

Chapter Eight

INTERAGENCY PESTICIDE REFERRALS

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INTERAGENCY PESTICIDE REFERRALS

AUTHORITY

Section 22(b) of FIFRA, as amended, authorizes the Administrator to cooperate with other federal and State agencies in carrying out the provisions of the Act.

OBJECTIVE

The objective is to improve management controls and response to pesticide-related cases that are referred between:

- < Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA),
- < EPA and the United States Department of Agriculture (USDA), and
- < EPA and the United States Customs Service (Customs).

POLICY

The Memorandum of Understanding (MOU) between FDA, USDA, Customs, and EPA on Regulatory Activities Concerning Residues of Drugs, Pesticides, and Environmental Contamination in Foods (signed December 7, 1984; 50 FR 2304) provides that an FDA district office will notify the appropriate EPA Regional office when it encounters, through investigation or sample analysis, pesticide residues on foodstuffs that may be the result of the misuse of pesticides. EPA, in turn, will notify FDA whenever pesticide misuse is found which might result in illegal pesticide residues in food. Each agency is to keep the other agency informed of the results of its follow-up and regulatory actions, with USDA concerning residues of pesticides on agricultural commodities including meat and poultry, with Customs on notification of registered/unregistered and illegal imported pesticides.

PROCEDURES

To improve the quality of referrals from FDA, USDA, and Customs to EPA, FDA, and USDA field staff must refer cases of suspected pesticide misuse to EPA only when all of the following conditions are met:

- < FDA or USDA has evidence clearly demonstrating that the pesticide was used on the food, feed, meat, or poultry in a manner contrary to its EPA-approved use and labeling.
- < FDA or USDA laboratory results (original and check analysis) show residues of a pesticide for which FDA regulatory action would be initiated against the food, feed, meat, or poultry because:
 - The tolerance for the pesticide is exceeded.
 - No tolerance (or exemption from tolerance) has been established or the tolerance has been revoked and the level of residue appears to be due to purposeful use as opposed to environmental or some other unavoidable source of contamination.
 - The misuse occurred while the food, feed, meat, or poultry was in domestic production, shipment, or storage. (Note: Imports found to contain illegal pesticide residues at time of entry are not to be referred to EPA). FDA and USDA retain authority to detain, seize, or destroy the illegal contaminated commodity.
 - The person or firm that misused the pesticide is known or suspected.

Customs will notify EPA on each entry of registered, unregistered or illegal pesticides potentially entering U.S. commerce.

FDA and USDA also will inform EPA of any other State or local agencies that have been notified.

Referrals from EPA to FDA and USDA

The nature and location of EPA inspections make it unlikely that many referrals of potentially illegal residues will be made from EPA to FDA or USDA. When EPA discovers situations, however, that might result in illegal residues, they must be referred to the FDA or USDA district office so that the crop, food or feed, meat or poultry, and/or a product can be intercepted and tested as necessary. Examples of situations that might result in illegal residues include accidental pesticide spills, excessive pesticide use in a crop nearing harvest, fruit or grain fumigation over the prescribed rates, and pesticide misuse in a food-processing facility, or the misuse of pesticides in and around slaughter houses. Other examples may include EUPs, section 18 emergency exemptions, and use of canceled pesticides.

Referrals from EPA to State Agencies

The EPA response to FDA and USDA illegal residue referrals will normally be a referral to the appropriate State lead pesticide agency for follow-up. Referrals will be tracked and reported to FDA and USDA in accordance with procedures established by the Regions. A suggested format is attached as Exhibit 8-1.

Emergency situations may arise that require immediate interagency action such as serious pesticide misuse or incidents that may result in harmful human exposures. In these instances, the necessary agencies must be notified immediately by telephone with all information that is readily available so that the hazardous situation can be corrected promptly.

