was applying pesticides.

MJW-0008-13 Allegation or Issue Investigated:	Unlicensed landscape maintenance company making pesticide applications.
County:	Chelan
Pesticide Type (active ingredient):	Not Applicable
License Type:	unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Landscape grounds; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	No Action: Could not substantiate that company was making pesticide applications.

PFF-0027-13 Allegation or Issue Investigated:	Neighbor sprayed (wild) blackberries without permission that were being grown as an agricultural crop.
County:	Clark
Pesticide Type (active ingredient):	Herbicides (2,4-D, triclopyr and glyphosate)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	3
Application Site and Equipment:	Residential lot; hand-held sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation.

PFF-0029-13 Allegation or Issue Investigated:	Distribution of pesticides not registered in Washington.
County:	Kitsap
Pesticide Type (active ingredient):	Herbicides
License Type:	unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Registration, licensing and record keeping.

PFF-0031-13 Allegation or Issue Investigated:	Commercial pesticide application company left or disposed of pesticide containers on BPA rights-of-way.
County:	Mason
Pesticide Type (active ingredient):	Herbicides (triclopyr, aminopyralid)
License Type:	Commercial Applicator and Commercial Operator
Human Exposure people/description:	None
Severity:	2
Application Site and Equipment:	Right-of-Way
Other Agencies Involved:	None
WSDA Response Time:	Same day

Final Action:	Notice of Correction: Label violation, improper disposal, recordkeeping.
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PFF-0032-13 Allegation or Issue Investigated:	Complainant became ill from chemical vapors from application made to attic above her apartment residence.
County:	Snohomish
Pesticide Type (active ingredient):	Moth Balls (naphthalene)
License Type:	Not Applicable
Human Exposure people/description:	One Adult
Severity:	0
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	DOH, Everett Fire Department
WSDA Response Time:	Same day
Final Action:	No Action: Could not substantiate a pesticide application occurred, moth balls or otherwise.

RDS-0016-13 Allegation or Issue Investigated:	Pesticide application to lawn caused pet to get sick and complainant's veins to puff out on hands.
County:	Snohomish
Pesticide Type (active ingredient):	Herbicides (diquat, glyphosate, isoxaben, trifluralin)
License Type:	Unlicensed
Human Exposure people/description:	One Adult
Severity:	1
Application Site and Equipment:	Landscape; hand-held equipment
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Licensing and recordkeeping. No Action for misapplication; No evidence that complainant's or pet's symptoms were caused by pesticides.

RDS-0017-13 Allegation or Issue Investigated:	Over-application of pesticides to yards and landscaping around complainant's condominium.
County:	Whatcom
Pesticide Type (active ingredient):	Herbicides (diquat and glyphosate)
License Type:	unlicensed
Human Exposure people/description:	One Adult
Severity:	1
Application Site and Equipment:	Landscape; hand-held equipment
Other Agencies Involved:	DOH
WSDA Response Time:	Next day
Final Action:	Notice of Correction: Licensing, recordkeeping and posting. No evidence of misapplication.

RDS-0019-13 Allegation or Issue Investigated:	Unauthorized herbicide applications made to two tee ball fields.
County:	Pierce
Pesticide Type (active ingredient):	Herbicide
License Type:	Not applicable
Human Exposure people/description:	Not Applicable

Severity:	0
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Grass growth problems related to other issues. No evidence of herbicide application.

RDS-0020-13 Allegation or Issue Investigated:	Neighbor allegedly spraying herbicide along the edge of a creek that runs into the Tilton River.
County:	Lewis
Pesticide Type (active ingredient):	Herbicides (aminopyralid, triclopyr, 2,4-D)
License Type:	unlicensed
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Road-side
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: No violations found.

RDS-0021-13 Allegation or Issue Investigated:	Pesticide application that drifted onto complainant's property.
County:	Clark
Pesticide Type (active ingredient):	Herbicide (triclopyr and 2,4-D)
License Type:	Not Applicable
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Non-crop field; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: No evidence that over-spray or drift occurred.

RDS-0025-13 Allegation or Issue Investigated:	Sweet gum tree intentionally killed by unknown party presumably to create better view.
County:	Snohomish
Pesticide Type (active ingredient):	Herbicide (triclopyr, 2,4-D, glyphosate)
License Type:	Not applicable
Human Exposure people/description:	Not applicable
Severity:	1
Application Site and Equipment:	Hole drilled in tree and herbicide injected
Other Agencies Involved:	None
WSDA Response Time:	Next day
Final Action:	No Action: Unable to identify infractor.

RDS-0027-13 Allegation or Issue Investigated:	Handicap ramp on sidewalk over-sprayed during right-of-way application of railroad tracks.
County:	Pierce
Pesticide Type (active ingredient):	Herbicides (glyphosate and clopyralid)
License Type:	Commercial Applicator
Human Exposure people/description:	Not Applicable

Severity:	2
Application Site and Equipment:	Railroad Right-of-Way; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Next day
Final Action:	Notice of Correction: Spraying onto sidewalk, recordkeeping.

