

A Summary of Cases

November 6, 2017

2017/0224 On January 11, 2017, the Office of the Indiana State Chemist (OISC) received an anonymous tip that the China Buffet restaurant at 1640 N. US 41 Schererville, Indiana may be misusing a pesticide in the kitchen/food prep area.

Disposition: Lin Ding and China Buffet were cited for two counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application to food-handling establishments. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. Consideration was given to the fact Mr. Ding cooperated during the investigation. Consideration was also given to the fact there was potential for human harm.

2017/0325 On January 20, 2017, Joseph Becovitz of the Office of the Indiana State Chemist was approached regarding a possible line of pesticide products that were being distributed and sold in the State of Indiana without being registered. The products were identified as being distributed by Wondercide LLC in Austin, Texas and were making “natural” 25(b) as well as pesticidal claims. After reviewing the product registrations in Indiana with product manager Ed White, it was determined that Wondercide had never had any pesticide products registered in Indiana.

After reviewing the product labels with the product compliance manager Ed White, it was determined that the Wondercide Skin Tonic Spray-Itch & Allergy product that was taken to the OISC Formulations lab did not make any pesticidal claims.

Disposition: Wondercide LLC was cited for twelve (12) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale or distribution in Indiana. Those products were:

For 2015

Count #1: Insect Repellent – Fresh Cedar & Lemongrass Scent

Count #2: Flea & Tick Control – Yard & Garden Concentrate

For 2016

Count #3: Insect Repellent – Fresh Cedar & Lemongrass Scent

Count #4: Flea & Tick Control – Yard & Garden Concentrate

Count #5: Flea & Tick Control – Fresh Cedar & Rosemary Scent

For 2017

Count #6: Insect Repellent – Fresh Cedar & Lemongrass Scent

Count #7: Flea & Tick Control – Yard & Garden Concentrate

Count #8: Flea & Tick Control – Fresh Cedar & Rosemary Scent

Count #9: Flea & Tick Control Pets & Home Fresh Lemongrass Scent

Count #10: Flea & Tick Control Pets & Home – Fresh Cedar & Lemongrass Scent
(.2% lemongrass)

Count #11: Flea & Tick Control Pets & Home – Fresh Cedar & Lemongrass Scent (.1% lemongrass)

Count #12: Flea & Tick Control Pets & Home – Fresh Cedar

Count #13: Flea & Tick Control Pets & Home Cedar Scent

A civil penalty in the amount of \$3,250.00 (13 counts x \$250.00 per count) was assessed. Wondercide LLC was cited for eight (8) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$2,000.00 (8 counts x \$250.00 per count) was assessed.

2017/0547

On March 31, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Brett Wells for making for-hire pesticide/fertilizer lawn applications without a license. The OISC database indicated Wells was licensed through 2015 but no longer had a valid pesticide license. Anonymous indicated Wells used to work with Dan Bunklow (see case number 20170548) but now works on his own.

Disposition:

A. Richard R. Dodd and A Cut Above Lawn Maintenance were warned for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. Consideration was given to the fact Mr. Dodd cooperated during the investigation and there was a good-faith effort to comply.

B. Brett Alan Wells and Wells Property Group were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist. A civil penalty in the amount of \$250.00 was assessed to Wells Property Group for this violation.

2017/0583

On April 7, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Wilde Horticulture making for-hire pesticide applications without having an Indiana pesticide business license. A check of the OISC database verified Wilde Horticulture did not possess a pesticide business license. In addition, the website listed above advertised pest control and fertilization.

Disposition:

A. Brian Wildman and Wilde Horticulture were cited for eight (8) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$2,000.00 (8 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,100.00. Consideration was given to the fact Mr. Wildman cooperated during the investigation and there was no previous violation of similar nature.

B. On June 21, 2017, an informal conference was held at the law office of Wooden McLaughlin in Evansville, Indiana. Present were Brian Wildman, his attorney Michael Smith and George Saxton and Scott Farris of OISC.

C. Mr. Smith produced a record showing he passed his Core exam on June 20, 2017, and was in the process of corrective action by becoming properly licensed. I suggested his

civil penalty be reduced to \$800.00 and \$300.00 of that would be held in abeyance until July 31, 2017, and would not be assessed provided he becomes properly licensed by that date. The amount of civil penalty that would be assessed would be the remaining \$500.00.

2017/0648 On April 18, 2017, the Indiana Department of Environmental Management (IDEM) received a call from a private citizen, Andrew Lewis, reporting he witnessed a container of an unknown pesticide fly off a truck on Highway 60, entering from Wilson Switch Road in Borden, Indiana. See figure 1-2 of spill imprint taken by IDEM. Mr. Lewis estimated 150 gallons spilled onto the road. Mr. Lewis stated he drove through the spill and then drove through his yard leaving dead grass tire tracks.

Disposition: Ron Weisenbach was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact there was potential for human and environmental harm.

2017/0667 On April 19, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his grapes.

Disposition: Certified Applicator Bernie Buening and Registered Technician Philip Ebelhar were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed to Superior Ag. Consideration was given to the fact this was Mr. Buening's second violation of similar nature. See case number 2016/0861.

2017/0684 On April 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his property.

Disposition: Certified applicator Erich Hasler and registered technician Keith Piel were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$250.00 was assessed to Beck's Hybrids for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact there was potential for human harm.

2017/0689 On April 26, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her property. She stated the field applicator drifted onto her clothes, home and the drift got in to her mouth. She stated she had a shirt she will surrender for analysis with the understanding the shirt will be destroyed during analysis.

Disposition: Don Burress was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.

2017/0761 On May 18, 2017, I received an email complaint from PR's Lawncare regarding an unlicensed company JL's Lawn Care making for-hire pesticide applications without being registered with the Office of the Indiana State Chemist's office. The email stated they observed David J. Lubs fertilizing at Arconic 1110 E. Lincolnway LaPorte, Indiana. Also included in the email was a photograph and video of the incident (Figures 1 & 2).

Disposition: JL's Lawncare, Inc. was cited for violation of section 65(9) of the Indiana Pesticide Use and Application for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/0782 On May 19, 2017, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) received a complaint regarding possible pesticide drift. The complainant, Joni Bigger, stated she observed Pro Green making an application to her neighbor's lawn at 2705 W. Beckett Drive on May 17, 2017, at approximately 10:50 am. She stated she was outside with her children at the time of the application, that it was very windy and that the application drifted onto her children and her property.

Disposition: Robert Miller and Pro Green were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application in winds greater than 10 miles per hour and drift to people. A civil penalty in the amount of \$250.00 was assessed to Pro Green. Consideration was given to the fact this was Mr. Miller's first violation of similar nature. Consideration was also given to the fact there was potential for human harm.

2017/0813 On May 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his trees.

Disposition: Eric D. Wiseman was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. Consideration was given to the fact this was his first violation of similar nature.

Eric D. Wiseman was cited for forty-two (42) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$5,250.00 (42 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$787.50. Consideration was given to the fact Mr. Wiseman cooperated during the investigation; corrective action was taken (Mr. Spencer became licensed July 14, 2017); there was no previous history of similar violations; no potential for harm since Mr. Spencer had been licensed in Illinois and no restricted use pesticides were involved.

2017/0821 On June 5, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an agricultural pesticide drift that he believes killed some of his fish.

Disposition: William Frank Bailey and Cloverdale Agri-Center were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label-directed setbacks from points where surface water may run off and within 200 feet of a pond. A civil penalty in the amount of \$250.00 was assessed to Cloverdale Agri-Center. Consideration was given to the fact this was Mr. Bailey's first violation of similar nature. Consideration was also given to the fact the pesticide product(s) are restricted use pesticides.

2017/0855 On June 13, 2017, I observed Mr. Bruce Yates making a pesticide application on a ride on applicator to the residence of 7574 W 300 S in New Palestine, Indiana. I observed him making the applications in short pants and short sleeve shirt with no gloves.

Disposition: Bruce Yates was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation.

Wood Works Landscapes was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

2017/0958 On July 4, 2017, at 10:15am, I observed Mr. Stall making what appeared to be some sort of pesticide application to the parking lot around curbing at the Chase Bank 2207 Sagamore Pkwy S in Lafayette, Indiana. I could see that Mr. Stall was wearing a short-sleeved shirt and short pants. See Figure One

Disposition: Kelly Little and Kelly Landscaping were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed to Kelly Landscaping for this violation.

Kelly Little and Kelly Landscaping were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed to Kelly Landscaping for this violation.

Kelly Little and Kelly Landscaping were cited for violation of section 65(12) of the Indiana Pesticide Use and Application Law for failure to comply with any limitations or restrictions in a duly issued license. A civil penalty in the amount of \$250.00 was assessed to Kelly Landscaping for this violation.

The total amount of civil penalty assessed to Kelly Landscaping was \$625.00. However, the civil penalty was reduced to \$487.50. Consideration was given to the fact Kelly Landscaping cooperated during the investigation. Consideration was also given to the fact there was potential for human harm.

CASE SUMMARY

Case #2017/0224

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Lin Ding (Manager)
China Buffet
1640 N. US 41
Schererville, IN 46375

1. On January 11, 2017, the Office of the Indiana State Chemist (OISC) received an anonymous tip that the China Buffet restaurant at 1640 N. US 41 Schererville, Indiana may be misusing a pesticide in the kitchen/food prep area.
2. On January 12, 2017, I met the manager of the China Buffet, Lin Ding, at the restaurant with the Lake County Health Department representative Al Booth and Schererville Town Code Enforcement Officer Sam Decero. Mr. Ding stated that he had applied Demon Max EPA Reg. No. 100-1218 two times in the kitchen, food prep, and dining areas of the restaurant. He stated that he applied the pesticide with a hand held sprayer at nighttime when no one else was in the restaurant.
3. Swab samples were taken of the kitchen, food prep, and dining areas and turned into the OISC Pesticide Residue Laboratory. The results are the following:

Case # 2017/0224		Investigator: M. Rosch	
Sample #	Sample Description	Sample Matrix	Amount Found
			Cypermethrin
2017-355209	Trip Blank	swab	BDL
2017-355210	Control swab	swab	BDL
2017-355211	Dining Area Baseboard near register	swab	151000 ng/swab
2017-355212	Dining Area Baseboard middle	swab	66700 ng/swab
2017-355213	Baseboard near buffet area right side	swab	14500 ng/swab
2017-355214	Baseboard near buffet area right/dining	swab	67700 ng/swab
2017-355215	Baseboard of buffet facing entrance near register	swab	4440 ng/swab
2017-355216	Baseboard of drink/soda dispenser area	swab	1960 ng/swab
2017-355217	Top of Laminate-rear buffet	swab	2150 ng/swab
2017-355218	Top of Laminate-second buffet facing rear	swab	1850 ng/swab
2017-355219	Vent-rear buffet area ceiling	swab	784 ng/swab
2017-355220	Outside food refrigerator vent	swab	33800 ng/swab
2017-355221	Inside glass door of refrigerator	swab	288 ng/swab

2017-355222	Food prep top shelf	swab	176 ng/swab
2017-355223	Food prep baseboard	swab	54400 ng/swab
2017-355224	Under sink-kitchen to right	swab	180000 ng/swab
2017-355225	Inside of freezer-fan grate	swab	BDL
2017-355226	Outside of freezer-bottom near base	swab	10100 ng/swab
2017-355227	Sprayer-handheld	Use Dilution	175 ng/mL

PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC

4. OISC Residue Lab results indicated cypermethrin, active ingredient in Demon Max, was detected in the kitchen, food prep area, and dining room.
5. The Demon Max label states in part, *“Do not use in food areas of food-handling establishments, restaurants, or other areas where food is commercially prepared or processed. Do not use in serving area while food is exposed or facility is in operation. Serving areas are areas where prepared foods are served, such as dining rooms, but excluding areas where food may be prepared or held.”*



Melissa D. Rosch
Investigator

Date: April 12, 2017

Disposition: Lin Ding and China Buffet were cited for two counts of violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application to food-handling establishments. A civil penalty in the amount of \$500.00 (2 counts x \$250.00 per count) was assessed. Consideration was given to the fact Mr. Ding cooperated during the investigation. Consideration was also given to the fact there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: June 26, 2017
Final Date: October 19, 2017

Cc: Sam Decero/Code Enforcement Officer
10 E. Joliet Street
Schererville, IN 46375

Al Booth/Food Sanitarian
2900 W. 93rd Avenue
Crown Point, IN 46307

CASE SUMMARY

Case #2017/0325

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, Indiana 47907-2063
800-893-6637

Respondent: Wondercide LLC
9415 Neils Thompson Drive
Austin, Texas 78758

Unregistered Products

1. On January 20, 2017, Joseph Becovitz of the Office of the Indiana State Chemist was approached regarding a possible line of pesticide products that were being distributed and sold in the State of Indiana without being registered. The products were identified as being distributed by Wondercide LLC in Austin, Texas and were making “natural” 25(b) as well as pesticidal claims. After reviewing the product registrations in Indiana with product manager Ed White, it was determined that Wondercide had never had any pesticide products registered in Indiana.
2. The Wondercide LLC website listed four possible distributor locations for their product in Indiana. These locations were:
 1. Pet People-1300 E. 86th St. Indianapolis, IN
 2. Pet People-2480 E. 146th St. Indianapolis, IN
 3. The Nutty Mutty-16 W. North St. Greenfield, IN.
 4. Green Dog Goods-3421 North Anthony Blvd. Fort Wayne, IN
3. On January 30, 2017, I arrived at the Pet People store with the actual address at 2484 E. 146th Street, Carmel, Indiana. The store manager, Tricia Anders, stated that they did have Wondercide products available for sale in the store have sold them in previous years. I issued an Action Order to Ms. Anders advising her that these products were not registered in the state of Indiana and needed to be removed from the shelves until further notice from OISC. Ms. Anders removed the Wondercide products from the shelves and contacted her corporate office to retrieve all records for distribution of Wondercide products to this store.
4. The products listed below were Wondercide products available for sale at this Pet People location. These items were also sampled and taken to the OISC formulations lab:

Sample #	Brand	Product Description	Size (fl oz)
2017355228	Wondercide	Flea & Tick Control-Pets & Home (Green Label/Lemongrass)	4 oz
2017355229	Wondercide	Insect Repellent	4oz
2017355230	Wondercide	Flea & Tick Control-Pets & Home (Purple Label/Rosemary)	16oz
2017355231	Wondercide	Flea & Tick Control-Yard & Garden	32oz
2017355232	Wondercide	Flea & Tick Control-Pets & Home (Green Label/Lemongrass)	16oz

2017355233	Wondercide	Flea & Tick Control-Yard & Garden	16oz
2017355234	Wondercide	Flea & Tick Control-Pets & Home (Green Label/New Formula)	16oz
2017355235	Wondercide	Flea & Tick Control-Pets & Home (Purple Label/Rosemary)	32oz
2017355236	Wondercide	Flea & Tick Control-Pets & Home (Green Label/Lemongrass)	32oz
2017355237	Wondercide	Skin Tonic Spray-Itch & Allergy Spray	8oz



Sample # 2017355228



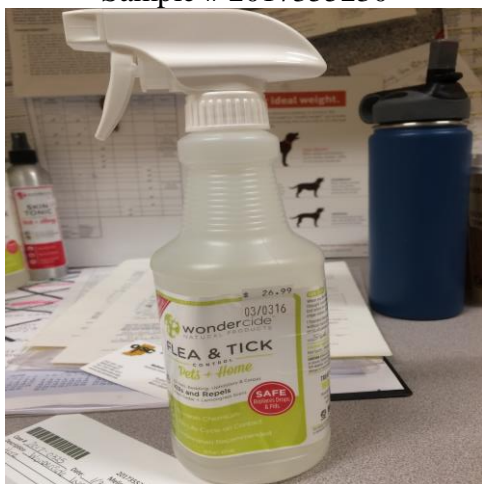
Sample # 2017355229



Sample # 2017355230



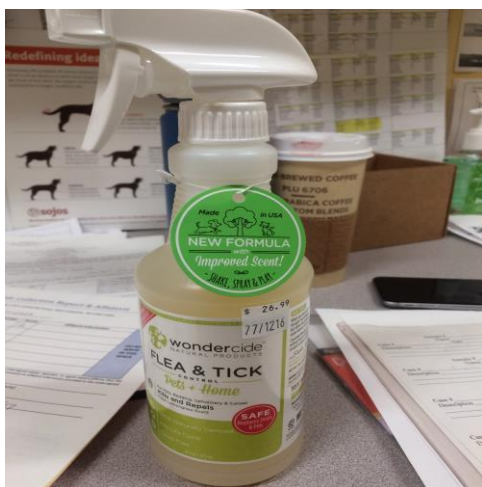
Sample # 2017355231



Sample # 2017355232



Sample # 2017355233



Sample # 2017355234



Sample # 2017355236

5. On January 30, 2017, I received an email with a copy of the Wondercide Transfers to Indiana and a copy of the Wondercide Receiving Vouchers with PO# from Marla Kay Conley, the Merchandising Administrative Assistant for Pet People. After reviewing the records, it was determined for this store location:

A. In the year 2015, Wondercide had distributed seven (7) unregistered products making pesticidal claims:

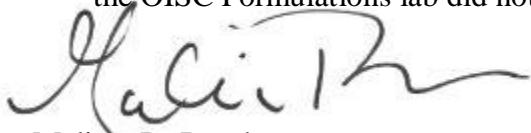
1. Wondercide Flea & Tick Control-Pets & Home 4oz (Green Label/Lemongrass)
2. Wondercide Insect Repellent
3. Wondercide Personal Insect Repellent- 2.7oz
4. Wondercide Flea & Tick Control- Yard & Garden 32oz
5. Wondercide Flea & Tick Control- Yard & Garden 16oz
6. Wondercide Flea & Tick Control- Pets & Home 16oz (Green Label/Lemongrass)
7. Wondercide Flea & Tick Control- Pets & Home 32oz (Green Label/Lemongrass)

B. In the year 2016, Wondercide had distributed ten (10) unregistered products making pesticidal claims:

1. Wondercide Flea & Tick Control-Pets & Home 4oz (Green Label/Lemongrass)
2. Wondercide Insect Repellent
3. Wondercide Personal Insect Repellent- 2.7oz
4. Wondercide Flea & Tick Control- Yard & Garden 32oz
5. Wondercide Flea & Tick Control- Yard & Garden 16oz
6. Wondercide Flea & Tick Control- Pets & Home 16oz (Green Label/Lemongrass)
7. Wondercide Flea & Tick Control- Pets & Home 32oz (Green Label/Lemongrass)
8. Wondercide Flea & Tick Control- Pets & Home 16oz (Purple Label/Rosemary)
9. Wondercide Flea & Tick Control- Pets & Home 32oz (Rosemary/Purple Label)
10. Wondercide Flea & Tick Control- Pets & Home 1Gal (Green Label/Lemongrass)

6. It was also determined that none of the products bore the phrase “Keep Out of the Reach of Children” or the full address of the company responsible, as required by law.

7. After reviewing the product labels with the product compliance manager Ed White, it was determined that the Wondercide Skin Tonic Spray-Itch & Allergy product that was taken to the OISC Formulations lab did not make any pesticidal claims.



Melissa D. Rosch
Investigator

Date: June 4, 2017

Disposition: Wondercide LLC was cited for twelve (12) counts of violation of section 57(1) of the Indiana Pesticide Registration Law for distributing pesticide products that were not registered for sale or distribution in Indiana. Those products were:

For 2015

- Count #1: Insect Repellent – Fresh Cedar & Lemongrass Scent
Count #2: Flea & Tick Control – Yard & Garden Concentrate

For 2016

- Count #3: Insect Repellent – Fresh Cedar & Lemongrass Scent
Count #4: Flea & Tick Control – Yard & Garden Concentrate
Count #5: Flea & Tick Control – Fresh Cedar & Rosemary Scent

For 2017

- Count #6: Insect Repellent – Fresh Cedar & Lemongrass Scent
Count #7: Flea & Tick Control – Yard & Garden Concentrate
Count #8: Flea & Tick Control – Fresh Cedar & Rosemary Scent
Count #9: Flea & Tick Control Pets & Home Fresh Lemongrass Scent
Count #10: Flea & Tick Control Pets & Home – Fresh Cedar & Lemongrass Scent
(.2% lemongrass)
Count #11: Flea & Tick Control Pets & Home – Fresh Cedar & Lemongrass Scent
(.1% lemongrass)
Count #12: Flea & Tick Control Pets & Home – Fresh Cedar
Count #13: Flea & Tick Control Pets & Home Cedar Scent

A civil penalty in the amount of \$3,250.00 (13 counts x \$250.00 per count) was assessed.

Wondercide LLC was cited for eight (8) counts of violation of section 57(5) of the Indiana Pesticide Registration Law for distributing pesticide products that were misbranded. A civil penalty in the amount of \$2,000.00 (8 counts x \$250.00 per count) was assessed.



George N. Saxton
Compliance Officer

Draft Date: September 28, 2017
Final Date: November 6, 2017

CASE SUMMARY

Case #2017/0547

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, Indiana 47907-2063
800-893-6637

Respondent:	Brett Alan Wells	Unlicensed
	Wells Property Group	Unlicensed
	20 N. Depot Street	
	New Palestine, Indiana 46163	
	Richard R. Dodd	
	A Cut Above Lawn Maintenance	
	5362 W. Granite Court	
	New Palestine, Indiana 46163	
	317-627-3105	

1. On March 31, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Brett Wells for making for-hire pesticide/fertilizer lawn applications without a license. The OISC database indicated Wells was licensed through 2015 but no longer had a valid pesticide license. Anonymous indicated Wells used to work with Dan Bunklow (see case number 20170548) but now works on his own.
2. On April 6, 2017, I made contact with Mr. Ed Zehner at Wells Property Group. Mr. Zehner stated that Mr. Wells was out of town. I asked Mr. Zehner if he was employed by Wells Property Group. He stated he was. I asked if he had made any pesticide or fertilizer applications in 2017 and he stated he had not. I asked if he was a certified applicator and he stated he was a Registered Technician (RT). He provided me with a paper showing his test scores where he had passed the Core exam for OISC. I asked if he had his RT card from OISC. He stated he only had the test scores. I asked if he had sent in his application and fee to OISC. He stated he was not sure if Mr. Wells had or not. I advised him he was not an RT until the application and fee were received by OISC. Mr. Zehner stated he was unsure if Mr. Wells had made any pesticide applications, but did not believe he had. I then issued a STOP ACTION ORDER to Mr. Zehner and Wells Property Group ordering to cease any and all pesticide and fertilizer applications until obtaining proper licensing through the Office of Indiana State Chemist. I advised Mr. Zehner to tell Mr. Wells I would be back the week of April 17, 2017, and I would need records of any applications they had made.
3. On April 19, 2017, I left a voicemail for Mr. Brett Wells. On April 20, 2017, Mr. Wells returned my call. I restated the information I had given Mr. Zehner. Mr. Wells stated he had

attempted to get to Lafayette in March to take the Core test and training, but due to inclement weather, he was unable to get there. He stated the Wells Property Group had not made any pesticide applications until the week of March 24, 2017, when they had made some pesticide applications under the supervision of Mr. Richard Dodd at A Cut Above Lawn Maintenance. He stated he knew Mr. Dodd and thought he could make pesticide applications under Mr. Dodd's certification to service some of his accounts until he could get into another testing date. I advised him he and Mr. Zehner could not make pesticide applications under Mr. Dodd, unless they were Registered Technicians employed by Mr. Dodd or if Mr. Dodd was on site with them during the applications. Mr. Wells stated he did not realize that. I advised him they had violated the STOP ACTION ORDER I had issued. He stated he did not intentionally violate it, as he thought he could work under Mr. Dodd. I then set an appointment to meet with Mr. Wells at his business the next morning.

