

Laws & Regulations Update

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Texas Department of Agriculture

West Texas Agricultural Chemicals Institute Conference
September 13, 2017

Certification and Training Rules

- On June 2, 2017 EPA extended the effective date of the new Certification and Training rules
- TDA State Plan Originally adopted in 1976 (Rule § 7.26)
- New effective date is May 22, 2018
- Major impacts to Texas
 - Mandatory Training Requirement for uncertified applicators
 - Minimum Age Requirement (18 years) for certification to apply a Restricted Use Pesticide (RUP)

Worker Protection Standard Rules

- EPA Delayed implementation of the new WPS Rules until January 2, 2018
- Full compliance becomes effective on that date
 - Yearly WPS Training for Workers (Worker cards will go away Nationally, but Texas is required to keep cards under RTK)
 - Worker access to information including application dates, SDS's and pesticide safety information
 - Access to labeling
 - Notification to workers
 - Establishes an information exchange between employers and workers

Worker Protection Standard Rules

- Application Exclusion Zone (AEZ) to keep workers and other people away from the area and the application equipment
- Keep workers and other people out of the areas being treated
- Handlers suspend applications if workers or people are near pesticide application equipment during applications
- Keep workers out of areas that are under a restricted-entry interval (REI), with a few narrow exceptions
- Protect early-entry workers who are doing permitted tasks in pesticide-treated areas during an REI, including special instructions and duties related to correct use of PPE
- Monitor handlers using highly toxic pesticides

Worker Protection Standard Rules

- Provide and maintain required PPE to handlers
- If a respirator is required by a pesticide label, provide the handler with a medical evaluation, fit test and respirator training
- Decontamination supplies including a sufficient supply of water, soap and towels for routine washing and emergency decontamination and eyewash systems for certain handlers
- Emergency assistance by making transportation available to a medical care facility in case of a pesticide injury or poisoning, and providing information about the pesticide(s) to which the person may have been exposed

State Limited Use and Regulated Herbicides

- § 76.003 – Adopted in 1981 (67th Texas Legislature)
 - (a) After notice and public hearing, the department may adopt lists of state-limited-use pesticides for the entire state or for a designated area within the state
 - (b) A pesticide may be included on a list of state-limited-use pesticides if the department determines that, when used as directed or in accordance with the widespread and commonly recognized practice, the pesticide requires additional restrictions to prevent unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits or use of the pesticide. However, the department shall not place a pesticide on the state-limited-use list solely on the basis of actual damage or risk of damage to water quality without first obtaining approval from the Texas Natural Resources Conservation Commission based on the impact of the pesticide's use on water quality

State Limited Use and Regulated Herbicides

- § 76.003 – Adopted in 1981 (Cont...)
 - (c) The department shall formally request an opinion regarding impact on water quality from the Texas Natural Resource Conservation Commission during department consideration of any amendments to the current list of state-limited-use pesticides
 - (d) At the direction of the Texas Natural Resources Conservation Commission in conjunction with its responsibilities pursuant to Chapter 26, Water Code, the department shall consider any formal request to add any pesticide to the state-limited-use list under Subsection (b), and the department shall issue regulations regarding the time, place, and conditions of such pesticide's use

State Limited Use and Regulated Herbicides

- § 76.003 – Adopted in 1981 (Cont...)
 - (e) The department may regulate the time and conditions of use of a state-limited-use pesticide and may require that it be purchased or used only:
 - (1) with permission of the department;
 - (2) under direct supervision of the department in certain areas under certain conditions; or
 - (3) in specified quantities and concentrations.
 - (f) The department may require a person authorized to distribute or use a state-limited-use pesticide to maintain records of the person's distribution or use and may require that the records be kept separate from other business records