RDS-0028-13 Allegation or Issue Investigated:	Grass clippings contaminated with pesticides dumped next to river.
County:	Lewis
Pesticide Type (active ingredient):	Herbicide (oryzalin)
License Type:	Private-Commercial
Human Exposure people/description:	Not Applicable
Severity:	2
Application Site and Equipment:	Golf course; handgun
Other Agencies Involved:	None
WSDA Response Time:	Two days
Final Action:	Notice of Correction: Drift into pond, recordkeeping.

RDS-0029-13 Allegation or Issue Investigated:	Apartment resident became ill after a bed bug treatment.
County:	King
Pesticide Type (active ingredient):	Insecticides (multiple)
License Type:	Public Operator and Commercial Operator
Human Exposure people/description:	One Adult
Severity:	0
Application Site and Equipment:	Indoor residential; hand-held equipment
Other Agencies Involved:	DOH
WSDA Response Time:	Three days
Final Action:	Notice of Correction: Failure to submit records. No evidence of improper application.

RDS-0030-13 Allegation or Issue Investigated:	Commercial Operator spilled unknown chemical on pavement.
County:	King
Pesticide Type (active ingredient):	Not Applicable
License Type:	Commercial Operator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action; Spill observed was water, not pesticides

RKS-0015-13 Allegation or Issue Investigated:	Neighbor over-applying herbicides to kill bamboo invading her property.
County:	Pierce
Pesticide Type (active ingredient):	Herbicides (dichlobenil and glyphosate)
License Type:	Not Applicable
Human Exposure people/description:	Not Applicable

Severity:	2
Application Site and Equipment:	Fence-line; hand equipment
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation.

RKS-0016-13 Allegation or Issue Investigated:	Pesticide application to lake near swimming area while children swimming.
County:	Skagit
Pesticide Type (active ingredient):	Herbicide (diquat)
License Type:	Commercial Applicator
Human Exposure people/description:	None
Severity:	0
Application Site and Equipment:	Lake; Boat application
Other Agencies Involved:	Ecology
WSDA Response Time:	Same day
Final Action:	No Action: Pesticide application made legally. Notification and closing lake to swimming were at issue, which are not under WSDA jurisdiction.

RKS-0017-13 Allegation or Issue Investigated:	Homeowner applying herbicides to lake by kayak without a permit or license.
County:	Thurston
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Lake; Backpack sprayer
Other Agencies Involved:	Ecology
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Licensing.

RSN-0007-13 Allegation or Issue Investigated:	Failure to obtain an experimental use permit (EUP) for off-label field plot trials.
County:	Adams
Pesticide Type (active ingredient):	Herbicides (clopyralid, picloram and triclopyr)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Potatoes; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Advisory letter: Obtain EUP before making off-label applications.

VJD-0003-13 Allegation or Issue Investigated:	Neighbor sprayed onto complainant's raised bed when spraying blackberries in the alley.
County:	King
Pesticide Type (active ingredient):	Herbicide (triclopyr)

License Type:	Unlicensed
Human Exposure people/description:	Not applicable
Severity:	1
Application Site and Equipment:	Residential yard; hand-held equipment
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Verbal warning: Do not spray off-target.

VJD-0008-13 Allegation or Issue Investigated:	Possible exposure to mothballs placed in yard by neighbor.
County:	Snohomish
Pesticide Type (active ingredient):	Moth balls (naphthalene)
License Type:	Unlicensed
Human Exposure people/description:	One adult
Severity:	1
Application Site and Equipment:	Residential yard; by hand
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Improper application of mothballs

VJD-0009-13 Allegation or Issue Investigated:	Air-blast applications to grape vineyard drifting onto neighbor's horse pasture; also alleged human exposure.
County:	Skagit
Pesticide Type (active ingredient):	Fungicides (boscalid, pyraclostrobin, sulfur) Miticide (spirodiclofen)
License Type:	Private Applicator
Human Exposure people/description:	Two adults
Severity:	2
Application Site and Equipment:	Grapes; air-blast sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Recordkeeping, worker entry and training. No symptoms from exposure.

VJD-0011-13 Allegation or Issue Investigated:	Landlord from across the street sprayed onto everyone's property including complainant's.
County:	Cowlitz
Pesticide Type (active ingredient):	Herbicide (dicamba, diquat, fluaziflop)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Residential yard; hand-held equipment
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No action: No evidence of drift or over-spray.

VJD-0012-13	Neighbor sprayed through chain link fence, killing
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Allegation or Issue Investigated:	desirable plants on complainant's property.
County:	Clark
Pesticide Type (active ingredient):	Herbicide (glyphosate)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	3
Application Site and Equipment:	Residential yard; hand-held equipment
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Advisory letter: Avoid off-target drift.