4. I then made contact with Mr. Richard Dodd. I advised him of what Mr. Wells had told me. He stated Mr. Wells had asked to work under his supervision and had sent him a few locations by text, in which he wished to make pesticide applications. I advised Mr. Dodd that neither Mr. Wells nor Mr. Zehner were Registered Technicians, thus they could not make applications under his supervision unless he was on-site with them. He stated he was not on-site with them and misunderstood, as he thought they were Registered Technicians. Mr. Dodd stated he was just trying to help Mr. Wells, as he knew Mr. Wells had gone through a tough time with the business split Mr. Wells encountered recently. Mr. Dodd stated he did not think Mr. Wells was doing anything maliciously to circumvent the system.
5. On April 20, 2017, I met with Mr. Wells and Mr. Zehner at the Wells Property Group business. Mr. Wells stated he had merged business with a Mr. Daniel Burklow and Mr. Burklow had walked away and left him in severe debt. He stated he had been an RT in 2015 but with the merge, Mr. Burklow had taken care of the pesticide applications. He stated he let his certification expire, as he no longer needed it. He stated they only have a few customers which required pesticide applications. He stated his business was mainly property management and mowing. He did provide me with records of pesticide applications made by Mr. Zehner on March 24, 2017 and April 19, 2017.
6. The records indicated pesticide applications were made on March 24, 2017 and April 19, 2017, by Mr. Zehner at the following addresses:

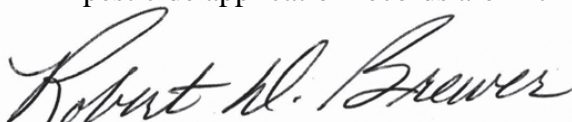
March 24, 2017

7692 Old Colony Drive, New Palestine, IN
7653 W Old Colony Drive, New Palestine, IN
7621 W Old Colony Drive, New Palestine, IN
7677 Old Colony Drive, New Palestine, IN

April 19, 2017

9108 Southeastern Avenue, Indianapolis, IN
10376 Shades Court, Indianapolis, IN
Carpenter's Regional
Carpenter's Local 301
Polo Club/ Steak and Ale
Downtown Grainger

7. The records indicated Defender Herbicide and Dimension Herbicide were applied to the lawns on March 24, 2017. Trimec Herbicide and Quincept were applied to the first two lawns listed on April 19, 2017 and the other business sites just stated Vegetation Kill was used.
8. I checked with the OISC Licensing section and found since Mr. Wells was previously certified as an RT, he could forego the training requirement as he had met the requirements previously. He would only need to pass the category 3b test and submit an application and fee for a pesticide business license and the application and fee for his 3b license and Mr. Zehner's RT certification and they would be legal to make pesticide applications. Mr. Wells stated he would go online and sign up immediately.
9. While speaking with Mr. Wells, Mr. Dodd arrived and again stated he made a mistake and thought Mr. Zehner was certified as an RT, thus he agreed to allow him to make pesticide applications under his supervision. I advised Mr. Wells he could contract Mr. Dodd to make the pesticide applications for him, until he could get licensed himself. Note: Copies of the pesticide application records are in this case file.



Robert D. Brewer
Investigator

Date: April 24, 2017

Disposition:

- A. Richard R. Dodd and A Cut Above Lawn Maintenance were warned for two (2) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. Consideration was given to the fact Mr. Dodd cooperated during the investigation and there was a good-faith effort to comply.
- B. Brett Alan Wells and Wells Property Group were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to comply with a lawful Order of the state chemist. A civil penalty in the amount of \$250.00 was assessed to Wells Property Group for this violation.



George N. Saxton
Compliance Officer

Draft Date: August 18, 2017
Final Date: October 19, 2017

CASE SUMMARY

Case #2017/0583

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent:	Wilde Horticulture	Unlicensed Business
	1732 W. Franklin Street	
	Evansville, IN 47712	
	Brian Wildman	Unlicensed Applicator
	812-604-5322	
	Brian@WildeSpaces.com	
	https://wildespaces.com/	

1. On April 7, 2017, an anonymous complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Wilde Horticulture making for-hire pesticide applications without having an Indiana pesticide business license. A check of the OISC database verified Wilde Horticulture did not possess a pesticide business license. In addition, the website listed above advertised pest control and fertilization.
2. On April 11, 2017, I met with Brian Wildman at his Wilde Horticulture business location listed above. Mr. Wildman informed me he had just started the business and was a landscaping business only. Mr. Wildman stated they had spot sprayed some Roundup and applied Snapshot this year to some landscape beds, but his company did not do any management of turf areas for their customers. Mr. Wildman also indicated he had attempted to attend the turf class (Category 3b experience requirement class) in March of 2017, but the class was full.
3. I informed Mr. Wildman of the requirements to make pesticide applications for-hire and he only needed to have a Category 3a or Category 6 license to make pesticide applications to weed beds only and no experience requirement class was required for these categories. I explained the licensing and testing process to Mr. Wildman and issued him an Action Order to cease any further pesticide applications for-hire until licensing requirements were met. Mr. Wildman stated he wanted to become licensed and indicated he would be ordering training material and taking the required test as soon as possible.

4. Mr. Wildman provided me with a copy of his pesticide applications for this year. The records indicated Wilde Horticulture made for-hire pesticide applications without being licensed on the following dates:

- February 21, 2017
- March 5, 2017
- March 10, 2017
- March 11, 2017
- March 15, 2017
- March 21, 2017
- March 24, 2017
- April 5, 2017



Scott M. Farris
Investigator

Date: April 20, 2017

Disposition:

- A. Brian Wildman and Wilde Horticulture were cited for eight (8) counts of violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$2,000.00 (8 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$1,100.00. Consideration was given to the fact Mr. Wildman cooperated during the investigation and there was no previous violation of similar nature.
- B. On June 21, 2017, an informal conference was held at the law office of Wooden McLaughlin in Evansville, Indiana. Present were Brian Wildman, his attorney Michael Smith and George Saxton and Scott Farris of OISC.
- C. Mr. Smith produced a record showing he passed his Core exam on June 20, 2017, and was in the process of corrective action by becoming properly licensed. I suggested his civil penalty be reduced to \$800.00 and \$300.00 of that would be held in abeyance until July 31, 2017, and would not be assessed provided he becomes properly licensed by that date. The amount of civil penalty that would be assessed would be the remaining \$500.00.



George N. Saxton
Compliance Officer

Draft Date: June 26, 2017
Final Date: October 19, 2017

CASE SUMMARY

Case #2017/0648

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Ron Weisenbach
Mathew Anderson
2804 Ebenezer Church Road
Borden, IN 47106
812-346-4752

Private Applicator
Employee

1. On April 18, 2017, the Indiana Department of Environmental Management (IDEM) received a call from a private citizen, Andrew Lewis, reporting he witnessed a container of an unknown pesticide fly off a truck on Highway 60, entering from Wilson Switch Road in Borden, Indiana. See figure 1-2 of spill imprint taken by IDEM. Mr. Lewis estimated 150 gallons spilled onto the road. Mr. Lewis stated he drove through the spill and then drove through his yard leaving dead grass tire tracks.



Figure 1



Figure 2

2. On April 27, 2017, I spoke with Mr. Lewis. Mr. Lewis stated he was on Highway 60 in Borden, Indiana, when he observed a truck turn off Wilson Switch Road onto Highway 60 and lose a pesticide container, spilling product onto the road.
3. On May 3, 2017, Larry Dockery (Senior Criminal Investigator for IDEM), Doug Bentfield (Clark Co. Health Dept.), Alyssa Underwood (Clark Co. Health Dept.) and I met at the intersection of Highway 60 and Wilson Switch Road. I collected swab samples from Highway 60 to be analyzed by OISC's Residue Lab. We then proceeded to Ron Weisenbach's residence, who was the alleged responsible party for the spill.
4. Mr. Weisenbach initially seemed confused about the spill event, but with prompting, Mr. Weisenbach's recollection of the events became clearer. Mr. Weisenbach stated his employee, Mathew Anderson, was driving a truck with a thirty (30) gallon container on the back that was approximately half-full. Mr. Weisenbach stated he was following behind in his truck. As the truck

exited Wilson Switch Road onto westbound Highway 60 the container slid off the truck onto Highway 60, spilling any unknown quantity. Mr. Weisenbach stated he got out of his truck, picked up the container, threw it back onto the lead truck and went west of Highway 60 to the field he was applying the product. Mr. Weisenbach stated he did not call or contact anyone regarding the spill. Mr. Weisenbach stated he did not secure the container very well to the truck.

- Mr. Weisenbach took us to his brother's property where the truck and container were located. See figures 3-4 of container strapped to truck. Mr. Weisenbach stated the container contained Buccaneer Plus (EPA Reg. # 55467-9, active ingredient glyphosate). Mr. Weisenbach stated we would not be able to contact Mr. Anderson due to his incarceration in the Washington County jail.




Figure 3



Figure 4

- On May 18, 2017, OISC's Residue Lab reported the following findings detecting glyphosate, active ingredient in Buccaneer Plus on Highway 60 at Wilson Switch Road.

Case #	2017-0648	Investigator			Jay Kelly
Sample #	Sample Description	Amount of Analyte (ng/swab)			
		Matrix	Glyphosate	AMPA	
2017-501637	Trip blank swab charged with water	Swab	BDL	BDL	
2017-501638	Trip blank swab charged with acetone	Swab	NA	NA	
2017-501639	Swab of the road in area of spill charged with water	Swab	831	BDL	
2017-501640	Swab of the road in area of spill charged with Acetone A1 & A2	Swab	NA	NA	
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
*results exceeded calibration curve range and reported as minimum concentration found.					
LOQ	Swab (ng/swab)	50		250	
Signature				Date	5/18/17

7. Mr. Weisenbach did request information regarding transportation of pesticides. Mr. Weisenbach was mailed a publication from Purdue Pesticide Program titled, "Securing the Load: A Guide to Safe and Legal Transportation of Cargo and Equipment".



