



Office of
INDIANA STATE CHEMIST AND SEED COMMISSIONER

Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed

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FY 2022
OISC Pesticide
Enforcement Response Policy

I. Introduction

This policy has been developed as guidance to assist the Office of Indiana State Chemist (OISC) in responding to violations and incidents of non-compliance with consistent, predictable, and timely enforcement responses.

This policy is based largely on the Indiana pesticide civil penalty assessment legislation found in IC 15-16-4-69 and IC 15-16-5-66, but also encompasses practical experience gained by OISC in administering the requirements under the state and federal pesticide laws and regulations, including experience gained through observing the deliberations and actions of the Indiana Pesticide Review Board (IPRB). The IPRB is provided by law with rule making, case review, and enforcement appeal authorities.

II. Legal Citations

IC 15-16-4-69 Violations; penalties; disposition of penalties

Sec. 69. (a) Subject to this section, if a person violates this chapter or a rule adopted under this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the person or: (1) deny; (2) suspend; (3) revoke; or (4) amend; the person's registration under this chapter.

(b) The state chemist may impose civil penalties under this section only in accordance with subsections (c) through (e). However, this section does not require the state chemist to impose a civil penalty on a person for any violation of this chapter or a rule adopted under this chapter.

(c) Except for a violation described in subsection (d) or (e), the state chemist may impose a civil penalty not exceeding two hundred fifty dollars (\$250) for a violation of this chapter or any rule adopted under this chapter. A civil penalty imposed under this subsection may be adjusted for mitigating actions described in subsection (f). A civil penalty under this subsection may not be imposed unless a warning for a violation has previously been issued to the person for the same violation within the previous five (5) years.

(d) Subject to adjustment under subsection (f) for mitigating actions, the state chemist may impose a civil penalty not exceeding five hundred dollars (\$500) if the state chemist finds that a person has done any of the following: (1) Unknowingly committed an act described in section 57(1) of this chapter. (2) Committed an act described in section 57(2) through 57(5) of this chapter. (3) Unknowingly committed an act described in section 66(1) of this chapter. (4) Committed an act described in section

66(2) or 66(3) of this chapter. (5) Unknowingly committed an act described in 357 IAC 1-3-3. (6) Stored a nonrestricted use pesticide in a minibulk pesticide storage container outside of secondary containment.

(e) The state chemist may impose a civil penalty of one thousand dollars (\$1,000) if the state chemist finds that a person has done any of the following: (1) Knowingly committed an act described in section 57(1) of this chapter. (2) Committed an act described in section 57(9) of this chapter. (3) Knowingly committed an act described in section 66(1) of this chapter. (4) Committed an act described in section 67, 68, 73(c), or 77 of this chapter. (5) Committed an act described in 357 IAC 1-3-2. (6) Knowingly committed an act described in 357 IAC 1-3-3. (7) Stored: (A) any pesticide in a bulk pesticide storage container; or (B) a restricted use pesticide in a minibulk pesticide storage container; outside of secondary containment. (8) After notice, refused to comply with this chapter, the rules adopted under this chapter, or a lawful order of the state chemist or board.

(f) The state chemist may not adjust the amount of the civil penalty for a violation listed in subsection (e). The state chemist may reduce the amount of the civil penalty for a violation listed in subsection (c) or (d) if the state chemist finds that the person responsible for the violation has taken any of the following mitigating actions: (1) Cooperated with the state chemist during the investigation or inspection process. (2) Took corrective action to prevent future similar violations. (3) Compensated a victim for any adverse effects that resulted from the violation. The state chemist may reduce the amount of the civil penalty by twenty percent (20%) for each mitigating action taken by the person responsible for the violation.

(g) A proceeding under IC 4-21.5-3 that involves the imposition of a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

(h) Money collected for civil penalties imposed under this section shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides. *[Pre-2008 Recodification Citation: 15-3-3.5-18.3.] As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.11; P.L.76-2021, SEC.2.*

IC 15-16-5-65 Penalty actions for violations

Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter: (1) Made false or fraudulent claims either verbally or through any media misrepresenting the effect of pesticide products or methods to be used. (2) Recommended, used, or supervised the use of any registered pesticide product in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide product. (3) Used known ineffective or improper pesticide products or known ineffective amounts of pesticides. (4) Operated faulty or unsafe equipment. (5) Operated in a careless or negligent manner. (6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist or the board. (7) Refused or neglected to: (A) keep and maintain the records required by this chapter; or (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection. (8)