VJD-0014-13 Allegation or Issue Investigated:	Exposure from application made previous day onto complainant's employer's property. Complainant also experienced burning sensation in mouth when eating a plum a month after the application.
County:	King
Pesticide Type (active ingredient):	Insecticide (lambda-cyhalothrin)
License Type:	Commercial Operator
Human Exposure people/description:	One adult worker
Severity:	0
Application Site and Equipment:	Perimeter and driveway treatment for ants, hand gun
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No action: Plum tree not sprayed and no violations found.

VJD-0015-13 Allegation or Issue Investigated:	Occupant exposed after pesticide dust application to skylight above bed.
County:	Pierce
Pesticide Type (active ingredient):	Insecticide (deltamethrin)
License Type:	Commercial Operator
Human Exposure people/description:	One adult
Severity:	2
Application Site and Equipment:	Skylight; duster
Other Agencies Involved:	DOH, Poison Control
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation, injury to humans.

ACB-0006-14 Allegation or Issue Investigated:	Neighbor illegally applied herbicide pellets around his dock area in lake.
County:	Spokane
Pesticide Type (active ingredient):	Herbicide (2,4-D)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Lake; by hand
Other Agencies Involved:	None
WSDA Response Time:	Next day
Final Action:	Notice of Correction: Label violation and licensing.

ACB-0010-14 Allegation or Issue Investigated:	Improper treatment of wasps and yellow jackets on home by pest control company.
County:	Spokane
Pesticide Type (active ingredient):	Insecticide (deltamethrin)
License Type:	Commercial Operator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Home; Backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Contract dispute – no violations found.

ACB-0018-14 Allegation or Issue Investigated:	Spraying at apartment complex by landscape company drifting onto neighbor's property where kids playing.
County:	Franklin
Pesticide Type (active ingredient):	Insecticide (flonicamid) and Fungicide (boscalid and Pyraclostrobin)
License Type:	Commercial Operator
Human Exposure people/description:	None
Severity:	2
Application Site and Equipment:	Residential landscape; handgun
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation.

ACB-0019-14 Allegation or Issue Investigated:	Drift from application to adjacent pea field damaged landscape trees.
County:	Spokane
Pesticide Type (active ingredient):	Herbicides (2,4-D, MCPA and glyphosate)
License Type:	Private Applicator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Peas, ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Peas were not treated with herbicide. Damage to ornamentals potentially caused by complainant's own herbicide applications.

ACB-0020-14 Allegation or Issue Investigated:	Drift from aerial application to wheat field onto alfalfa field approximately a mile away.
County:	Spokane
Pesticide Type (active ingredient):	Herbicides (bromoxynil, MCPA, metsulfuron-methyl, thifensulfuron methyl and tribenuron-methyl) and fungicide (propiconazole)
License Type:	Commercial Operator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Wheat; fixed-wing air
Other Agencies Involved:	None

WSDA Response Time:	Next day
Final Action:	No Action: Alfalfa stand had other problems. No evidence that application to wheat drifted onto alfalfa.

ACB-0022-14 Allegation or Issue Investigated:	Complainants on walk exposed to pesticides from a nearby agricultural pesticide application.
County:	Spokane
Pesticide Type (active ingredient):	Herbicide (quizalofop-ethyl)
License Type:	Private Applicator
Human Exposure people/description:	Two adults
Severity:	3
Application Site and Equipment:	Canola; ground boom
Other Agencies Involved:	DOH
WSDA Response Time:	Next day
Final Action:	Notice of Correction: Pesticide applied during windy conditions contrary to label and endangering people.

BAO-0001-14 Allegation or Issue Investigated:	Alleged overspray from orchard onto residence and person.
County:	Chelan
Pesticide Type (active ingredient):	Insecticide (chlopyrifos)
License Type:	Private Applicator
Human Exposure people/description:	Two Adults
Severity:	4
Application Site and Equipment:	Orchard; air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Settlement: \$1,800

BAO-0002-14 Allegation or Issue Investigated:	Overspray from an orchard application onto a residence and four people.
County:	Chelan
Pesticide Type (active ingredient):	Insecticide (chlorpyrifos)
License Type:	Private Applicator
Human Exposure people/description:	One adult and two children
Severity:	5
Application Site and Equipment:	Apples; air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Settlement: \$1,600 + 14-day license suspension.

CJS-0002-14 Allegation or Issue Investigated:	Orchard spray application drifted onto road contacting complainants' vehicle.
County:	Yakima
Pesticide Type (active ingredient):	Fungicide-insecticide-miticicide (sulfur)
License Type:	Private Applicator
Human Exposure people/description:	None
Severity:	2
Application Site and Equipment:	Orchard; air-blast sprayer

Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction; Label violation.

CJS-0008-14 Allegation or Issue Investigated:	Orchard application that caused neighboring resident to smell and then taste a chemical.
County:	Yakima
Pesticide Type (active ingredient):	Fungicide/Bactericide (oxytetracycline)
License Type:	Private Applicator
Human Exposure people/description:	None
Severity:	0
Application Site and Equipment:	Orchard; air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	No Action: No evidence of drift.