State Limited Use by Active

- §7.30 (a)(1)
 - (A) 2,4-Dichlorophenoxyacetic acid (2,4-D); including acid, amine, choline, ester and salt formulations;
 - (B) 2,4-Dichlorophenoxy butyric acid (2,4-DB);
 - (C) 2,4-Dichlorophenoxy propionic acid (2,4-DP);
 - (D) 2-Methyl-4-Chlorophenoxyacetic acid (MCPA);
 - (E) 3,6-Dichloro-o-anisic acid (dicamba); including dimethylamine salt (DMA), sodium salt, diglycoamine salt (DGA), isopropylamine salts (IPA), N, N-Bis-(3-aminopropyl) methylamine (BAPMA), and potassium salt;
 - (F) 3,4-Dichloropropionanilide (propanil);
 - (G) 5-bromo-3-sec-butyl-6-methyluracil (bromacil);
 - (H) 2,4-bis(isopropylamino)-6-methoxy-s-triazine (prometon);
 - (I) 3,7-dichloro-8-quinolinecarboxylic acid (quinclorac);
 - (J) Sodium fluoroacetate (Compound 1080); and
 - (K) Sodium cyanide (M44).

State Limited Use by Use

- §7.30 (b)(1)
 - (1) Due to the high potential for adverse effects to humans, animals, or the environment as the result of wide area public health pest control, a pesticide product otherwise classified as general use is classified as a state-limited-use pesticide when, and only when, applications are made by aerial application or with power-driven fogging equipment for the purpose of public health pest control
 - (2) A person may not use a pesticide for public health pest control in methods identified in paragraph (1) of this subsection unless the person is licensed as a pesticide applicator under Chapter 76 of the Agriculture Code and certified in the public health pest control category or working under the direct supervision of a person so licensed and is employed either by a state, county, city, or other local governmental body or is a person authorized to perform public health pest control under a contract between a state, county, city or other local governmental body and the person or the person's employer
 - (3) For purposes of this subsection, "public-health pest control" has the same meaning as provided in §7.21(a)(12) of this subchapter (relating to Applicator Certification)

Regulated Herbicides

- §7.30 (a)(2)
 - (A) 2,4-dichlorophenoxyacetic acid (2,4-D); including acid, amine, choline, ester and salt formulations;
 - (B) 2-methyl-4-chlorophenoxyacetic acid (MCPA);
 - (C) 3,6-dichloro-o-anisic acid (dicamba); including dimethylamine salt (DMA), sodium salt, diglycoamine salt (DGA), isopropylamine salts (IPA), N, N-Bis-(3-aminopropyl) methylamine (BAPMA), and potassium salt; and
 - (D) 3,7-dichloro-8-quinolinecarboxylic acid (quinclorac).

Regulated Herbicides Exemption

- Rule §7.30(a)(3):
 - Exceptions from Regulated Herbicide Certification
 - (A) 2,4-dichlorophenoxyacetic acid (2,4-dD or 3,6-Dichloro-o-anisic acid (dicamba) when used in accordance with the approved product label for transgenic auxin herbicide tolerant crops; and
 - (B) is applied by ground application equipment only; and
 - (C) applied when winds do not exceed 10 miles per hour.

Regulated Herbicides Exemption

- Rule §7.30(a)(4):
 - (4) A pesticide product containing an active ingredient listed in this subsection is exempt from classification as a state-limited-use pesticide or a regulated herbicide under this subsection if the product:
 - (A) is distributed in a container with a capacity less than or equal to one quart for liquid products or less than or equal to two pounds for dry or solid products;
 - (B) is a specialty fertilizer mixture labeled for ornamental use and registered as a commercial fertilizer under Chapter 63 of the Agriculture Code;
 - (C) is ready for use, requires no further mixing or dilution before use, and is packaged in a container of one gallon or less for liquid products or four pounds or less for dry or solid products.