Paul J. Kelley
Investigator

Date: June 5, 2017

Disposition: Ron Weisenbach was cited for violation of section 65(5) of the Indiana Pesticide Use and Application Law for operating in a careless and negligent manner. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact there was potential for human and environmental harm.



George N. Saxton
Compliance Officer

Draft Date: August 18, 2017
Final Date: October 19, 2017

CC
Karla Frownfelter
kfrownfe@idem.in.gov

Brian Smith
bsmith@idem.in.gov

Larry Dockery
ldockery@idem.in.gov

Alyssa Underwood
Doug Bentfield
aunderwood@co.clark.in.us

Andrew Lewis
775 E. Main Street
Borden, IN 47106
812-967-2061

CASE SUMMARY

Case #2017/0667

Complainant: Robert Maxey
1026 E. Mariah Hill Road
Ferdinand, Indiana 47532
812-631-0163

Respondent: Superior Ag Resources (Licensed Business)
418 N. Washington
Dale, Indiana 47542
Philip Ebelhar (Registered Technician)
Bernie Buening (Certified Applicator)
812-937-4557

1. On April 19, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his grapes.
2. On April 24, 2017, I met with Mr. Maxey at his property. Mr. Maxey stated on April 11, 2017, Superior Ag “sprayed” the farm field located to the adjacent north (10 to 15 feet) from his garden. Mr. Maxey indicated much of his garden was not planted yet, but his grape vines appeared to have been affected by the application and began showing symptoms about three days after the application.
3. I inspected Mr. Maxey’s garden and observed symptoms consistent with exposure to a growth regulator type of pesticide (cupping/curling of leaves) such as 2,4-D on the grape leaves. I collected vegetation and swab samples from the grape plants and collected soil from the suspected farm field. I inspected other nearby plant and tree leaves, but did not observe any pesticide related symptoms. Mr. Maxey informed me most of the garden was planted after the pesticide application on April 11, 2017, and most of the trees had not leafed out during that time. Mr. Maxey also stated he had not applied any pesticide to his property this year. Photograph #1 and #2 below show the grape leaves with cupping/curling symptoms.



Photograph #1




Photograph #2

4. I contacted the Superior Ag facility in Dale, Indiana, and spoke to the Facility Manager, Bernie Buening. Mr. Buening stated they had only sprayed Roundup on the fields located near Mr. Maxey's property due to past problems with his garden being close to the fields. Mr. Buening was informed he would be receiving a Pesticide Investigation Inquiry (PII) form to be completed and returned to me. This form was returned and indicated only Roundup PowerMax (EPA Reg. #524-549; active ingredient: glyphosate) had been applied to the surrounding fields near Mr. Maxey's property. The PII confirmed the application had been made on April 11, 2017 between 2:00pm and 3:30pm on that date by Philip Ebelhar. The PII also stated the winds were out of the northwest direction (blowing toward Mr. Maxey's garden) at five miles per hour.

5. On April 25, 2017, vegetation samples were turned into the Purdue Plant & Pest Diagnostic (PPDL) lab for inspection. The results were reported back on May 2, 2017, and stated the following:

"Symptoms could be from glyphosate. However, glyphosate symptoms typically do not appear within 3 days of application. No infectious disease was found to be associated with the sample submitted. Curling of leaves and petioles can be caused by exposure to growth-regulator type products."

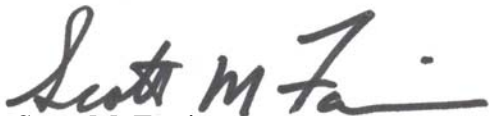
6. On April 25, 2017, the vegetation, swab and soil samples collected at Mr. Maxey's property were turned into the Indiana State Chemist Residue Lab for analysis. The results were reported back on May 31, 2017, and indicated the following:

Case # 2017/0667			Investigator: Scott Farris		
Sample #	Sample Description	Sample Matrix	Amount Found		
			2,4-D	Glyphosate	AMPA
2017-510003	Grape leaves vegetation	Veg	333 ppb	38.1 ppb	BDL
2017-510004	Soil from Farm field north of grapes	Soil	18.1 ppb	2026 ppb	1348 ppb
2017-510005	Trip Swab Blank	Swab	BDL	NA	NA
2017-510006	Control Swab from south side of garage wall	Swab	BDL	NA	NA
2017-510007	Swab of Grape Leaves	Swab	BDL	NA	NA
2017-510008	Swab of wooden post on north side of grape vine housing	Swab	BDL	NA	NA
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
LOQ	Swab (ng/swab)	10	NA	NA	NA
LOQ	Soil (ppb)	4	5	50	
LOQ	Veg (ppb)	2	5	50	
Signature			Date	5/31/17	

7. The residue results listed in paragraph #6 confirmed both glyphosate and 2,4-D in both the suspected farm field soil and the grape plant vegetation in Mr. Maxey's garden.
8. A check of the weather conditions during the time of the Superior Ag application as reported from Huntingburg Airport indicated the winds were from the North/Northwest direction (blowing toward Mr. Maxey's garden) between 6.9 and 10.4 miles per hour. No gusts were reported during the application time.
9. The Roundup PowerMax label stated the following:

"Avoid contact of this herbicide with foliage, green stems, exposed non-woody roots or fruit of crops (except as specified for individual Roundup Ready Crops), desirable plants and trees, as sever injury or destruction could result."

"Apply this product only when the potential for drift to adjacent sensitive areas (e.g., residential areas, bodies of water, known habitat for threatened or endangered species, non-target crops) is minimal (e.g., when wind is blowing away from the sensitive areas)."



Scott M. Farris
Investigator

Date: June 30, 2017

Disposition: Certified Applicator Bernie Buening and Registered Technician Philip Ebelhar were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. A civil penalty in the amount of \$250.00 was assessed to Superior Ag. Consideration was given to the fact this was Mr. Buening's second violation of similar nature. See case number 2016/0861.



George N. Saxton
Compliance Officer

Draft Date: August 18, 2017
Final Date: October 19, 2017

CASE SUMMARY

Case #2017/0684

Complainant: Rich Molini
2419 E. 281st Street
Atlanta, Indiana 46031
317-984-9600

Respondent:	Erich Hasler	Certified Applicator
	Keith Piel	Registered Technician
	Beck's Hybrids	
	6767 E. 276th Street	
	Atlanta, Indiana 46031	

317-984-3508

1. On April 24, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his property.
2. On April 25, 2017, I met with Mr. Molini at his residence. He stated on April 24, 2017 at approximately 2:00 pm he was outside of his residence as there was a pesticide application being made to the field directly east of his residence. He stated he observed a John Deere ground applicator machine making a pesticide application to the Keith Ayers property. He stated he could see the dust and spray mist drifting onto his pasture, due to a strong gusting northeast wind. He stated he proceeded to observe the application as the applicator proceeded up the east side of his property. He stated he was at the SW corner of his garage along the drive leading to his barn. He stated there he felt a mist upon him and he could smell and taste the product. He stated he made contact with the applicator, who was from Beck's Hybrids and advised him of the drift he felt. He stated the applicator then left the field. He stated the applicator did return later and finished the pesticide application to the field. I obtained a written statement from Mr. Molini, which is in this case file.
3. I then took photographs of the scene, although there were no symptoms of damage to any plants on the Molini property, due to the application had just been made. I collected a soil sample from the target field. I collected vegetation samples from Mr. Molini's property, 30 feet in from the target field, also a sample where Mr. Molini was standing, also 90 feet from the target field and also from the west pasture. I collected swab samples 30 feet from the target field, also where Mr. Molini was standing, I also collected swab samples from the east and west side of his house and from a fence post in the west pasture. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the target field to Mr. Molini's property and the view to the field from where he was standing.



4. I then met with Mr. Erich Hasler of Beck's Hybrid. I advised him of the complaint. He stated they had made the pesticide application to the target field. He stated Mr. Keith Piel, Registered Technician (RT) had made the application. Mr. Hasler stated he was the Certified Applicator supervising Mr. Piel. Mr. Hasler stated they had applied Atrazine 4L Herbicide EPA Reg. #34704-69 with the active ingredient atrazine and Anthem Herbicide EPA Reg. #279-3450 with the active ingredients pyroxasulfone. Mr. Hasler provided me the application records and the labels for both pesticide products applied. The report and labels are in this case file.
5. I reviewed the labels for both products. The label for Atrazine 4L states *"Do not apply this product in a way that will contact workers or other persons, either directly or through drift."* The label for Anthem states *"Do not apply this product in a way that will contact workers or other persons, either directly or through drift."*
6. I received a copy of the OISC residue lab report. The following is a copy of the residue lab report. The report indicated the active ingredient atrazine was detected on all swab samples collected. The active ingredient pyroxasulfone was detected in the swab samples as well.

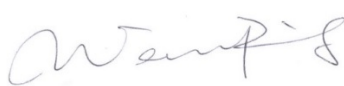
Case # 2017/0684			Investigator: B. Brewer	
Sample #	Sample Description	Sample Matrix	Amount Found (ng/swab)	
			Atrazine	Pyroxasulfone
2017-334729	Trip blank	Swab	BDL	BDL
2017-334730	control swab	Swab	10.1	BDL
2017-334731	swab 30 ft from target	Swab	1600	227
2017-334732	swab 30 ft from target	Swab	NA	NA
2017-334733	swab where complainant was standing	Swab	48.8	3.5
2017-334734	swab where complainant was standing	Swab	NA	NA
2017-334735	swab east side of house 50 ft from target	Swab	122	4.6
2017-334736	swab east side of house 50 ft from target	Swab	NA	NA
2017-334737	swab west side of house 90 ft from target	Swab	17.2	BDL
2017-334738	swab west side of house 90 ft from target	Swab	NA	NA
2017-334739	swab from fence post in west pasture	Swab	2160*	221

2017-334740	swab from fence post in west pasture	Swab	NA	NA
2017-334741	soil target field	Soil	NA	NA
2017-334742	vegetation 30 ft from target	Veg	NA	NA
2017-334743	vegetation where complainant was standing	Veg	NA	NA
2017-334744	vegetation 90 ft from target	Veg	NA	NA
2017-334745	vegetation west pasture	Veg	NA	NA


PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC

*amount exceeded calibration curve. Concentration reported as minimum found.
NA= not analyzed.

LOQ =2 ng/swab for atrazine; 1 ng/swab for pyroxasulfone

Signature		Date	6/28/17
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7. I researched the Weather Underground website from the nearest reporting station for the weather conditions on the date and time of the pesticide application. The website indicated the winds at the time of the application were ESE at 6 mph at 2:03 pm, NNE at 4 mph at 2:08 pm and E at 6 mph at 2:13 pm. The temperature was 75.5 to 76 degree F. A copy of the weather report is in this case file.
8. The results of the OISC residue lab report along with the wind conditions on the date of the pesticide application, would indicate pesticide from the pesticide application, did drift onto the Molini property.
9. A diagram of the scene is in this case file.


Robert D. Brewer
Investigator

Date: August 7, 2017

Disposition: Certified applicator Erich Hasler and registered technician Keith Piel were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$250.00 was assessed to Beck's Hybrids for this violation. Consideration was given to the fact this was their first violation of similar nature. Consideration was also given to the fact there was potential for human harm.