CJS-0010-14 Allegation or Issue Investigated:	Dead or dying ornamentals along the property line between complainant and irrigation canal.
County:	Yakima
Pesticide Type (active ingredient):	Unknown
License Type:	Public Operator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Ground
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Could not determine that vegetation was killed by herbicides.

CJS-0013-14 Allegation or Issue Investigated:	Drift from pesticide application from hay field to yard during strong wind.
County:	Yakima
Pesticide Type (active ingredient):	Herbicide (2,4-D, MCPP and dicamba)
License Type:	Unlicensed
Human Exposure people/description:	One adult
Severity:	1
Application Site and Equipment:	Hay field; handgun
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Verbal warning: Use of product not labeled for crop. No evidence of drift to complainant's property.

CJS-0014-14 Allegation or Issue Investigated:	Drift from orchard during strong wind that caused resident to feel poorly.
County:	Yakima
Pesticide Type (active ingredient):	Fungicide (quinoxifen) and Insecticide (spinosad)
License Type:	Unlicensed (under direct supervision)
Human Exposure people/description:	One adult
Severity:	3

Application Site and Equipment:	Cherries; air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Currently under legal review.

CJS-0015-14 Allegation or Issue Investigated:	Drift from hop field onto residence.
County:	Yakima
Pesticide Type (active ingredient):	Herbicide (2,4-D)
License Type:	Private Applicator
Human Exposure people/description:	None
Severity:	0
Application Site and Equipment:	Hops; ground boom
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	No Action: No evidence that drift occurred.

DLZ-0015-14 Allegation or Issue Investigated:	Unlicensed landscape company employees spraying with a backpack sprayer.
County:	Chelan
Pesticide Type (active ingredient):	Herbicides (glyphosate, 2,4-D, dicamba, quinclorac)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Landscape; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	Notice of Correction: Licensing.

DTB-0007-14 Allegation or Issue Investigated:	Orchard workers sprayed by application to an adjacent orchard.
County:	Grant
Pesticide Type (active ingredient):	Blossom thinner (lime sulfur)
License Type:	Private Applicator
Human Exposure people/description:	Eight adult workers
Severity:	5
Application Site and Equipment:	Apples; air-blast sprayer
Other Agencies Involved:	LNI referral
WSDA Response Time:	Same day
Final Action:	NOI issued for \$3,600 (subject to appeal).

DTB-0008-14 Allegation or Issue Investigated:	Blossom thinning crew contacted by lime-sulfur spray application to neighboring orchard.
County:	Grant
Pesticide Type (active ingredient):	Blossom thinner (lime sulfur)
License Type:	Private Applicator
Human Exposure people/description:	Four adult workers
Severity:	5
Application Site and Equipment:	Apples; air-blast sprayer

Other Agencies Involved:	DOH
WSDA Response Time:	Next day
Final Action:	NOI issued for \$1,800 + 28-day license suspension (subject to appeal).

DTB-0010-14 Allegation or Issue Investigated:	Aerial applicator over-spraying or drifting onto complainant's property.
County:	Grant
Pesticide Type (active ingredient):	Herbicides (2,4-D and metsulfuron-methyl, thifensulfuron methyl, tribenuron-methyl)
License Type:	Commercial Applicator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Wheat; Fixed-wing air
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No action: No evidence of drift.

GRB-0003-14 Allegation or Issue Investigated:	Possible pesticide contamination of creek (creek looked “milky” according to anonymous caller).
County:	Yakima
Pesticide Type (active ingredient):	Not Determined
License Type:	Not Applicable
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	Ecology
WSDA Response Time:	Same day
Final Action:	No Action: No evidence of pesticide contamination. 60-year resident indicated creek is always murky in spring. Also confirmed by hydrogeologist.

GRB-0004-14 Allegation or Issue Investigated:	City over-sprayed onto resident’s front yard. Complainant is sensitive to chemicals but is not on the sensitive persons registry.
County:	Yakima
Pesticide Type (active ingredient):	Herbicide (not determined)
License Type:	Public Operator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Sidewalk; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Boundaries of City right-of-way undetermined.

JEK-0001-14 Allegation or Issue Investigated:	Unlicensed Pesticide Dealer distributing pesticides for other than “home and garden use only.”
County:	Thurston
Pesticide Type (active ingredient):	Other than “Home and Garden Use Only” products

License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction; Licensing.

JGA-0001-14 Allegation or Issue Investigated:	Inadequate wood destroying organism (WDO) inspection.
County:	Benton
Pesticide Type (active ingredient):	Not Applicable
License Type:	Structural Pest Inspector
Human Exposure people/description:	Not Applicable
Severity:	2
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Failure to follow WDO inspection criteria.

