Legal Resources for Pesticide Drift

The purpose of this document is to provide farmers and their lawyers with basic resources for pesticide drift-related legal issues. This page was created for educational purposes only, and in no way constitutes legal advice.

**REGULATIONS**
Federal and state laws regulate the use of pesticides. Some of the main laws include the following:

**FEDERAL LAW:**
Pesticides are regulated under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Under FIFRA, the state has primary enforcement responsibility.

7 U.S. Code §136w–1 State primary enforcement responsibility:
(a) In general
For the purposes of this subchapter, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—

(1) has adopted adequate pesticide use laws and regulations, except that the Administrator may not require a State to have pesticide use laws that are more stringent than this subchapter;

(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and

(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.

States report to the Environmental Protection Agency

**PESTICIDE LABELS**
Each pesticide has a unique label with directions for use and a list of appropriate crops. Allowable residue levels are also listed. If a crop is not listed on the label, the pesticide is not approved for use on that crop and the allowable residue level is 0.

Search for pesticide labels:
EPA: Pesticide Product and Label System
Purdue University: National Pesticide Information Retrieval System (NPIRS)

What is pesticide drift?
Pesticide spray drift is the movement of pesticide dust or droplets through the air at the time of application or soon after, to any site other than the area intended. (EPA definition, 2017). “Pesticides” include herbicides, insecticides and fungicides.

For Farmers:
Pesticide Drift Response Guides
- Practical Farmers of Iowa Response Guide
- IDALS Pesticide Bureau Response Guide

IDALS Pesticide Bureau
Iowa State Bar Association
- Glossary of Legal Terms
- “Find-A-Lawyer”

Basic Overview of Tort Law

IOWA LAW:
Pesticide Act of Iowa
Iowa Code §206

Note: Restricted use pesticides must be applied in accordance with their label. PESTICIDES §206.11, subsection 3, paragraph “b” states: “It shall be unlawful... For any person to use or cause to be used any pesticide contrary to its labeling or to rules of the state of Iowa if those rules differ from or further restrict the usage.”

Note: Incidence of pesticide drift should be investigated by the IDALS Pesticide Bureau. PESTICIDES §206.14, subsection 2 states: “Any person claiming damages from a pesticide application shall have filed with the secretary on a form prescribed by the secretary a written statement claiming that the person has been damaged.” PESTICIDES §206.14, subsection 3 states: “The filing of such a report or failure to give notice shall not preclude recovery in an action for damages and shall not affect the limitations of actions set forth in chapter 614. Nothing herein shall pro-
hibit an action for damages for bodily injury or death to any person.”

Note: See §614 for statute of limitations.

**Iowa Admin. Code 21—45: PESTICIDES**

**CASE LAW INVOLVING PESTICIDE DRIFT OR RELATED ISSUES**

**Iowa**


**Minnesota**

*Johnson vs. Paynesville Farmers Union Cooperative Oil Co.*, 817 N.W.2d 693, 2012 Minn. LEXIS 380 (Minn. Aug. 1, 2012)


**Missouri**


**Arkansas**


**Vermont**


**South Dakota**


**California**


**Texas**


**ARTICLES**


**DOCUMENT WEB LINKS**

Linked resources throughout the document are shown in blue. URLs are below.

5. https://www.iowabar.org/
7. https://www.epa.gov/regulatory-information-topic/regulatory-information-topic-pesticides#label

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