Regulated Herbicides – Rule §7.50

Regulated Counties

- (a) The following requirements are applicable to persons applying regulated herbicides in regulated counties. No person shall apply regulated herbicides as defined in §7.30 of this title (relating to Classification of Pesticides), without first obtaining a spray permit for such application. A blanket permit may be issued to a licensed or certified applicator. The department may require a licensed or certified applicator who has obtained a blanket permit to submit a supplemental report of any regulated herbicide applied under the terms of the permit
- (1) All permits expire when the acreage for which the permit was granted has been sprayed, or 180 days after issuance, whichever occurs first
- (2) Applications of regulated herbicides by brush, mop, wick, basal treatment, or injection method are hereby exempt from the requirements of obtaining a permit
- (3) Applications by an applicator licensed by the Texas Structural Pest Control Board in turf and weed control and a nurseryman licensed by the department in turf weed control for structural pest control applications are exempt from the permit requirements of this section
- (4) All persons applying regulated herbicides to lawns are exempt from the permit requirements of this section

Regulated Herbicides – Rule §7.50

- (b) All spraying of regulated herbicides must conform to these requirements in a regulated county regardless of whether or not a permit is required
- (1) Spraying high volatile herbicides is prohibited when there are susceptible crops within a four-mile radius from any point of the land to be sprayed. Highly volatile herbicides include methyl, ethyl, butyl, isopropyl, octylamyl, and pentyl esters containing various concentrations expressed in pounds of acid equivalent per gallon
- (2) No person shall spray regulated herbicides when the wind velocity exceeds 10 miles per hour or as specified on the product label, if the label is more restrictive
- (3) The use of any turbine or blower-type ground application equipment to apply regulated herbicides is prohibited

Dicamba Complaints

- Dicamba is a State Limited Use pesticide in Texas
- Treated like a federal RUP
- Proper Licensing and Record Keeping are required
- Also a Regulated Herbicide (exemptions may apply)
- 54 Regulated Counties in Texas
 - Each county has their own regulations for RH's and the spray permit requirement

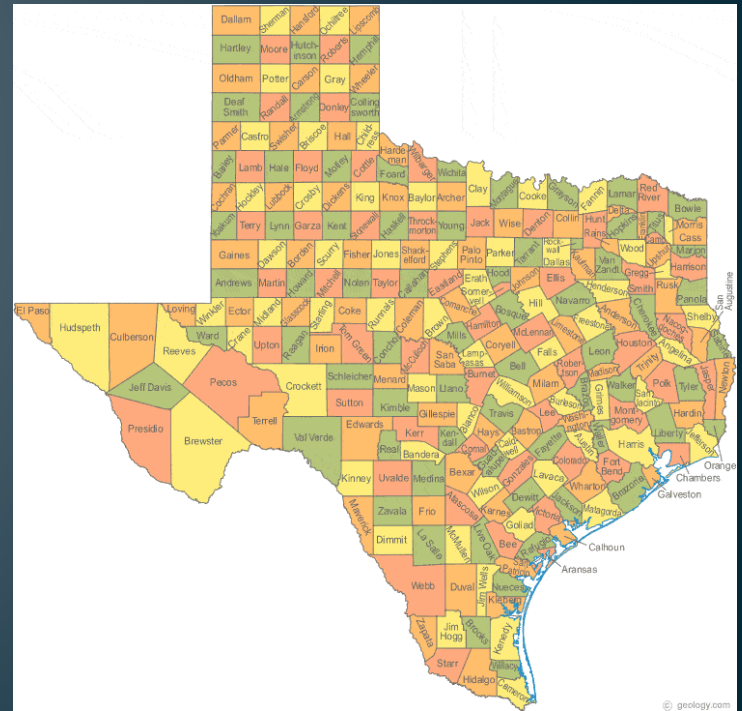
Dicamba Complaints



Courtesy University of Missouri

Dicamba

- As of September 7, TDA has received 10 complaints that have been confirmed for Dicamba Drift