Made false or fraudulent records, invoices, or reports. (9) Engaged in or professed to be engaged in the business of: (A) using a pesticide or any other product regulated under this chapter or by rules adopted under this chapter; or (B) making a diagnostic inspection to determine infestations of a wood destroying pest; for hire on the property of another without having a business license issued by the state chemist. (10) Used or supervised the use of a pesticide product that is required to be used under this chapter by a person who is certified, licensed, or permitted without having a person who is certified, licensed, or permitted under this chapter conducting the use. (11) Used fraud or misrepresentation in the qualification or application for, or renewal of, a license, permit, registration, or certification. (12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification. (13) Aided or abetted a person to evade this chapter, conspired with a person to evade this chapter, or allowed a license, permit, registration, or certification to be used by another person. (14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests. (15) Impersonated any federal, state, county, or city inspector, investigator, or official. (16) Knowingly purchased or used a pesticide product that was not registered under IC 15-16-4. (17) Failed to continuously maintain financial responsibility required under section 58 of this chapter or to provide proof of financial responsibility to the state chemist when requested. (18) Intentionally altered a duly issued license, permit, registration, or certification. (19) Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist. [Pre-2008 Recodification Citation: 15-3-3.6-14.] As added by P.L.2-2008, SEC.7. Amended by P.L.120-2008, SEC.82; P.L.99-2012, SEC.18; P.L.91-2020, SEC.25

IC 15-16-5-66 Violations; civil penalties; disposition of penalties

Sec. 66. (a) The state chemist may impose civil penalties under this section only in accordance with subsections (b) through (d). However, this section does not require the state chemist to impose a civil penalty on a person for any violation of this chapter or a rule adopted under this chapter.

(b) Except for a violation described in subsection (c) or (d), the state chemist may impose a civil penalty not exceeding two hundred fifty dollars (\$250) for a violation of this chapter or any rule adopted under this chapter. A civil penalty imposed under this subsection may be adjusted for mitigating actions described in subsection (e). A civil penalty under this subsection may not be imposed unless a warning for a violation has previously been issued to the person for the same violation within the previous five (5) years.

(c) Subject to adjustment under subsection (e) for mitigating actions, the state chemist may impose a civil penalty not exceeding five hundred dollars (\$500) if the state chemist finds that a person has done any of the following: (1) After written notice, neglected to: (A) keep and maintain records; or (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection; as described in section 65(7) of this chapter. (2) Committed an act described in section 65(8) of this chapter. (3) Unknowingly committed an act described in section 65(9) or 65(10) of this chapter. (4) After written notice, neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification as described in section 65(12) of this chapter. (5) Committed an act described in section 65(14) or 65(16) of this chapter. (6) Recommended, used, or supervised the use of a nonrestricted use pesticide product in a manner inconsistent with its labeling and resulting in an adverse effect. (7) Recommended, used, or supervised the use of a restricted use pesticide product in a manner inconsistent with its labeling and resulting in no adverse effect. (8) Applied a nonrestricted use pesticide in a manner that allows it to drift from the target site in a sufficient quantity to cause an adverse effect to a nontarget site (as defined in 357 IAC 1-12-1).

(d) The state chemist may impose a civil penalty of one thousand dollars (\$1,000) if the state chemist finds that a person has done any of the following: (1) Committed an act described in section 64(a) of this chapter. (2) Committed an act described in section 65(5) of this chapter. (3) After notice, refused to comply with this chapter, the rules adopted under this chapter, or any lawful order of the state chemist or the board as described in section 65(6) of this chapter. (4) Refused to: (A) keep and maintain records; or (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection, as described in section 65(7) of this chapter. (5) Intentionally committed an act described in section 65(8) of this chapter. (6) Knowingly committed an act described in section 65(9) or 65(10) of this chapter. (7) Committed an act described in section 65(11) of this chapter. (8) Refused to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification as described in section 65(12) of this chapter; (9) Committed an act described in section 65(13), 65(15), 65(18), or 65(19) of this chapter. (10) Committed an act described in 355 IAC 4-7-7. (11) Recommended, used, or supervised the use of a restricted use pesticide product in a manner inconsistent with its labeling and resulting in an adverse effect. (12) Applied a restricted use pesticide in a manner that allows it to drift from the target site in a sufficient quantity to cause an adverse effect to a nontarget site (as defined in 357 IAC 1-12-1).

(e) The state chemist may not adjust the amount of the civil penalty for a violation listed in subsection (d). The state chemist may reduce the amount of the civil penalty for a violation listed in subsection (b) or (c) if the state chemist finds that the person responsible for the violation has taken any of the following mitigating actions: (1) Cooperated with the state chemist during the investigation or inspection process. (2) Took corrective action to prevent future similar violations. (3) Compensated a victim for any adverse effects that resulted from the violation. The state chemist may reduce the amount of the civil penalty by twenty percent (20%) for each mitigating action taken by the person responsible for the violation.

