

OISC – Filing a Pesticide or Fertilizer Tip or Complaint

Please read this before filing a complaint

Filing a Pesticide or Fertilizer Tip or Complaint

The Office of Indiana State Chemist (OISC) is charged with the administration and enforcement of the Indiana pesticide and fertilizer laws https://oisc.purdue.edu/oisc_rules_regs_laws.html. OISC also represents the Environmental Protection Agency (US EPA) in Indiana for the purpose of enforcing federal pesticide law.

These laws include provisions requiring certain pesticide and fertilizer users to be certified and licensed. They also include provisions intended to regulate the safe storage, handling, and use of fertilizers and pesticides. For pesticides that usually means use and handling in compliance with pesticide labels reviewed and accepted by US EPA.

Tips and complaints can be filed with OISC, at no cost to the complainant, through the complaint intake officer **765-494-1589** or by completing the following **Complaint Statement Form**. The OISC intake officer will contact the submitter, unless it was submitted anonymously, to ask follow-up questions and evaluate the need for an investigation. Incidents identified for investigation will be assigned to an investigator and will be issued a case number.

What Types of Tips & Complaints are Commonly Filed with OISC?

Pesticides - includes herbicides, fungicides, insecticides and rodenticides. The most common type of pesticide complaint is the off-target drift of herbicides, but fungicides and insecticides can also drift off-target. Other types of pesticide related complaints could include reports of damage to personal property, runoff, applications by unlicensed businesses, improper disposal, applications to the wrong address or property, and operating in a careless manner.

Wood Destroying Organisms (WDO) - includes misleading reporting regarding the inspection of structures for the purpose of determining evidence of the presence or absence of termites or other wood destroying organisms for the purposes of a real estate transaction.

Fertilizer/Manure - includes the improper staging (field storage) and application of fertilizer and manure in farm fields https://oisc.purdue.edu/fertilizer/pdf/fert_app_regulations_growers.pdf

Do I Have Other Options Besides Filing a Formal Complaint?

Yes, you may choose to:

1. Do nothing and ignore the matter.
2. Contact the applicator, inspector, farmer, or business to express your concerns or report your suspected injury or damage and any expected restitution.
3. Collect your own information to pursue the matter yourself without involving OISC.

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4. Contact the OISC complaint intake officer at **765-494-1589** to discuss the possibility of requesting a Documentary Only Investigation. These investigations by OISC are relatively limited in scope and are not designed to collect evidence to support noncompliance or enforcement actions for wrongdoing. They are typically limited to visual inspection for evidence of herbicide exposure injury to nontarget vegetation.

How you respond to a suspected pesticide complaint incident depends on many factors, including the extent of injury or damage caused by the incident; the relationship you have with the applicator, inspector or business; and how the suspected responsible party responds to your concerns. The choice of what action to take is your personal decision, and there is no single right or wrong approach. However, it is important to remember that evidence is often time sensitive. Delaying the filing of your complaint with the responsible party, your insurance company, or OISC may significantly affect any investigation or follow-up outcome.

How Can I Determine if Pesticides Drifted onto My Property?

Pesticide drift can harm human health or can damage nontarget plants or other property. Following are some cues that may cause you to suspect off-target pesticide drift:

- You felt a spray physically touch you while a nearby application was occurring. Direct exposure to pesticides can be a serious matter, and you should never treat it lightly. Direct pesticide exposure may require immediate action. If you feel suspected pesticide drift, remove your clothing and shower. Immediately retain your unlaundered clothing in a clean separate bag or container for possible analysis, if an OISC investigation is necessary. Segregating separate clothing items in separate bags or containers may be helpful to investigators. Seek medical advice about any further actions.
- You observe distorted or discolored leaves on your trees, landscape or garden plants, or crop plants.
- You observe spray mist moving onto your property during application.
- You notice dead honeybees, dead fish, or dead vegetation in areas where adjacent vegetation has yellowed or died suddenly.

Can I Determine Cause of Damage When Pesticide Use is Undetermined?

It is easy to blame a neighbor for pesticide drift. But before you act, be sure to take some important steps to determine if the issues you're experiencing are a result of drift or some other cause. A variety of other problems can result in symptoms or damage that can mimic pesticide exposure symptoms. This can include nutrient deficiencies, improper planting or cultivation; insect pests or diseases; weather-related issues such as flood, drought or cold injury; and environmental conditions.

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Purdue University Cooperative Extension Service (CES) educators can often help you determine the cause of the injury symptoms. The educators have access to expertise to assist with this process. However, it is important to remember that the county educators are not trained pesticide drift investigators. Investigating a formal pesticide drift complaint is the responsibility of OISC. You can contact your local CES office through <https://extension.purdue.edu/about/county-office.html>

What to Expect After a Tip or Complaint has been Assigned for Investigation

1. OISC will prioritize cases that involve alleged human health exposure. Most other complaints may take up to five business days for the investigator to make initial contact with the complainant or tipster.
2. The OISC investigator will typically make an appointment to physically visit and examine the location where the alleged incident occurred. The timing of the site visit will often depend on the suspected date of the incident and the type of evidence that may need to be collected.
3. Evidence collected by the investigator may include, but may not be limited to, witness statements, application or inspection records from the applicator, invoices or contracts, maps or diagrams, photographs, environmental samples for physical examination, environmental samples for laboratory analysis, and recorded weather data.
4. The OISC investigator will compile the relevant evidence into a pre-decisional summary. The OISC compliance officer will review the summary and evidence to determine if a violation has been documented or not. A finding of no violation will be communicated in writing to both the target of the investigation and to the complainant or tipster, assuming it was not an anonymous complaint.
5. For documented violations, the compliance officer will identify the corresponding enforcement response directed by state law or rule and will notify the alleged violator in writing of the proposed violation and enforcement action.
6. Following due process and opportunities for informal review and formal appeal, the final investigation findings and final enforcement action will be provided to the violator in writing. The complainant will also be advised in writing that the case has been finalized. Depending on the complexity of the investigation and investigator workload, this may take eight months or more from the date of the initial complaint.
7. Documentary Only Investigation case files, depending on investigator workload, may take approximately three months from the date of the initial complaint to finalize.
8. All investigation evidence and activities will be documented and maintained in OISC's centralized case management system. Finalized case files become public records and are

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available for public review at <https://ocm.oisc.purdue.edu/p/>.

9. It should be noted that OISC will only determine if a violation has been documented or not and what the appropriate enforcement shall be. OISC does not get involved in matters of restitution or compensation for loss. If OISC determines there has been a violation, then you will need to decide if and how you wish to quantify the loss and whether to seek compensation for your loss. You can seek damages directly with the applicator/inspector, with insurance companies, or through civil proceedings.

**Portions of the above information were excerpted from PPP-110 Options for Dealing with a Pesticide Drift Incident. For access to the complete brochure, view it here:*

<https://ag.purdue.edu/department/extension/ppp/ppp-publications/ppp-110.pdf>

Instructions for completing the Complaint Statement Form

1. The term “pesticide” includes herbicides, insecticides, fungicides and rodenticides.
2. In a Documentary Only Investigation, OISC will only collect samples for visual inspection by the Purdue Plant and Pest Diagnostic lab. No enforcement will be pursued against the applicator as the result of a Documentary Only Investigation. Complainants are free to share diagnostic lab results with suspected responsible parties, but OISC will not do so.
3. OISC does take and investigate anonymous complaints. However, some anonymous complaints, by their very nature, may not be able to be effectively pursued. OISC must be able to collect a preponderance of evidence to support a finding of violation.

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