JKZ-0007-14 Allegation or Issue Investigated:	Damage to canola from off-target drift of herbicide applications to wheat fields.
County:	Spokane
Pesticide Type (active ingredient):	Herbicides (clopyralid, fluroxypyr, glyphosate, and mesosulfuron-methyl)
License Type:	Private Applicator
Human Exposure people/description:	Not Applicable
Severity:	3
Application Site and Equipment:	Wheat; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Next day
Final Action:	Currently under legal review

JKZ-0008-14 Allegation or Issue Investigated:	Damage to residential ornamental and fruit plants by drift from aerial application to nearby wheat field.
County:	Whitman
Pesticide Type (active ingredient):	Herbicides (bromoxynil, pyrasulfotole, pyroxsulam) and Fungicides (thiophanate-methyl, propiconazole, carbendazin)
License Type:	Commercial Operator
Human Exposure people/description:	Not Applicable
Severity:	3
Application Site and Equipment:	Wheat; fixed-wing air
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation and damage to landscape ornamentals.

JKZ-0009-14	Alleged pesticide drift from nearby wheat field onto
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Allegation or Issue Investigated:	complainant's ornamental plantings.
County:	Whitman
Pesticide Type (active ingredient):	Herbicides (metsulfuron-methyl, thifensulfuron-methyl, tribenuron-methyl, pyroxsulam, clopyralid, fluroxypyr) and Fungicide (metconazole, pyraclostrobin)
License Type:	Private Applicator
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Wheat; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action; Investigation inconclusive as to source of pesticide drift.

JKZ-0011-14	Alleged herbicide drift from adjacent cropland onto the complainant's fruit trees.
Allegation or Issue Investigated:	
County:	Whitman
Pesticide Type (active ingredient):	Herbicides bromoxynil, MCPA, pinoxaden, 2,4-D, clopyralid, pyroxsulam, glyphosate)
License Type:	Private Applicator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Barley/Wheat; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action; Complainant withdrew complaint.

JKZ-0012-14	Alleged herbicide drift from adjacent target field (CRP to peas) that affected the complainant's winter wheat crop.
Allegation or Issue Investigated:	
County:	Whitman
Pesticide Type (active ingredient):	Herbicides (glyphosate, saflufenacil and metribuzin)
License Type:	Private Applicator
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Wheat; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Currently under legal review. NOC issued for failure to submit records.

LAM-0003-14	Human exposure from air-blast application.
Allegation or Issue Investigated:	
County:	Franklin
Pesticide Type (active ingredient):	Insecticide (chlorpyrifos)
License Type:	Private Applicator
Human Exposure people/description:	One adult worker
Severity:	1
Application Site and Equipment:	Apples; air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day

Final Action:	No Action: Investigation inconclusive.
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LAM-0004-14 Allegation or Issue Investigated:	Drift from potato field damaged adjacent fresh greenpeas.
County:	Walla Walla
Pesticide Type (active ingredient):	Herbicides (bentazon, MCPA, EPTC, metribuzin, paraquat, rimsulfuron, dimethenamid, glyphosate)
License Type:	Private Applicator
Human Exposure people/description:	Not Applicable
Severity:	0
Application Site and Equipment:	Potatoes; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action; Investigation inconclusive.

LAM-0005-14 Allegation or Issue Investigated:	Drift from roadside and RR right-of-way damaged adjacent potatoes (stunted plant growth/poor emergence).
County:	Franklin
Pesticide Type (active ingredient):	Herbicide (bromacil)
License Type:	Commercial Applicator
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Roadside and RR Right-of-Way; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Next day
Final Action:	No Action: Inconclusive evidence that drift occurred.

MJW-0002-14 Allegation or Issue Investigated:	Air-blast application to pears drifted onto workers in an adjacent orchard.
County:	Douglas
Pesticide Type (active ingredient):	Insecticide (novaluron), Miticide/Insecticide (pyridaben) and Fungicide (triflumizole)
License Type:	Private Applicator
Human Exposure people/description:	Twenty adult workers
Severity:	5
Application Site and Equipment:	Pears; air-blast sprayer
Other Agencies Involved:	DOH, Douglas County Fire Dept.
WSDA Response Time:	Same day
Final Action:	\$7,500 penalty assessed.

MJW-0004-14 Allegation or Issue Investigated:	Air-blast application to apples drifted onto workers in an adjacent orchard.
County:	Douglas
Pesticide Type (active ingredient):	Insecticides (carbaryl, emamectin benzoate), Fungicides (flutriafol, mancozeb) and Growth Regulator (ethephon)
License Type:	Private Applicator
Human Exposure people/description:	Two adults and one infant
Severity:	5
Application Site and Equipment:	Apples; air-blast sprayer

Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	\$2,700 penalty assessed.