George N. Saxton
Compliance Officer

Draft Date: August 31, 2017
Final Date: October 19, 2017

CASE SUMMARY

Case #2017/0689

Complainant: Tracy Naegele
709 Greenbrier Ridge Road
Madison, Indiana 47250
812-427-2783

Respondent: Don Burress
Adam Burress
8530 S. Benham Road
Madison, Indiana 47250
812-621-0459

Private Applicator
Unlicensed Applicator

1. On April 26, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to her property. She stated the field applicator drifted onto her clothes, home and the drift got in to her mouth. She stated she had a shirt she will surrender for analysis with the understanding the shirt will be destroyed during analysis.
2. On May 1, 2017, I met with Mrs. Naegele at her residence in Madison, Indiana. Mrs. Naegele stated she observed spray equipment across the street (south) of her house spraying a farm field. Mrs. Naegele stated the wind was blowing toward her house out of the south. Mrs. Naegele stated she and her husband went out on to her front porch to video tape the application. See figure 1 – still photograph taken from Mrs. Naegele's video.



Figure 1 –Still photograph from video

3. On May 1, 2017, I collected environmental samples for OISC's Residue Lab to analyze.
4. On May 11, 2017, I met with Don and Adam Burress. Don Burress stated his son, Adam Burress, made a pesticide application to the field south of the Naegele's on April 26, 2017, between 10:00am and 1:00pm. Don Burress stated he was on site supervising Adam Burress making the application. Adam Burress completed a Pesticide Investigation Inquiry (PII) form. The pesticide products reportedly used by Adam Burress where as follows:
 - Atrazine 4L , EPA Reg. #1381-158, active ingredient atrazine
 - Shredder, EPA Reg. # 1381-102, active ingredient 2, 4-D
 - Cornerstone Plus, EPA Reg. #1381-192, active ingredient glyphosate

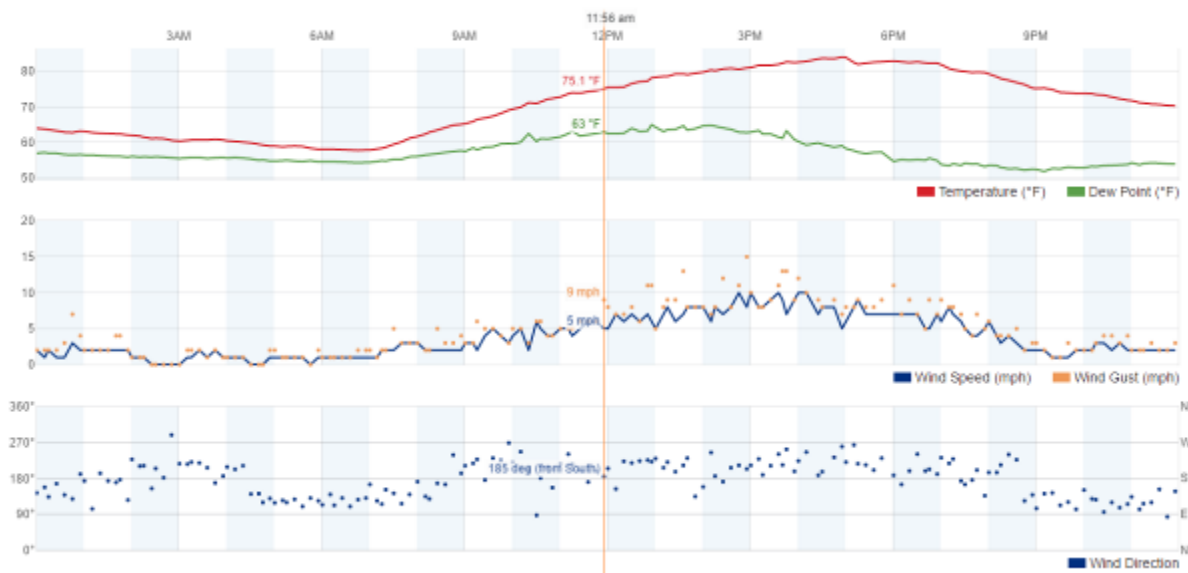
- Corvis, EPA Reg. #264-1066, active ingredients thiencarbazone and isoxaflutole
- Tundra, EPA Reg. #1381-192, active ingredient bifenthrin

5. Wind data from Weather Underground, www.wunderground.com, indicated the following
 - Vevay, IN station – wind variable east-west from the south at 2-7 mph, gust to 11 mph.
 - Madison, IN station – wind variable with wind out of southeast 0-5.6 mph with gust to 17.4 mph.
 - Versailles, IN station – wind variable east-west from the south at 4-8 mph with to 15 mph.

Wind was blowing toward the Naegele's property. See figure 2

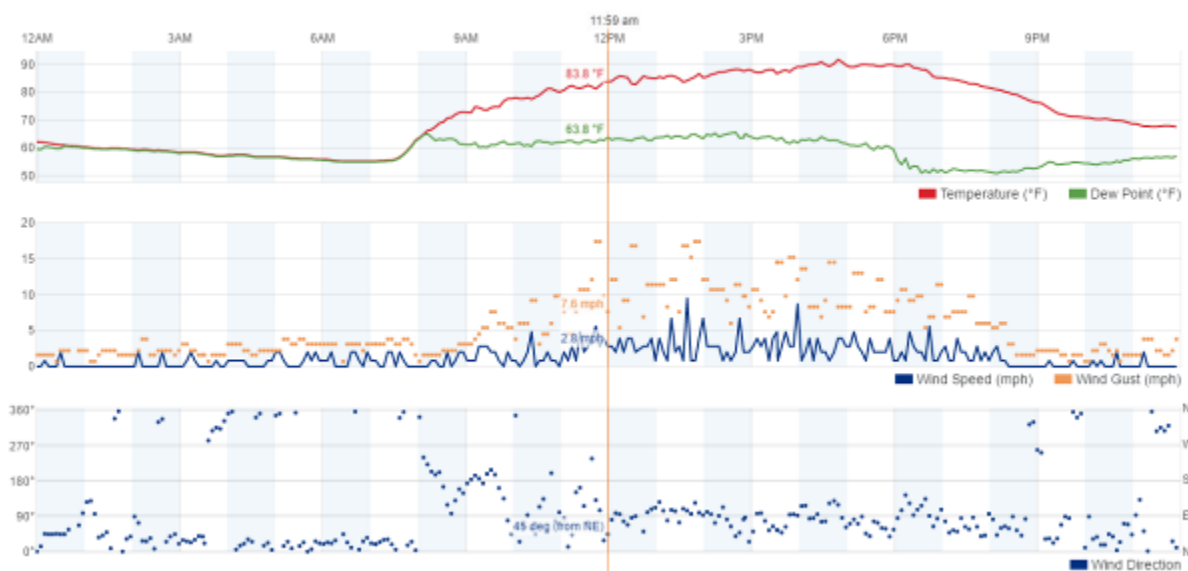
Weather History for Vevay, IN [KINVEVAY4]

April 26, 2017

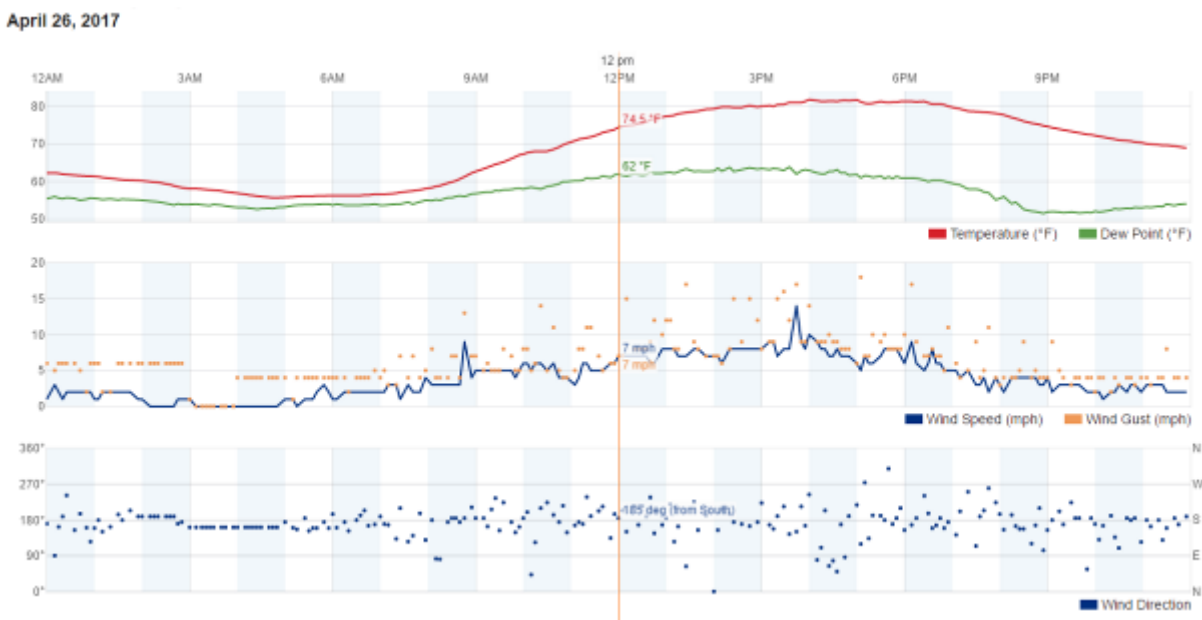


Weather History for Madison, IN [KINMADIS4]

April 26, 2017




Weather History for Versailles, IN [KINVERSA3]



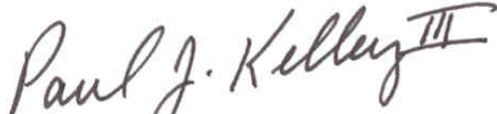
6. On May 24, 2017, OISC's Residue Lab reported the following:

Case #	2017-0689	Investigator						Jay Kelley
Sample #	Sample Description	Amount of Analyte						
		Matrix	2,4-D	Atrazine	Thiencarbazone-methyl	Glyphosate	AMPA	
2017-501616	Shirt worn by Mrs. Naegele	Clothing	638000 ng/clothing	1140000 ng/clothing	5650 ng/clothing	NA	NA	
2017-501617	Trip blank swab charged with water	Swab	NA	NA	NA	BDL	BDL	
2017-501618	Trip blank swab charged with acetone	Swab	BDL	BDL	BDL	NA	NA	
2017-501619	Swab 53yds from target field charged with water	Swab	NA	NA	NA	BDL	BDL	
2017-501620	Swab 53yds from target field charged with acetone A1 & A2	Swab	8.41 ng/swab	86.2 ng/swab	BDL	NA	NA	
2017-501621	Swab 42yds from target field charged with water	Swab	NA	NA	NA	27.0 ng/swab	BDL	
2017-501622	Swab 42yds from target field charged with acetone A1 & A2	Swab	17.8 ng/swab	94.6 ng/swab	BQL	NA	NA	
2017-501623	Swab 30yds from target field charged with water	Swab	NA	NA	NA	BDL	BDL	

2017-501624	Swab 30yds from target field charged with acetone A1 & A2	Swab	22.8 ng/swab	39.3 ng/swab	BQL	NA	NA
2017-501625	Swab 15yds from target field charged with water	Swab	NA	NA	NA	BDL	BDL
2017-501626	Swab 15yds from target field charged with acetone A1 & A2	Swab	2.88 ng/swab	131 ng/swab	BQL	NA	NA
2017-501627	Swab from target field charged with water	Swab	NA	NA	NA	46.7 ng/swab	BDL
2017-501628	Swab from target field charged with acetone A1 & A2	Swab	121 ng/swab	427 ng/swab	19.5 ng/swab	NA	NA
2017-501629	Swab upwind south from target field charged with water	Swab	NA	NA	NA	BDL	BDL
2017-501630	Swab upwind south from target field charged with acetone A1 & A2	Swab	BDL	BDL	BDL	NA	NA
2017-501631	Vegetation 53yds from target field	Vegetation	NA	NA	NA	NA	NA
2017-501632	Vegetation 42yds from target field	Vegetation	NA	NA	NA	NA	NA
2017-501633	Vegetation 30yds from target field	Vegetation	NA	NA	NA	NA	NA
2017-501634	Vegetation 15yds from target field	Vegetation	NA	NA	NA	NA	NA
2017-501635	Vegetation from target field	Vegetation	NA	NA	NA	NA	NA
2017-501636	Vegetation upwind south from target field	Vegetation	NA	NA	NA	NA	NA
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC NA= NOT ANALYZED.							
LOQ	Swab (ng/swab)	1	1	1	10	100	
Signature					Date	5/24/17	

7. Label language for Atrazine 4L states in part, “Do not apply when weather conditions favor drift from treated area” and “Do not apply this product in a way that contact workers or other persons, either

directly or through drift". Label language for Shredder 2, 4-D LV states in part, "Do not apply this product in a way that contact workers or other persons, either directly or through drift".