(f) A proceeding under IC 4-21.5-3 that involves a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

(g) Money collected for civil penalties imposed under section 65 of this chapter shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides. *[Pre-2008 Recodification Citation: 15-3-3.6-14.5.] As added by P.L.2-2008, SEC.7. Amended by P.L.91-2020, SEC.26; P.L.76-2021, SEC.4.*

III. Enforcement Remedies Available

The following enforcement actions may be utilized by OISC to assist in gaining compliance of regulated individuals and businesses. These enforcement options are not mutually exclusive. For example, citations and civil (administrative) penalties are frequently issued for a single violative act. Likewise, a civil penalty and a license suspension may also be assessed for a single violative act that is of a repetitive nature or results in significant adverse effects. The range of enforcement remedies include the following:

1. Compliance assistance,
2. Written action order and written stop sale use or removal order (SSURO),
3. Written warning,
4. Written citation,
5. Civil (administrative) penalty,

6. License, permit, registration, or certification:
 - a. Denial,
 - b. Modification,
 - c. Suspension,
 - d. Revocation.
7. Referral to Indiana county attorney for criminal prosecution, or
8. Referral to U.S EPA if a federal violation or if an adequate state remedy is not available.

Other than compliance assistance, orders, and SSUROs issued by OISC field staff at the point of non-compliance, these enforcement actions will normally be administered by the OISC Compliance Officer.

IV. Civil Penalty Assessment

Civil penalty assessment is directed by legislation in IC 15-16-4-69 and IC 15-16-5-66. These sections of law identify which violations are eligible for \$250.00, \$500.00, or \$1000.00 civil penalties. The full text of this state law is available in Section II of this policy and at <http://iga.in.gov/legislative/laws/2020/ic/titles/15#15-16-4-69> and <http://iga.in.gov/legislative/laws/2020/ic/titles/15#15-16-5-66>.

V. Consideration of Limiting the Number of Counts of Violation

For purposes of assessing civil penalties under each paragraph or item in IC 15-16-4-69 or IC 15-16-5-66, OISC may limit the number of counts for repeated incidents of the identical violation and citation documented in a single investigation to five (5) counts. Nothing in this policy shall restrict or limit OISC from considering all documented counts of violation for other enforcement considerations.

VI. Consideration of Adverse Effects

For purposes of assessing a civil penalty, “adverse effect” shall have the meaning established in IC 15-16-4-3.5. “Adverse effect” means a pesticide exposure to a nontarget site that results in: (1) a pesticide residue in excess of established food or feed tolerances established by the U.S. EPA; (2) a pesticide residue in excess of environmental standards or benchmarks for pesticides established by a federal or state agency; or (3) visible, measurable, or documented death, illness, stunting, deformation, discoloration, or other effects that are detrimental to the nontarget site.

For purposes of evaluating the appropriateness of civil penalty assessment for more than five (5) counts or license, permit, registration, or certification action (denial, modification, suspension, or revocation) allowed under IC 15-16-4-69(a) and IC 15-16-5-65, both adverse effects described in this section and the following will be considered:

1. human fatality or creation of an imminent danger or fatality;
2. severe damage or creation of imminent danger of severe damage to the environment;
3. significant contamination of food or water;
4. two or more unmitigated civil penalties of a similar nature imposed under Indiana pesticide law, comparable state laws in other states, or FIFRA section 14(a); or
5. criminal penalties imposed under Indiana pesticide law, comparable state laws in other states, or FIFRA section 14(b).

VII. Consideration of Mitigating Actions

For purposes of assessing \$250.00 and \$500.00 civil penalties, and for purposes of evaluating the appropriateness of a credentialing action, the following mitigating actions by the violator will be considered:

1. Cooperated during the investigation or inspection process.
2. Took corrective action to prevent future similar violations.
3. Compensated a victim for any adverse effect that resulted from the violation.

IC 15-16-4-69(f) and IC 15-16-5-66(e) provide that the \$1000 category of penalty violations may not be mitigated.

VIII. Consideration of Violations Under FIFRA

Violations of FIFRA are mirrored by comparable violations under IC 15-16-4 and IC 15-16-5.

IC 15-16-4-55 provides that the state chemist or the state chemist's agent may do the following: (1) Enter any public or private premises, including any vehicle of transport during regular business hours: (A) to: (i) have access to; and (ii) obtain samples of; pesticide products; and (B) to: (i) examine; and (ii) copy; records relating to the production, use, transportation, and sale of pesticide products, subject to this chapter, the rules adopted under this chapter, and the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.). (2) Enter at a reasonable time in or upon any: (A) private; or (B) public; property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

IC 15-16-4-57 provides that a person may not produce, distribute, display, sell, or offer for sale within Indiana or deliver for transportation or transport in intrastate commerce or between points within Indiana through any point outside Indiana any pesticide that violates the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or regulations adopted under the Act.

