

Neighbours and Spray Drift

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There is a lot of information available about spray drift. How it occurs, why it occurs, how far it will go, how to contain it, how to avoid it. You name it, there is something written about it. It is worthwhile finding out about this information.

Benefits from controlling spray drift

Why is so much effort put into studying and analysing spray drift? The first point that comes readily to mind is that containing drift helps to keep the spray on the target where you want it. That extra spray will control your pest problem a little more efficiently and should save you some money.

Containing drift also has other benefits, which may or may not be apparent to a grower. Neighbours can have concerns about drift and will benefit through drift being contained to the target area.

Failure to contain spray drift can be costly to your neighbour either from an economic or personal point of view. Neighbours may be concerned about their health and their family's health, their lifestyle, or the effect on their livelihood (for example tourism operators, organic producers).

Neighbours' concerns

Neighbours display a number of emotions when it comes to spray drift. Anger is probably the most frequent. Fear, frustration, and stress are there too. For example, if they think that their health is going to suffer either now or in the future, they will oppose and frustrate you. If they think you don't care about them, they may make your life uncomfortable. They may cost you a lot of time and effort. They could become "bad" neighbours – possibly the neighbours from hell. It could be that you will seem like the neighbour from hell to them.

How should you deal with your neighbours?

It isn't easy to set rules that will guarantee a good relationship, but there are a few points that should help:

- **Operate within the law.** Follow the Codes of Practice for Ground and Aerial Spraying and adhere to label or permit instructions.
- **Be considerate.** Try to see drift as if your neighbour was spraying with an unknown chemical, and it was drifting over your place. Your neighbours may not have a robust constitution. They may have young children. They may be organic growers.
- **Be open.** Don't keep information from your neighbours. Ignorance can breed fear but openness and transparency builds trust. Notify them when you are going to spray. Tell them what chemical you are using and that you will avoid drifting onto them. Explain that you spray at night because the wind dies down, and not so they won't know what you're doing.

The Code of Practice for Ground Spraying states that you **should** notify those neighbours occupying properties and buildings within 100 metres of the area to be sprayed (clause 21). You don't **have** to do it, but it is highly recommended.

The law can require notification

Under the *Agricultural and Veterinary Chemicals (Control of Use) Act 1995* a neighbour living within 100 metres can apply to the Secretary of DPI/PWE for a **direction** to be given to the grower (owner of the land in question). The direction can require the grower to give notice to the applicant (neighbour) whenever agricultural spraying is to be carried out and to provide the name of the product(s) to be used (clause 31).

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This option has not been taken up to any great extent, but some neighbours are making enquiries about it and are clearly seeing it as a way to impose some responsibility onto growers who want to ignore them. Failure to obey a directive can attract a fine.(up to \$20,000).

This begs the question: why avoid notification when in the end you could be made to do it anyway - under penalty of a fine? Once given, this directive will stand until such time as one of the parties moves away.

What if spray drift occurs?

In spite of your best intentions, there may come a time when drift does trespass on your neighbour's property. Chances are that they will call this Department and lodge a complaint.

Once contacted, we will in most cases try to get the complainant and the grower to work out a solution. At some point, samples may be taken to test the allegation of drift. If these samples prove to be positive, the grower should consider his position and acknowledge the need to do something to stop the drift.

If the incident of drift is serious enough, legal action may become the 'bottom line'. DPIPW may conduct a formal investigation and commence proceedings if there is evidence that section 30 of the *Agricultural and Veterinary Chemicals (Control of Use) Act 1995* has been breached.

Clause 30 states:

"A person must not carry out or cause to be carried out agricultural spraying which adversely affects any person, plants, stock, agricultural produce, water bodies, groundwater or soil on premises, or any premises, not owned or occupied by the person carrying out or causing to be carried out the agricultural spraying unless that person has obtained the permission of the owner or occupier of the premises."

"Adversely affects", in relation to plants, stock, agricultural produce, water bodies, groundwater or soil on premises, or any premises, means creating a residue of an agricultural chemical product in excess of the **prescribed level** in or on the plants, stock, agricultural produce, water bodies, groundwater, soil or premises.

Prescribed levels for water can be found in the NHMRC Drinking Water Guidelines. Prescribed levels for stock and agricultural produce are the maximum residue limits (MRL) published by the National Registration Authority for Agricultural and Veterinary Chemicals. The prescribed level for a premises is the chemical residue likely to contaminate agricultural produce stored or processed in the premises or render the premises unsuitable for its normal use.

An adverse effect on a person may be substantiated by a medical practitioner.

The maximum fine for causing an "adverse effect" is \$20,000, not to mention any costs resulting from being sued under common law.

Fortunately, most spray drift complaints are resolved through negotiation and finding a solution that is acceptable to all parties.

REMEMBER

It's your responsibility to keep your chemical spray in the target area to avoid causing any "adverse effects" and to work it out with your neighbours.

Hello Jim,
It's Joe Bloggs here. Listen mate, I thought I had better advise you that I am intending to spray my apple orchard next Tuesday at approximately 10:00am, weather permitting. I will be using Delan, a Schedule 6 fungicide. I will be adhering to proper label directions for spraying and proper health and safety precautions in case you have any concerns. No, I won't be spraying if there are windy conditions. Yes mate, I will phone you on the day to confirm whether I will be spraying.
Thanks, okay, fine. Bye for now.

For all spray drift enquiries contact the Agvet Chemicals Program on 03 6777 2133