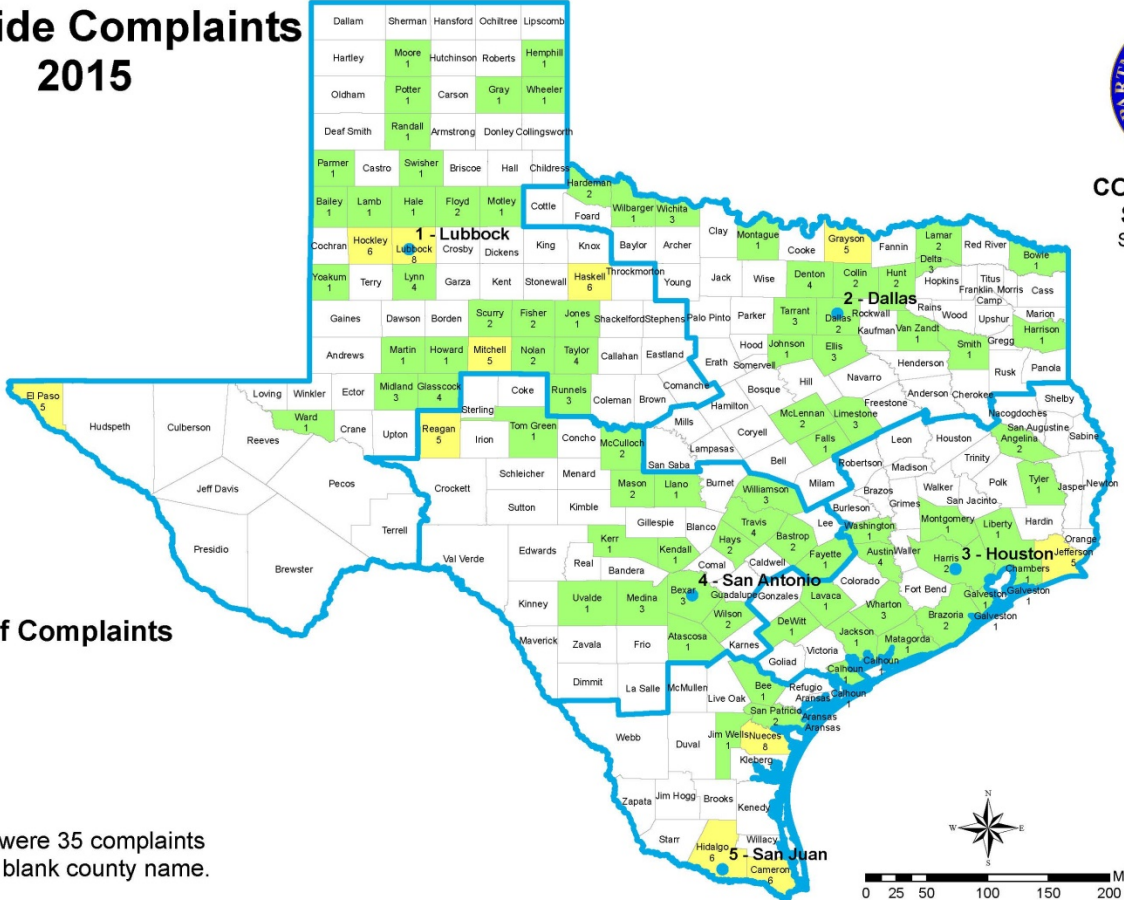


2015 Agriculture Pesticide Complaints

Pesticide Complaints 2015



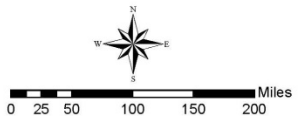
COMMISSIONER
SID MILLER
September 2017



Number of Complaints

- 1 - 4
- 5 - 9
- 10 - 14
- 15+

Note: There were 35 complaints with a blank county name.



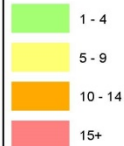
2017 (to date) Agriculture Pesticide Complaints