Paul J. Kelley
Investigator

Date: June 12, 2017

Disposition: Don Burress was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to people. A civil penalty in the amount of \$100.00 was assessed for this violation. Consideration was given to the fact there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: August 18, 2017

Final Date: October 19, 2017

CASE SUMMARY

Case #2017/0761

Complainant: Office of Indiana State Chemist (OISC)
175 South University Street
West Lafayette, IN 47907-2063
800-893-6637

Respondent: Jerry Lukac
JL's Lawncare, Inc.
4567 S 200 E
LaPorte, IN 46350

Company Owner
Unlicensed Company

1. On May 18, 2017, I received an email complaint from PR's Lawncare regarding an unlicensed company JL's Lawn Care making for-hire pesticide applications without being registered with the Office of the Indiana State Chemist's office. The email stated they observed David J. Lubs fertilizing at Arconic 1110 E. Lincolnway LaPorte, Indiana. Also included in the email was a photograph and video of the incident (Figures 1 & 2).



Fig. 1



Fig. 2

- Figure 1-Photograph of JL's truck and trailer in Arconic parking lot.
 - Figure 2-Screenshot of video David J. Lubs making possible fertilizer application at the Arconic business.
2. I looked up the business name on the State of Indiana website and it stated the following: JL's Lawncare, Inc., 4567 S. 200 E. La Porte, Indiana 46350 with a creation date of 1/08/2007. J. Gerald L. Lukac is listed as the business incorporator.
 3. I searched the OISC website for the company JL's Lawncare and also for J. Gerald L. Lukac and did not find any licensed applicators or business. This was also confirmed with the OISC licensing division. Gerald Lukac did pass the Core examination in March of 2009 but his license expired December 31, 2013.
 4. I searched the OISC website for an applicator by the name of David J. Lubs and he does have a Registered Technician's license associated with TruGreen LP-Southbend, 3606 Gagnon Rd. South Bend, Indiana.

5. On May 20, 2017 I met with Paul Richey of PR's Lawncare in the Walmart parking lot across from the Arconic business location. He stated that he observed the known party of David Lubs making what appeared to be a fertilizer and/or pesticide application at the Arconic business location in La Porte on May 13, 2017. Mr. Richey stated that he then looked up the business on the OISC website and saw there were no licensed applicators. He then notified the OISC investigator responsible for that territory.
6. On May 20, 2017, I located the address 4567 S. 200 E La Porte, Indiana listed for the business address and photographed the JL Lawncare vehicle fleet (Figures 3 & 4).



Figure 3



Figure 4

7. On June 19, 2017, Agent Brian Baker and I went to 4567 S. 200 E La Porte, Indiana to speak to Jerry Lukac. We spoke to his wife and she gave us his cell phone number to contact him.
8. Agent Baker telephoned Mr. Lukac and asked if we could speak to him. Mr. Lukac stated he was working at another location but we could meet him there.
9. Agent Baker and I arrived at 19567 Cleveland Rd. South Bend, In and spoke to Jerry Lukac. We issued Mr. Lukac a Notice of Inspection and an Action Order. The Action Order stated to stop pesticide/fertilizer applications until proper licensing has been obtained through OISC. Mr. Lukac stated that his company has only made one fertilizer/pesticide application about a month ago. Mr. Lukac stated that David Lubs was the applicator making the application at the Arconic location for JL Lawncare. Mr. Lukac stated that the spreader Mr. Lubs was using was property of JL Lawncare. He also stated that he uses TruGreen to subcontract his fertilizer/pesticide applications, which is the same employer for David Lubs. Mr. Lukac stated he believed David Lubs had the proper license to make pesticide/fertilizer applications for his company and that he was not aware that Mr. Lubs only had a Registered Technicians license. Mr. Lukac stated that he had recently inquired about taking the certified applicator examinations for the 3B License with OISC and intends to do so this August.
10. Agent Baker and I then went to TruGreen at 3606 Gagnon St, South Bend In. and spoke to the general manager Roger Fairchild. We advised Mr. Fairchild that we needed to speak to Mr. Lubs regarding the allegation of him making pesticide and fertilizer applications without the proper licensing. Mr. Fairchild verified that TruGreen was contracted for pesticide and fertilizer applications for JL Lawncare in 2016. Additionally, they have a 2017 contract with JL Lawncare as well.

Mr. Fairchild escorted us to the TruGreen conference room where we met Mr. Lubs and his supervisor Michael Stout. Mr. Lubs stated that he only made one pesticide/fertilizer

application for JL Lawncare and that was at the Arconic location in La Porte, Indiana. Mr. Lubs stated that he told Mr. Lukac that he only has his Registered Technician license and that he believed someone in JL Lawncare had the proper credentials to qualify him as being supervised during his application. Mr. Lubs stated that Mr. Lukac supplied all of the equipment, fertilizer, and pesticides when he was making his application.

11. On June 20, 2017 I received an email from Mr. Lukac with the products used by Mr. Lubs during his application.



Figure 1



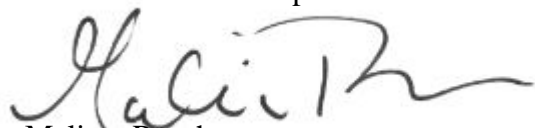
Figure 2

- Figure 1- Pro Ap Cavalcade 0.29% Plus Fertilizer
- Figure 2- Vessel 3-Way Herbicide EPA Reg. #2217-656-72112

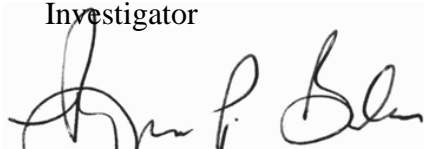
12. Mr. Lukac also stated in his email, *“On or around may 12-14 These are the chemicals Dave Lubbs (sic) applied at Arconic 1110 , 926 e Lincolnway Laporte Vessel mixed 3oz per gallon And the fert per bag specs according to the chart 3lbs Per thousand I believe. Sorry again about this, me being the owner I should have checked his certification.”*

13. In this case, JL Lawncare by Registered Technician David Lubs make a pesticide spray and fertilizer application to the property owned by Arconic of 1234 Lincolnway in La Porte, Indiana. The pesticide application was made on May 13, 2017. The company JL Lawncare is not currently licensed by OISC to make these applications. The following products were used:

- Vessel 3-Way Herbicide EPA Reg. #2217-656-72112
- Pro Ap Cavalcade 0.29% Plus Fertilizer


Melissa Rosch
Investigator

Date: June 30, 2017


Brian P. Baker
Investigator

Disposition: JL's Lawncare, Inc. was cited for violation of section 65(9) of the Indiana Pesticide Use and Application for applying pesticides/fertilizers for hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

A handwritten signature in black ink, appearing to read "George N. Saxton", written in a cursive style.

George N. Saxton
Compliance Officer

Draft Date: August 31, 2017
Final Date: October 19, 2017

CASE SUMMARY

Case #2017/0782

Complainant: Joni Bigger
2700 W. Beckett Drive
Muncie, IN 47304
765-215-0239

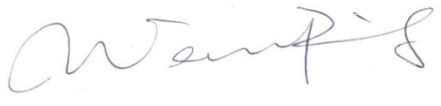
Respondent: Pro Green
Robert Miller
P.O. Box 143
3787 N. Prairie Road
New Castle, IN 47362
765-836-4866

Licensed Business
Certified Applicator

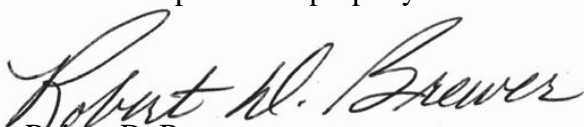
1. On May 19, 2017, Joe Becovitz, Pesticide Program Specialist for the Office of Indiana State Chemist (OISC) received a complaint regarding possible pesticide drift. The complainant, Joni Bigger, stated she observed Pro Green making an application to her neighbor's lawn at 2705 W. Beckett Drive on May 17, 2017, at approximately 10:50 am. She stated she was outside with her children at the time of the application, that it was very windy and that the application drifted onto her children and her property.
2. On May 23, 2017, I met with Mrs. Bigger at her residence. She stated on May 17, 2017, she and two of her children were in the backyard. She stated she heard a machine running and smelled a chemical in the air. She stated the smell was very strong and the children began to cough and cry. She saw the Pro Green truck across the street at 2705 W. Beckett Drive. She observed an applicator riding a standup riding pesticide applicator making an application to the neighbor's yard. She stated it was very windy and the smell was coming her way, so she ran the children inside and shut the windows to her house. She stated her home smelled with the odor of the chemical and two workers in the house commented on the smell. She stated they all experienced headaches, dizziness and nausea for the rest of the day. I supplied Mrs. Bigger with the telephone number for the National Pesticide Information Center.
3. I made contact with Pro Green and spoke with Janene Smith, Office Manager. She stated Mr. Robert Miller had made the pesticide application to the target lawn. On May 17, 2017, at 10:42 am. She stated he had applied Armor Tech Threesome Herbicide EPA Reg. #86064-5 with the active ingredients 2, 4-D, dicamba and mecaprop-p. She provided me with the application records and label for the product applied.
4. I took photographs of the scene and collected samples. Mrs. Bigger provided me with a hat of which her son was wearing in the back yard. I collected vegetation samples from the target lawn as well as from the complainant's property. I collected swab samples from the complainant's property as well. All of the samples were labeled and submitted to the OISC residue lab. The following photographs show the location of the target in respect to the complainant property.



5. I received a report from the OISC residue lab. The report indicated the active ingredient 2, 4-D was detected in the vegetation samples and in the hat sample and swab samples collected. The active ingredient dicamba was detected in the vegetation samples and the active ingredient mecaprop-p was detected in the vegetation samples. The following is a copy of the OISC residue lab report.