MJW-0008-14 Allegation or Issue Investigated:	Air-blast application to orchard drifted onto an individual flagging traffic during road construction.
County:	Grant
Pesticide Type (active ingredient):	Not Applicable
License Type:	Private Applicator
Human Exposure people/description:	One Adult road worker
Severity:	4
Application Site and Equipment:	Cherries; air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	No Action: Application was a fertilizer, not a pesticide

MJW-0009-14 Allegation or Issue Investigated:	Air-blast application to apples drifted onto highway and onto complainant's vehicle as she passed by.
County:	Douglas
Pesticide Type (active ingredient):	Insecticides (imidacloprid and chlorantraniliprole)
License Type:	Private Applicator
Human Exposure people/description:	None (contacted vehicle)
Severity:	3
Application Site and Equipment:	Apples; air-blast sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Assessed \$450 + 7-day license suspension.

NML-0002-14 Allegation or Issue Investigated:	Inadequate wood destroying organism (WDO) inspection.
County:	Pierce
Pesticide Type (active ingredient):	Not Applicable
License Type:	Structural Pest Inspector
Human Exposure people/description:	Not Applicable
Severity:	2
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Three days
Final Action:	Notice of Correction: Failure to follow WDO inspection criteria.

RDS-0002-14 Allegation or Issue Investigated:	Resident exposed to a chemical when landlord had workers remove mold from her residence.
County:	Thurston
Pesticide Type (active ingredient):	Disinfectant (bleach)
License Type:	Unlicensed
Human Exposure people/description:	One adult
Severity:	2
Application Site and Equipment:	Interior walls; other

Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation.

RDS-0008-14 Allegation or Issue Investigated:	Rodent bait lying on floor of storage room in a gas station.
County:	Pacific
Pesticide Type (active ingredient):	Rodenticide (brodifacoum)
License Type:	Commercial Operator
Human Exposure people/description:	None
Severity:	0
Application Site and Equipment:	Interior/Exterior; bait stations
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	No Action: Investigation inconclusive.

RDS-0010-14 Allegation or Issue Investigated:	Plants turning brown and dying from pesticide application made to neighbor's property.
County:	Thurston
Pesticide Type (active ingredient):	Herbicide (imazapyr)
License Type:	Commercial Applicator
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Residential lot; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Recordkeeping. No evidence of misapplication.

RDS-0016-14 Allegation or Issue Investigated:	Damage to blueberry plants by drift from a fescue seed grower.
County:	Clark
Pesticide Type (active ingredient):	Herbicides (MCPA, 2,4-D and dicamba)
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	2
Application Site and Equipment:	Fescue seed; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Next day
Final Action:	Notice of Correction: Label violation, recordkeeping, and damaging crop.

RDS-0017-14 Allegation or Issue Investigated:	Pesticide applied to adjacent farm drifted onto complainant's property.
County:	Thurston
Pesticide Type (active ingredient):	Insecticide (chlorpyrifos)
License Type:	Private applicator
Human Exposure people/description:	One adult
Severity:	1

Application Site and Equipment:	Radish and Cabbage; Backpack sprayers
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Recordkeeping. No evidence of drift.

RDS-0018-14 Allegation or Issue Investigated:	Christmas tree farm drifted a white cloudy substance onto the complainant's property.
County:	Clark
Pesticide Type (active ingredient):	Insecticide (endosulfan)
License Type:	Unlicensed
Human Exposure people/description:	One adult and an infant
Severity:	4
Application Site and Equipment:	Christmas trees; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Currently under legal review

RDS-0019-14 Allegation or Issue Investigated:	Pesticide spill on a roadway.
County:	Clark
Pesticide Type (active ingredient):	Herbicide (2,4-D, dicamba, MCPP)
License Type:	Unlicensed
Human Exposure people/description:	None
Severity:	2
Application Site and Equipment:	Landscape; handgun on powersprayer
Other Agencies Involved:	Ecology
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Operating unsafe apparatus, licensing and recordkeeping

RDS-0020-14 Allegation or Issue Investigated:	Drift from helicopter application to strawberry field directly west of complainant's property.
County:	Clark
Pesticide Type (active ingredient):	Insecticide (bifenthrin) and Fungicides (cyprodinil, fludioxinil, and penthiopyrad)
License Type:	Commercial Applicator
Human Exposure people/description:	One adult and an infant
Severity:	3
Application Site and Equipment:	Strawberries; helicopter
Other Agencies Involved:	DOH
WSDA Response Time:	Two days
Final Action:	Currently under legal review.

RSN-0002-14 Allegation or Issue Investigated:	Engineering workers exposed to pesticides from an adjacent orchard application.
County:	Grant
Pesticide Type (active ingredient):	blossom thinning (lime sulfur)
License Type:	Private Applicator
Human Exposure people/description:	Nine adult utility electrical workers

Severity:	5
Application Site and Equipment:	Apples; Air-blast sprayer
Other Agencies Involved:	DOH
WSDA Response Time:	Same day
Final Action:	Settlement for \$5,000.