Pesticide Complaints 2017 January - August

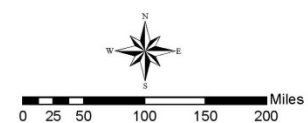
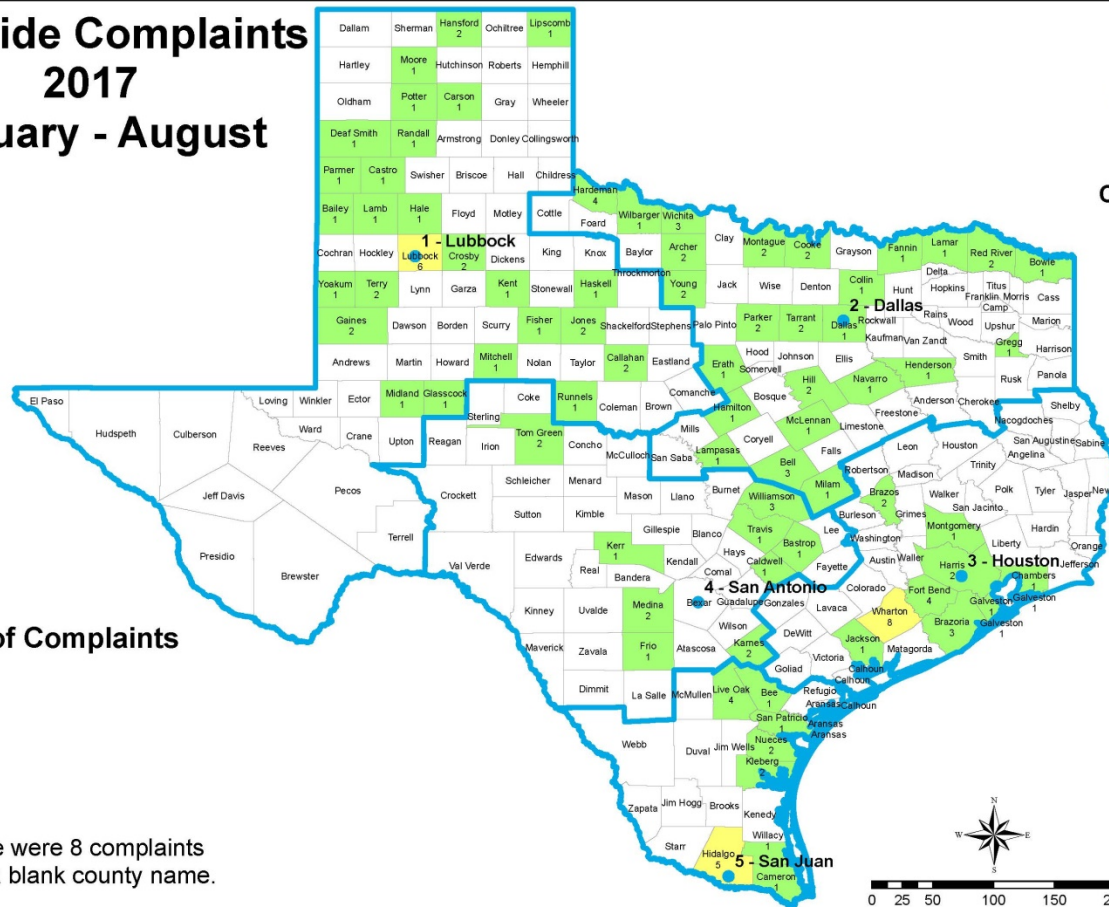


COMMISSIONER
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September 2017

Number of Complaints



Note: There were 8 complaints with a blank county name.