Case # 2017/0782			Investigator: Bob Brewer		
Sample #	Sample Description	Sample Matrix	Amount Found		
			2,4-D	Dicamba	MCPP
2017-33-4773	Hat from Complainant	Clothing	324 ng/cloth	BDL	BDL
2017-33-4774	Vegetation from target	Vegetation	NA	NA	NA
2017-33-4775	Vegetation from Complainant's property	Vegetation	NA	NA	NA
2017-33-4776	Trip Blank	Swab	BDL	BDL	BDL
2017-33-4777	Control swab	Swab	BQL	BDL	BDL
2017-33-4778	Swab mailbox 30 ft. in	Swab	12.8 ng/swab	BDL	BDL
2017-33-4779	Swab tree 60 ft. in	Swab	BQL	BDL	BDL
2017-33-4780	Swab south side of the house	Swab	3.6 ng/swab	BDL	BDL
2017-33-4781	Swab east side of the house	Swab	59.2 ng/swab	BDL	BQL
2017-33-4782	Swab west side of the house	Swab	27.3 ng/swab	BDL	BDL
2017-33-4783	Swab north side of the house	Swab	14.1 ng/swab	BDL	BDL
2017-33-4784	Swab inside of house	Swab	BQL	BDL	BDL
2017-33-4785	Swab swing set	Swab	6.65 ng/swab	BDL	BDL
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC					
NA= not analyzed					
LOQ	Hat	MCPP and Dicamba LOQ =430 ppb 2,4-D LOQ =86 ppb			
LOQ	Swab	MCPP and Dicamba LOQ =11 ng/swab, 2,4-D LOQ =2 ng/swab			
Signature			Date	6/6/17	

6. I researched the Weather Underground website for weather conditions on the date of the pesticide application. The website stated the weather at the location of the application at 10:35 am was winds WSW at 18.5 mph and temperature 79 degree F, at 10:40 am winds W at 20.8 mph and temperature 79.1 degree F and at 10:45 am winds WSW at 19.3 mph and temperature 79.1 degree F. A copy of the weather report is in this case file.
7. I researched the label for Armor Tech Threesome herbicide and it stated, *“Do not apply at winds speeds greater than 10 mph.” “Do not apply this product in a way that will contact workers or other persons, either directly or through drift.”*
8. From the findings of the OISC residue lab and the Weather Underground website, it is determined pesticide from the application made to the neighboring property, did drift onto the complainant’s property and onto the person of the child.



Robert D. Brewer
Investigator

Date: August 7, 2017

Disposition: Robert Miller and Pro Green were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding application in winds greater than 10 miles per hour and drift to people. A civil penalty in the amount of \$250.00 was assessed to Pro Green. Consideration was given to the fact this was Mr. Miller’s first violation of similar nature. Consideration was also given to the fact there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: September 27, 2017
Final Date: November 6, 2017

CASE SUMMARY

Case #2017/0813

Complainant: Troy Fetcher
950 Andrews Road
Griffin, Indiana 47616
812-449-1223

Respondent: Posey County Coop (Licensed Business)
250 Railroad Street
Griffin, Indiana 47616
Jeffrey R. Spencer (Unlicensed Applicator)
Eric D. Wiseman (Certified Applicator)
812-851-5761

1. On May 31, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report agricultural pesticide drift to his trees.
2. On June 5, 2017, I met with Mr. Fetcher at his property. Mr. Fetcher stated around the second week of May 2017, that Posey County Coop in Griffin, Indiana, made a pesticide application to the farm field located to the south of his property. Mr. Fetcher indicated although there were other farm fields located near his property, none of those fields had been “sprayed” this year. Mr. Fetcher informed me around May 24, 2017, he began to notice the willow trees near the road had leaves turning brown and dying. Mr. Fetcher indicated he did not apply any pesticides to his yard, but had sprayed along the roadway (near the willow trees) with some glyphosate and 2,4-D.
3. I examined the willow tree located along road along the south side of Mr. Fetcher’s property. The leaves located on the lower halves of the willow trees were brown and showed some leaf loss. The upper (top) leaves of the willow trees were still green and appeared healthy. A pecan tree also located near the road (in line with the willow trees) had symptoms of necrotic spotting, consistent with a contact herbicide and also cupping/curling of leaves, consistent with a growth regulator, such as 2,4-D. Trees examined further north of the farm field in question on Mr. Fetcher’s property, also showed some symptoms similar to those observed on the pecan tree, but to a lesser degree (pattern of drift). I collected both swab and vegetation samples from trees on Mr. Fetcher’s property, at various distances north of the farm field in question. In addition, swab and soil samples were collected from the farm field. Photograph #1 below shows the willow trees located near the road on the south side (closest to the farm field) on Mr. Fetcher’s property. Photograph #2 below shows the pecan tree near the road showing symptoms of necrotic spotting and cupping/curling of leaves.




Photograph #1



Photograph #2

4. I contacted Posey County Co-op in Griffin, Indiana, and spoke to Facility Manager and Certified Applicator, Eric Wiseman. Mr. Wiseman indicated on May 10, 2017, they had applied Tomahawk 5 (EPA Reg. #33270-15; active ingredient: glyphosate), Barrage (EPA Reg. #5905-529; active ingredient: 2,4-D) and Authority First (EPA Reg. #279-3246; active ingredients: sulfentrazone and cloransulam-methyl) to the farm field south of Mr. Fetcher's property. Mr. Wiseman also stated Posey County Co-op makes pesticide applications for the other neighboring farm fields near Mr. Fetcher's property, but no applications had been made to those fields this year. Mr. Wiseman was sent a Pesticide Investigation Inquiry (PII) form to be completed by the applicator. This form was received back on June 8, 2017, and indicated the time of application as "early morning". The applicator indicated on the PII that at the time of the application, the winds were from the southwest (blowing toward Mr. Fetcher's property) at five miles per hour (mph).
5. On June 6, 2017, collected samples were turned into the Indiana State Chemist Residue lab for analysis. The results were reported back on July 7, 2017, and indicated the following:

Case # 2017/0813			Investigator: S. Farris	
Sample #	Sample Description	Sample Matrix	Amount Found	
			Sulfentrazone	Cloransulam-Methyl
2017-510043	Trip blank swab	Swab	BDL	BDL
2017-510044	Control swab from Northside of house brick	Swab	BDL	BDL
2017-510045	Swab of willow Tree leaves 360 feet north from Farm field	Swab	2.7 ng/swab	0.4 ng/swab
2017-510046	Swab of maple Tree leaves 276 feet north from Farm field	Swab	1.4 ng/swab	1.2 ng/swab
2017-510047	Swab of willow Tree leaves 240 feet north from Farm field	Swab	1.8 ng/swab	BDL
2017-510048	Swab of vegetation in farm field	Swab	10.3 ng/swab	21.8 ng/swab
2017-510049	Willow tree leaves 360 feet north of farm field	Veg	NA	NA
2017-510050	Maple tree leaves 276 feet north of farm field	Veg	NA	NA
2017-510051	Willow tree leaves 240 feet from farm field	Veg	NA	NA
2017-510052	Soil from farm field	Soil	NA	NA
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC				
LOQ = 0.2 ng/swab				
Signature			Date	7/7/17

6. The lab results above indicated the active ingredients for the product First Authority were detected in the samples collected from Mr. Fetcher's property.
7. Weather data collected from the weather station located at the Carmi, Illinois Airport, indicated from 7:00am to 10:00am the wind speed was from a south/southwest (blowing toward Mr. Fetcher's property) direction, between 4.6 mph and 8.1 mph.
8. The Authority First label stated the following: "Avoid all direct, and/or indirect spray contact with non-target plants."

9. While reviewing applicator information on the PII form, it indicated the pesticide applicator was Jeffrey Spencer. The PII indicated Mr. Spencer made the Category 1 pesticide application to a farm field involved on May 10, 2017, however, a check of the OISC database indicated Mr. Spencer did not become licensed until July 13, 2017.
10. I contacted Julie Stephens, Safety Coordinator, for the Posey County Co-op. Mrs. Stephens stated they had become aware of the licensing issue after the complaint had been filed and required Mr. Spencer to get licensed. Mrs. Stephens indicated Mr. Spencer was licensed in Illinois and they had used him to do some work for them during their busy season.
11. I informed Mrs. Stephens I would need copies of pesticide application records for any work Mr. Spencer did for them in Indiana before July 13, 2017. Mrs. Stephens stated she would collect these records and mail them to me.
12. The requested records were received on August 28, 2017, and indicated Mr. Spencer had made pesticide applications in Indiana without being licensed on the following dates:
- 3/23/17 3/24/17 3/25/17 3/27/17 3/28/17 3/29/17 4/1/17 4/3/17
 - 4/8/17 4/10/17 4/13/17 4/14/17 4/27/17 4/25/17 4/26/17 5/10/17
 - 5/15/17 5/16/17 5/18/17 5/21/17 5/22/17 5/27/17 5/31/17 6/1/17
 - 6/2/17 6/3/17 6/5/17 6/6/17 6/7/17 6/8/17 6/9/17 6/10/17 6/12/17
 - 6/13/17 6/14/17 6/28/17 6/29/17 6/30/17 7/3/17 7/5/17 7/6/17
 - 7/12/17



Scott M. Farris
Investigator

Date: August 29, 2017

Disposition: Eric D. Wiseman was warned for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding drift to non-target vegetation. Consideration was given to the fact this was his first violation of similar nature.

Eric D. Wiseman was cited for forty-two (42) counts of violation of section 65(6) of the Indiana Pesticide Use and Application Law for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$5,250.00 (42 counts x \$250.00 per count) was assessed. However, the civil penalty was reduced to \$787.50. Consideration was given to the fact Mr. Wiseman cooperated during the investigation; corrective action was taken (Mr. Spencer became licensed July 14, 2017); there was no previous history of similar violations; no potential for harm since Mr. Spencer had been licensed in Illinois and no restricted use pesticides were involved.



George N. Saxton
Compliance Officer

Draft Date: September 28, 2017
Final Date: November 6, 2017

CASE SUMMARY

Case #2017/0821

Complainant: Gary Porter
10201 Tower Road
Quincy, Indiana 47456
765-720-8300

Respondent: William Frank Bailey
Cloverdale Agri-Center
P.O. Box 207
Cloverdale, Indiana 46120
765-795-4215

Certified Applicator
Licensed Business

1. On June 5, 2017, the complainant contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report an agricultural pesticide drift that he believes killed some of his fish.
2. On June 7, 2017, I met with Mr. Porter at the above address also known as Indian Oaks Campground. While there, I took a full complement of photos and collected samples for analysis by the OISC residue lab.
3. In addition, I could not see any signs of dead fish and I did see that there were other forms of aquatic life present in the form of minnows and frogs.
4. Soil samples were collected from the target field located to the south of the pond where there is a culvert that drains directly to the pond and from an area where it appeared as if there was run off from the pond. See Figures One, Two and Three



Figure One



Figure Two



Figure Three

5. Water samples were taken from the pond as well as vegetation from the edge of the pond. See Figure Four

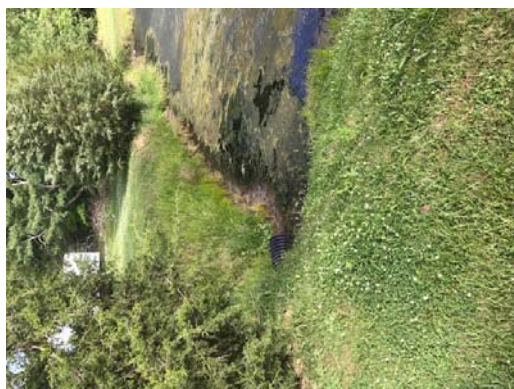
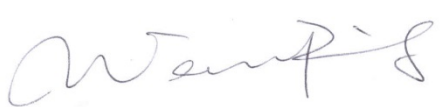


