WEST VIRGINIA CODE: §19-16A-19

§19-16A-19. Pesticide accidents; incidents or loss.

(a) Any person claiming damages for a pesticide application shall file with the commissioner, on a form provided by the commissioner, a written statement claiming that he or she has been damaged. This report must be filed within sixty days after the date that damages occurred. If a growing crop is alleged to have been damaged, the report must be filed prior to the time that twenty-five percent of the crop has been harvested. The statement shall contain, but not be limited to, the name of the person allegedly responsible for the application of said pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damage is alleged to have occurred and the date on which the alleged damage occurred. The commissioner shall, upon receipt of the statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility of the damages claimed and furnish copies of statements as requested. The commissioner shall inspect damages whenever possible and when he or she determines that the complaint has sufficient merit he or she shall make the information available to the person claiming damage and to the person who is alleged to have caused the damage.

(b) The filing of the report or the failure to file a report need not be alleged in any complaint which is filed in a court of law, and the failure to file the report may not be considered a bar to the maintenance of any criminal or civil action.

(c) The failure to file a report is not a violation of the provisions of this article. However, if the person failing to file a report is the only one injured from such use or application of a pesticide by others, the commissioner may, when in the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under this article until a report is filed.

(d) Where damage is alleged to have occurred, the claimant shall permit the commissioner, the licensee and his or her representative, such as bondsman or insurer, to observe within reasonable hours the lands or nontarget organism alleged to have been damaged in order that the damage may be examined. Failure of the claimant to permit the observation and examination of the damaged lands automatically bars the claim against the licensee.

WV Legislature