Agriculture Pesticide Enforcement Actions 2015 - 2017

- Applicators
- Dealers
- WPS

Agriculture Pesticide Enforcement Actions

Applicators

Enforcement Action	2015	Amount	2016	Amount	2017	Amount
Application of a RH of Wind Speed/Distance Requirements	1	\$250.00	1	\$1,200.00	0	\$0.00
Allowing License to be Used by Another Person	0	\$0.00	0	\$0.00	1	\$1,000.00
Application During a Time that Persons were Present	0	\$0.00	0	\$0.00	1	\$2,000.00
Applicator Keeping False or Fraudulent Records	0	\$0.00	0	\$0.00	1	\$3,000.00
Failing to Maintain Info Req'd on Records of Pest. Use	11	\$3,500.00	32	\$9,750.00	15	\$6,000.00
Failure to Meet CEU Recertification Requirements	14	\$54,000.00	42	\$139,800.00	2	\$1,200.00
Failure to Obtain a Spray Permit	0	\$0.00	0	\$0.00	1	\$750.00
Knowingly used, stored, handled or disposed of Pesticide in Manner that Caused Injury	0	\$0.00	1	\$5,000.00	0	\$0.00
Failure to Submit Application Recs or Rpts Upon Requests	0	\$0.00	0	\$0.00	1	\$1,000.00
Purchasing SLU/RU Pesticide or RH w/out License	3	\$750.00	13	\$6,625.00	7	\$4,075.00
Pesticide Used Inconsistently with its Label/Labeling	18	\$15,500.00	37	\$33,727.50	30	\$39,225.00
Storage/Disposal in Faulty, Careless, Negligent Manner	0	\$0.00	1	\$400.00	0	\$0.00
Sup. Use of RU/SLU Pesticide or RH by Cert. Private Applicator	1	\$1,000.00	1	\$1,000.00	1	\$750.00
Using or Superv. Use of SLU/RU Pesticide or RH w/out License	0	\$0.00	4	\$3,800.00	4	\$3,100.00
Using Pest on Crop, Animal, site not Spec. on Label	0	\$0.00	3	\$1,800.00	3	\$3,400.00
Using SLU/RU Pesticide or RH w/out License	3	\$800.00	11	\$8,275.00	6	\$5,550.00
Total Applicator Violations	51	\$75,800.00	146	\$211,377.50	73	\$71,050.00

CEU Search Texas Natural Resource Farmer plants corn maize

ceusearch.texasagriculture.gov

Apps Products Weather Plant Quality Cisco Finesse Pentaho User Console NATC | The National Survey | Qua

TEXAS DEPARTMENT OF AGRICULTURE

Pesticide CEU Course Search

The Texas Department of Agriculture has approved recertification courses for pesticide applicators who need continuing education units (CEUs).

This list now includes both agricultural and structural CEUs.
Please check with the course sponsor to be sure the course meets your CEU needs.

[CEU FAQ](#)

View list of available [online and correspondence courses](#).

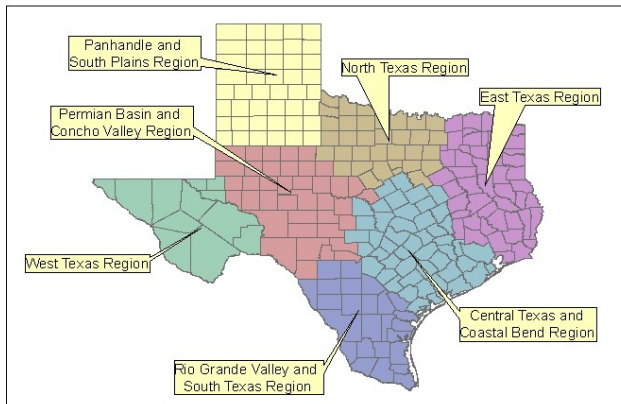
TIPS: Use the ctrl button to select more than one dropdown choice.

Course Type Ag Structural Both

Region

- ALL
- Central Texas and Coastal Bend Region
- East Texas Region
- North Texas Region
- Panhandle and South Plains Region
- Permian Basin and Concho Valley Region
- Rio Grande Valley and South Texas Region
- West Texas Region

Search



Agriculture Pesticide Enforcement Actions

Dealers

Enforcement Action	2015	Amount	2016	Amount	2017	Amount
Dealer Failing to Maintain information RE: Sale of RH/SLU Herbicide	2	\$500.00	14	\$5,500.00	6	\$12,500.00
Dealer Maintaining False and/or Fraudulent Records	0	\$0.00	1	\$1,000.00	2	\$30,000.00
Displaying/Offering for sale Pest in Unsafe Containers	1	\$400.00	0	\$0.00	2	\$2,000.00
Distributing a Pesticide without Renewing Registration	0	\$0.00	0	\$0.00	2	\$1,550.00
Distribution of RU/SLU Pest to other than Lic/Cert Applicator	3	\$1,800.00	14	\$12,000.00	5	\$40,200.00
Distribution of RU/SLU Pesticides w/Out License	4	\$2,000.00	2	\$1,400.00	3	\$5,600.00
Violation of a Stop Use, Stop Distribution or Removal Order	0	\$0.00	0	\$0.00	1	\$1,000.00
Labels Removed or Defaced from Containers	0	\$0.00	0	\$0.00	2	\$3,500.00
Total Dealer Violations	10	\$4,700.00	31	\$19,900.00	23	\$96,350.00