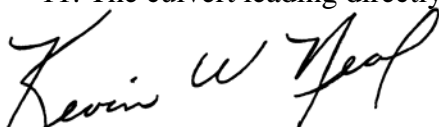
Figure Four

6. According to a signed Pesticide Investigation Inquiry form an application of Acuron Herbicide (EAP Reg. # 100-1466) active ingredients metolachlor, atrazine, mesotrione and bycyclopyrone plus Atrazine 4L (EPA Reg. # 1381-158) active ingredient atrazine was made on May 19, 2017, by Mr. Bailey to the target field.
7. Results of the OISC lab analysis are indicated in the table below:

OFFICE OF INDIANA STATE CHEMIST
Pesticide Residue Laboratory
Lab Report

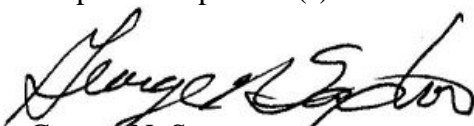
Case # 2017/0821			Investigator: K. Neal	
Sample #	Sample Description	Sample Matrix	Amount Found	
			Atrazine	Metolachlor
2017-220574	Soil sample target field	Soil	188 ppb	831 ppb*
2017-220575	Soil sample -run off area	Soil	152 ppb	32.8 ppb
2017-220576	Water sample Porter pond	Water	61.0 ppb*	16.5 ppb*
2017-220577	Vegetation sample from edge of pond	Veg	1680 ppb*	99.0 ppb
PPM= Parts Per Million; PPB=Parts Per Billion; CONF=Confirmed; LOQ=Limit of Quantitation; BDL=Below detection Limits: this analyte was not detected using the standard analytical methods employed by OISC; BQL=Below quantification limits: this analyte was detected however the amount was lower than the quantification limit established using the standard analytical methods employed by OISC *amount exceeded calibration curve. Concentration reported as minimum found.				
LOQ	Soil		0.7 ppb	0.3 ppb
LOQ	Water		0.008 ppb	0.004 ppb
LOQ	Veg		0.7 ppb	0.3 ppb
Signature			Date	6/30/17

8. The label for Acuron states, *"This product may not be applied within 66 ft of the points where field surface water runoff enters perennial or intermittent streams and rivers or within 200 ft from the edge of natural or impounded lakes and reservoirs."*
9. The label for Atrazine 4L states, *"This product may not be applied within 66 ft of the points where field surface water runoff enters perennial or intermittent streams and rivers or within 200 ft from the edge of natural or impounded lakes and reservoirs."*
10. According to the Extension Toxicology Network (Exttoxnet), *"Metolachlor is moderately toxic to both cold and warm water fish, including rainbow trout, carp, and bluegill sunfish. The 96 hr LC50 values for this compound in rainbow trout, carp and bluegill sunfish are 2.0, 4.9 and 15.0 mg/kg respectively."* And *"Atrazine is only slightly toxic to fish and other pond or stream life. In whitefish, atrazine accumulates in the brain, gall bladder, liver and gut. Fish may bioaccumulate atrazine to levels of 11 times the concentration in surrounding water. This is a low level of bioaccumulation. Atrazine is easily broken down."*
11. The culvert leading directly to the pond is a sure conduit of water to the pond from the target field.


Kevin W. Neal
Investigator

Date: August 9, 2017

Disposition: William Frank Bailey and Cloverdale Agri-Center were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label-directed setbacks from points where surface water may run off and within 200 feet of a pond. A civil penalty in the amount of \$250.00 was assessed to Cloverdale Agri-Center. Consideration was given to the fact this was Mr. Bailey's first violation of similar nature. Consideration was also given to the fact the pesticide product(s) are restricted use pesticides.


George N. Saxton
Compliance Officer

Draft Date: September 27, 2017
Final Date: November 6, 2017

CASE SUMMARY

Case #2017/0836

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, Indiana 47907-2063
800-893-6637

Respondent: Darrell Wagler
Wagler Poultry
6741 E 500 N
Montgomery, Indiana 47558
812-709-0617

1. On June 8, 2017, the Certification & Licensing section contacted the Compliance Officer of the Office of Indiana State Chemist (OISC) to report Wagler Poultry failed to renew their category 14 certification.
2. On July 7, 2017, I met with Mr. Wagler at his business location. Mr. Wagler was informed that his category 14 certification had expired last year and he was not currently licensed to use or sell the poultry manure from his poultry confined feeding operation (CFO). I explained to Mr. Wagler he would need to retake and pass the category 14 exam to reapply for another category 14 business license. Mr. Wagler stated they had not applied any manure from his poultry operation this year, but had sold manure to Doug L. Hagemeyer (certified category 14 applicator) on April 26, 2017. Mr. Wagler provided me with a copy of the invoices from this sale.
3. I inspected the sales invoices Mr. Wagler was using as his records for distribution of the poultry manure. These records were missing the following required information:
 - Name of the certified applicator accepting the organic fertilizer
 - Certification number of the applicator
 - Representative nutrient value or values of the organic fertilizer
4. I informed Mr. Wagler testing would need to be done on the manure to determine nutrient value and reminded him all distribution records must be kept for a minimum of 2 years. Mr. Wagler was also issued an Action Order to stop any further distribution or use of poultry manure from his business (CFO) until all licensing requirements are met.



Scott M. Farris
Investigator

Date: July 25, 2017

Disposition: Darrell Wagler was warned for violation of section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 8-5-1, for failure to keep and maintain all mandatory distribution records.

Darrell Wagler was cited for violation of section 44 of the Indiana Commercial Fertilizer Law, specifically 355 IAC 7-3-3, for distributing fertilizer material without having a valid fertilizer business license. A civil penalty in the amount of \$250.00 was assessed for this violation.


George N. Saxton
Compliance Officer

Draft Date: September 27, 2017
Final Date: November 6, 2017

CASE SUMMARY

Case #2017/0855

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47907
765-494-1585

Respondent: Bruce Yates
Wood Works Landscapes
3345 S 630 W
New Palestine, IN 46163
317-861-9290

Owner

1. On June 13, 2017, I observed Mr. Bruce Yates making a pesticide application on a ride on applicator to the residence of 7574 W 300 S in New Palestine, Indiana. I observed him making the applications in short pants and short sleeve shirt with no gloves.
2. I stopped Mr. Yates and identified myself, showing my OISC credentials. I asked Mr. Yates if he was licensed and he stated he was not. I asked if he was a registered technician and he stated he was not. He stated he thought his son, Wes Yates, was licensed. I advised him even if his son was licensed, he would have to hold at least a registered technician or his son would have to be on site with him. He stated he was making the application for a friend, who had done work for him. I advised him he could not make any pesticide or fertilizer applications for hire or bartering without a valid license.
3. He then contacted his son. I spoke with his son Wes Yates and learned he did not have a current pesticide license through OISC. He stated they are mainly a landscape company and only do limited pesticide applications.
4. I then asked Mr. Bruce Yates what he was applying. He stated he was applying LESCO Pre-emergent EPA 10404-85 with the active ingredient dithiopyr and TRIMEC EPA 2217-539-33955 with the active ingredient 2, 4-D. I asked him if he had made any other pesticide or fertilizer applications this year and he stated he had not. I further advised him the label for the products he was applying, stated anyone applying the products must wear the proper personal protective equipment, which included long sleeve shirt, long pants, eye protection and gloves. The following photos show Mr. Yates making the application without the proper protective equipment on.



5. I then issued Mr. Yates an ACTION ORDER, ordering him to cease any and all for-hire pesticide and fertilizer applications until obtaining proper licensing through the Office of Indiana State Chemist.

Robert D. Brewer
Investigator

Date: July 17, 2017

Disposition: Bruce Yates was cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$50.00 was assessed for this violation.

Wood Works Landscapes was cited for violation of section 65(9) of the Indiana Pesticide Use and Application Law for applying pesticides for-hire without having an Indiana pesticide business license. A civil penalty in the amount of \$250.00 was assessed for this violation.

George N. Saxton
Compliance Officer

Draft Date: August 31, 2017
Final Date: October 19, 2017

CASE SUMMARY

Case #2017/0958

Complainant: Office of Indiana State Chemist (OISC)
175 S. University Street
West Lafayette, IN 47902
800-893-6637

Respondent: Kelly Little
Chris Stall
Kelly Landscaping, Inc.
P.O. Box 23
Lafayette, IN 47902
765-296-2995

Certified Applicator
Non-Certified

1. On July 4, 2017, at 10:15am, I observed Mr. Stall making what appeared to be some sort of pesticide application to the parking lot around curbing at the Chase Bank 2207 Sagamore Pkwy S in Lafayette, Indiana. I could see that Mr. Stall was wearing a short-sleeved shirt and short pants. See Figure One

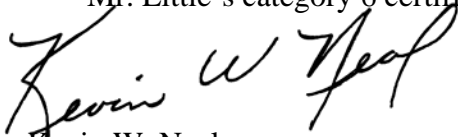


Figure One

2. I approached Mr. Stall and identified myself. I asked if he was a certified applicator to which he replied he was not but that his boss is a certified applicator. When asked where his boss was he replied that he had left to run some errands.
3. Mr. Stall stated he was making an application of RoundUp and then was able to produce the label for the product he was applying. It was RoundUp Pro (EPA Reg. #524-529) active ingredient glyphosate. The label for RoundUp Pro states, "*Applicators and other handlers must wear: long-sleeved shirt and long pants, shoes plus socks.*"
4. I then asked Mr. Stall if he could contact Mr. Little, his supervisor, which he did by telephone. I spoke with Mr. Little who stated he was at home. I explained that Mr. Stall

could not make any pesticide applications without Mr. Little on site as he was neither a registered technician nor certified applicator and Mr. Little advised that he was aware of this and that this was the first time it has happened.

5. Mr. Little is a certified applicator with a category 3B certification. The application to the parking lot would require him to be certified in category 6 for right-of-way applications. Mr. Little's category 6 certification expired December 31, 2008.



Kevin W. Neal
Investigator

Date: July 5, 2017

Disposition: Kelly Little and Kelly Landscaping were cited for violation of section 65(2) of the Indiana Pesticide Use and Application Law for failure to follow label directions regarding use of personal protective equipment. A civil penalty in the amount of \$250.00 was assessed to Kelly Landscaping for this violation.

Kelly Little and Kelly Landscaping were cited for violation of section 65(6) of the Indiana Pesticide Use and Application Law, specifically 355 IAC 4-2-3, for failure to provide on-site supervision to a non-certified individual. A civil penalty in the amount of \$125.00 was assessed to Kelly Landscaping for this violation.

Kelly Little and Kelly Landscaping were cited for violation of section 65(12) of the Indiana Pesticide Use and Application Law for failure to comply with any limitations or restrictions in a duly issued license. A civil penalty in the amount of \$250.00 was assessed to Kelly Landscaping for this violation.

The total amount of civil penalty assessed to Kelly Landscaping was \$625.00. However, the civil penalty was reduced to \$487.50. Consideration was given to the fact Kelly Landscaping cooperated during the investigation. Consideration was also given to the fact there was potential for human harm.



George N. Saxton
Compliance Officer

Draft Date: August 31, 2017
Final Date: October 19, 2017