RSN-0003-14 Allegation or Issue Investigated:	Damage to lawn from an application of herbicides made by a lawncare company earlier this spring.
County:	Stevens
Pesticide Type (active ingredient):	Herbicide (2,4-D, dicamba, MCPP)
License Type:	Commercial Operator
Human Exposure people/description:	Not Applicable
Severity:	3
Application Site and Equipment:	Lawn; backpack sprayer
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Faulty, careless, negligent application (lawn treated with sprayer that was contaminated with a different herbicide).

TRH-0010-14 Allegation or Issue Investigated:	Unattended pesticides along a county roadway.
County:	Grant
Pesticide Type (active ingredient):	Herbicides (paraquat and flumioxazin)
License Type:	Private Applicator
Human Exposure people/description:	None
Severity:	2
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	Notice of Correction: Failing to store pesticides appropriately.

TWS-0002-14 Allegation or Issue Investigated:	Cheating while taking the Private Applicator Exam (Spanish Version).
County:	Yakima
Pesticide Type (active ingredient):	Not applicable
License Type:	Unlicensed
Human Exposure people/description:	Not Applicable
Severity:	1
Application Site and Equipment:	Not Applicable
Other Agencies Involved:	None
WSDA Response Time:	Not Applicable (WSDA initiated)
Final Action:	Notice of Correction: Violating testing policies; Required a six-month waiting period before taking further exams.

VJD-0004-14 Allegation or Issue Investigated:	Exposure to pesticides applied to an adjacent field. Family and friends were outside when they smelled "creosote".
County:	Cowlitz
Pesticide Type (active ingredient):	Fungicide (azoxystrobin and propiconazole) and Plant Growth

	Regulator (trinexapac-ethyl)
License Type:	Unlicensed
Human Exposure people/description:	Three adults and four children
Severity:	2
Application Site and Equipment:	Fescue seed; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Recordkeeping. Children did not have symptoms, and complainants were concerned about WSDA taking further action.

VJD-0006-14 Allegation or Issue Investigated:	Drift onto complainant's property from an application to blueberries on an adjacent property.
County:	Whatcom
Pesticide Type (active ingredient):	Fungicide (captan)
License Type:	Private Applicator
Human Exposure people/description:	None
Severity:	3
Application Site and Equipment:	Blueberries; ground boom
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Label violation and faulty, careless or negligent operation.

VJD-0007-14 Allegation or Issue Investigated:	Drift from application to raspberry farm onto neighbor's property impacting their health.
County:	Whatcom
Pesticide Type (active ingredient):	Herbicide (paraquat)
License Type:	Private Applicator
Human Exposure people/description:	One Adult
Severity:	0
Application Site and Equipment:	Fence line; backpack sprayer
Other Agencies Involved:	Whatcom County Health Dept.
WSDA Response Time:	Same day
Final Action:	No Action; Complainant did not return calls.

VJD-0011-14 Allegation or Issue Investigated:	Neighbor's spray tank blew up causing damage on some of complainant's trees and plants
County:	Lewis
Pesticide Type (active ingredient):	Herbicide (triclopyr, 2,4-D, glyphosate)
License Type:	Unlicensed
Human Exposure people/description:	None
Severity:	2
Application Site and Equipment:	Driveway/fence-line; spray tank
Other Agencies Involved:	None
WSDA Response Time:	Same day
Final Action:	Notice of Correction: Faulty, careless or negligent operation.

Appendix C

Formal Compliance Enforcement Actions

Case Number NOI number	Party(ies) Involved/ County of Incident	Description	Action	Date of Final Order
MJW-0009-14	Brandon Lewis	A May 28, 2014, orchard air-blast application drifted onto	Brandon Lewis was assessed a \$450 fine	1/15/2015

PM-14-0015	Douglas County	an adjacent highway contacting a car as it drove past the orchard.	and a 7-day license suspension.	
BAO-0001-14 PM-14-0009	Randall Gleasman Chelan County	An April 9, 2014, orchard air-blast application is alleged to have drifted onto an adjacent residence resulting in two people claiming exposure after the application.	Settlement of \$1,200 with Mr. Gleasman as the responsible person making the application.	1/5/2015
MJW-0002-14 PM-14-0011	Dovex Fruit Co. Douglas County	An April 8, 2014, orchard air-blast application is alleged to have over-sprayed onto an adjacent orchard exposing 20 farmworkers.	Dovex Fruit Co., as the responsible employer overseeing the application, was assessed a \$7,500 fine.	12/22/2014
MJW-0004-14 PM-14-0012	David Carnes Grant County	A May 2, 2014, orchard air-blast application is alleged to have over-sprayed onto adjacent property exposing two adults and a child.	David Carnes, as the responsible person making the application, was assessed a \$2,700 fine.	12/19/2014
RSN-0002-14 PM-14-0007	Badger Ranch, LLC Grant County	An April 24, 2014, orchard air-blast pesticide application is alleged to have over sprayed onto an adjacent orchard exposing seven people.	Settlement of \$5,000 with Badger Ranch, LLC, as the employer in charge of employees making the pesticide application.	10/29/14
CJS-0021-13 PM-14-0005	Kenneth Bates Yakima County	A July 25, 2013, orchard air-blast pesticide application is alleged to have over sprayed onto an adjacent orchard exposing twenty farmworkers.	Settlement of \$5,000 and a 45-day license suspension with Mr. Bates who was the Private Applicator in charge of employees making the application.	10/23/2014
BAO-0002-14 PM-14-0008	Salvador Lopez Chelan County	An April 9, 2014, orchard air-blast pesticide application is alleged to have over sprayed onto adjacent residential property exposing four people.	Settlement of \$1,600 and a fourteen day license suspension with Mr. Lopez who was the Private Applicator making the application.	10/7/2014
MJW-0001-13	Jim Cobia, Cobia	A June 17, 2013, herbicide	Settlement of \$850	4/16/2014