Agriculture Pesticide Enforcement Actions

WPS

Enforcement Action	2015	Amount	2016	Amount	2017	Amount
Failing to Provide WPS Training to Ag Laborers-RTK	0	\$0.00	2	\$1,200.00	0	\$0.00
Failing to Offer Basic Safety and Health Related Info – WPS	0	\$0.00	0	\$0.00	1	\$600.00
Failure to assure Knowledge of Label Requirements & Rules	1	\$500.00	7	\$6,500.00	3	\$2,000.00
Failure to Keep Information at Central Posting Location - WPS	1	\$400.00	1	\$1,600.00	3	\$1,400.00
Failure to Maintain a Central Posting Location – WPS		\$400.00	2	\$800.00	4	\$1,600.00
Failure to Provide Notice of Pesticide Applications – WPS	0	\$0.00	0	\$0.00	1	\$600.00
Failure to Provide PPE to Workers/Handlers – WPS	0	\$0.00	0	\$0.00	1	\$600.00
Failure to Train Worker/Handlers within Time Prescribed-WPS	1	\$600.00	5	\$2,400.00	6	\$3,450.00
Total WPS Violations	3	\$1,900.00	17	\$12,500.00	19	\$10,250.00

Record Keeping

- Date of application and time of day
- Person for whom the application was made
- Location of land where application was made
- Site Treated (name of crop, etc)
- Total acres or volume of area treated
- Pesticide applied including: EPA Reg. No., rate of application
- Total volume of materials applied per unit, name of pest treated
- Wind direction and velocity and air temperature
- FAA “N” number for aerial applicators

Record Keeping Cont...

- Name and license number of responsible licensed applicator and, if different, name of person making the application
- Spray permit No. for regulated herbicides applied in Regulated County
- Maintain records for 2 years

Record Keeping Form

<http://www.texasagriculture.gov/Forms.aspx>

TDA Q527
7/15

Texas Department of Agriculture Pesticide Applicator Record



COMMISSIONER: SID MILLER

Business/Applicator Name _____ Address _____

Application Date	Time Started	Name of the person for whom the application was made	Location of Land Treated		Site Treated	Wind Direction	Wind Velocity	Air Temp
Product Trade Name	EPA Registration Number	Target Pest	Rate of Product Per Unit	Method or Type of Equipment Used To Make Application		FAA "N" Number for Aerial Application Equipment:		
Is Application Applied in Regulated County: <input type="checkbox"/> Yes <input type="checkbox"/> No			Regulated Herbicide Permit Number:					
Licensed Applicator's Name and License Number		Non-licensed Applicator's Name Working Under License	Total Acres or Volume of Area Treated	Total Volume of Spray Mix, Dust, Granules or Other Materials Applied Per Unit				
Documentation used to verify training of non-licensed applicator (Mark Applicable Box) <input type="checkbox"/> Direct Supervisor Affidavit <input type="checkbox"/> WPS Handler Card <input type="checkbox"/> Signed & Dated Label								

Application Date	Time Started	Name of the person for whom the application was made	Location of Land Treated		Site Treated	Wind Direction	Wind Velocity	Air Temp
Product Trade Name	EPA Registration Number	Target Pest	Rate of Product Per Unit	Method or Type of Equipment Used To Make Application		FAA "N" Number for Aerial Application Equipment:		
Is Application Applied in Regulated County: <input type="checkbox"/> Yes <input type="checkbox"/> No			Regulated Herbicide Permit Number:					
Licensed Applicator's Name and License Number		Non-licensed Applicator's Name Working Under License	Total Acres or Volume of Area Treated	Total Volume of Spray Mix, Dust, Granules or Other Materials Applied Per Unit				
Documentation used to verify training of non-licensed applicator (Mark Applicable Box) <input type="checkbox"/> Direct Supervisor Affidavit <input type="checkbox"/> WPS Handler Card <input type="checkbox"/> Signed & Dated Label								

Thank You



Contact Information

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