PM-14-0004	Custom Services Grant County	application to an alfalfa field is alleged to have drifted across a county road and caused injury to a nearby bean field.	and a 5-day license suspension with Mr. Cobia, the Commercial Applicator making the application.	
DTB-0013-13 PM-14-0003	George Whitney, Jr. Grant County	A July 17, 2013 insecticide application by Mr. Whitney to a backyard is alleged to have drifted or over-sprayed through a wood fence contacting a neighbor as she worked in her garden.	Mr. Whitney was assessed a \$450 fine and a 7-day license suspension.	3/18/2014
DTB-0007-14 PM-14-0013	McDougall & Sons, Inc. Grant County	An April 11, 2014, orchard air-blast application is alleged to have drifted, exposing four workers in an adjacent orchard.	NOI issued for \$3,600 (subject to appeal with final disposition pending).	
DTB-0008-14 PM-0014-14	Todd Skylstad Grant County	An April 26, 2014, air-blast application made by an employee of Mr. Skylstad is alleged to have drifted, exposing four workers in an adjacent orchard.	NOI issued for \$1,800 + 28-day license suspension (subject to appeal with final disposition pending).	

Appendix D

WPS Civil Penalty Policy

WSDA POLICY REGARDING CIVIL PENALTIES FOR FIRST-TIME VIOLATIONS OF WAC 16-233

Under RCW 43.05.110(3), WSDA may issue a civil penalty, without first issuing a Notice of Correction, if a first-time violation of a statute or rule has a “probability of placing a person in danger of death or bodily harm.” Under RCW 34.05.110(4)(a), an exception may be made to the requirement that agencies allow a small business a period of at least two business days to correct a violation where the director determines that the violation presents a direct danger to the public health, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest. By way of this Policy, it is determined that the three circumstances outlined in this Policy meet the criteria described in RCW 43.05.110(3) and RCW 34.05.110(4)(a). This Policy recognizes that the requirements of WAC 16-233 are designed to reduce the risk of illness or injury resulting from worker/handler exposure to pesticides. WAC 16-233-005. Accordingly, under RCW 43.05.110(3) and RCW 34.05.110(4)(a), a first-time violation of WAC 16-233 may be subject to imposition of civil penalties by WSDA under the following three circumstances:

(1) Violations involving handlers:

- (a) Any significant violation involving personal protective equipment (PPE) or decontamination (WAC 16-233-245 and WAC 16-233-250, respectively);
- (b) Failure to provide sufficient training to handler prior to mixing or applying category 1 pesticides, unless the handler is exempt from training requirements (WAC 16-233-225);
- (c) Failure to inform handler of label safety requirements, or provide a label (WAC 16-233-230), for category 1 pesticides; or
- (d) Failure to monitor handler every 2 hours for category 1 applications (WAC 16-233-210(2)).

(2) Violations involving workers where the nature of the violation results in 8 or more points under the matrix below:

Violations Involving Workers			
Factor	Weight		Points
Toxicity (select product with highest toxicity that applies) as indicated by the signal word on the pesticide label.	Danger-Poison	(4)	
	Danger	(3-4)	
	Warning	(2)	
	Caution	(1)	

Time Elapsed from application to exposure, unless exceptions to the time requirements apply. (WAC 16-233-120)	During application Within 24 hours 24 to 72 hours More than 72 hours Restricted Entry Interval Expired	(4) (3) (2) (1) (0)	
PPE (primarily use, but can include cleaning, storage, etc. as well). (WAC 16-233-120)	Not provided Very Poor Poor Fair, but not complete	(4) (3) (2) (1)	
Decontamination. (WAC 16-233-150)	Not provided Major deficiency and/or inaccessibility Minor deficiency and/or inaccessibility	(3) (2) (1)	
Posting, notification or application information provided as required. (WAC 16-233-125 and 16-233-130, respectively)	Not properly provided:	(3-4)	
Total			

(3) Violations involving failure to provide emergency assistance to workers or handlers. (WAC 16-233-255)