IC 15-16-4-69(a) provides that if a person violates this chapter or a rule adopted under this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the person or: (1) deny; (2) suspend; (3) revoke; or (4) amend; the person's registration under this chapter.

IC 15-16-5-65 provides that the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any violation of this chapter.

In consideration of the proceeding authorities, if it is determined that a person violates FIFRA or the rules thereunder and has been issued a final order imposing a civil penalty under section 14(a) of FIFRA or a criminal conviction under section 14(b) of FIFRA, OISC will review, and where appropriate, evaluate the need to cite the person for the comparable violation under IC 15-16-4 or IC 15-16-5 and deny, suspend, revoke, or modify the person's license, permit, registration, or certification issued by OISC.

IX. Distribution of Violative Pesticide Products

Non-registered, misbranded, or adulterated pesticide products distributed from or into Indiana will most routinely be the legal responsibility of the product registrant or manufacturer listed on the product label. Enforcement and compliance actions will be applied to the responsible registrant or manufacturer. However, OISC will also apply enforcement action to any person found to be responsible for knowingly distributing or offering to distribute a state unregistered pesticide product to a customer in Indiana. This will apply to distribution from both local brick and mortar locations and virtual marketplace locations.

X. Off-Target Pesticide Movement (Primarily Drift)

As with most other violation types, OISC will defer to the civil penalty assessment guidance provided in IC 15-16-5-66 when responding to documented off-target movement violations that are based on non-compliance with pesticide label language or the state pesticide drift rule (357 IAC 1-12).

In addition, IC 15-16-5-65 provides that OISC may impose pesticide credentialing denials, modifications, suspensions, and revocations for any documented violation. Historically, OISC has imposed credentialing actions only for those violations that are particularly egregious or harmful to man or the environment on a significant scale or for those persons that are determined to be repeat offenders of the same or similar violation type. Repeat drift violators shall be addressed as follows:

1. After at least three separate and distinct documented off-target drift incident violations involving an adverse effect within any contiguous two-year period, OISC will evaluate the need for a credentialing action.
2. After at least two separate and distinct documented off-target drift incident violations involving human exposure within any contiguous two-year period, OISC will evaluate the need for a credentialing action.
3. The two-year contiguous period will be calculated based on the dates the incidents occurred.

XI. Worker Protection Standard (WPS)

The WPS rule is detailed, relatively extensive, and contains a great many regulatory requirements that may be characterized as technical violations. Therefore, some minor violations may be addressed by OISC with compliance assistance. OISC will generally not utilize compliance assistance to address the following violations, which OISC considers more significant and more central to the ultimate goals of the WPS regulation:

1. No central posting location
2. No poster displayed
3. No application records available at location
4. No Safety Data Sheet (SDS) available at location
5. Incomplete application records (REI, app. date, product name, EPA Reg. #)
6. Application records not accessible by workers & handlers
7. Application records not kept by employer for at least two years
8. No emergency medical information
9. No safety training provided at all
10. No safety training provided before work or annually
11. No records of worker or handler training kept for at least two years
12. Training not provided by a qualified trainer

13. Training materials do not cover all rule requirements
14. No decontamination supplies provided to workers & handlers
15. No eyewash water provided for workers & handlers
16. Decontamination supplies missing water, soap, or change of clothes
17. Workers or handlers not notified of applications
18. Warning signs not posted
19. REIs not implemented
20. PPE not provided to workers & handlers
21. PPE not maintained
22. No medical evaluation for respirator wearing workers & handlers
23. No fit testing for respirator wearing workers & handlers
24. No resp. training, medical evaluation, or fit testing records kept for two years
25. Fumigation precautions not implemented
26. Danger/poison precautions not implemented
27. Emergency assistance not provided to workers & handlers
28. Employer retaliates against workers & handler
29. Commercial handler employer fails to provide application info. to grower

XII. Penalty vs. Late Fee

If it is documented that an individual or business was or has been conducting pesticide application operations without the required certification or license or was or has been offering a pesticide product for sale or distribution without the required registration, those violative acts will be addressed through the enforcement procedures outlined in this policy.

However, instead of an enforcement response, OISC will assess a 100% late filing fee in addition to the annual credentialing/registration fee for any individual, business, or product that meets the following criteria:

1. The individual, business, or product was credentialed or registered at the close of the previous credentialing/registration year,
2. The individual, business, or product was otherwise in compliance with all other pesticide regulatory requirements, and
3. The individual, business, or product credentialing or registration deficiency was promptly, upon notice, rectified by filing of all necessary forms, fees, and late filing fees.

XIII. Federal Product Violation Referrals to EPA Region 5

All potential FIFRA product violations discovered as the result of OISC's inspections or state product registration activities will be referred to U.S. EPA Region 5 for consideration of federal enforcement action. These inspections and the associated violations will be conducted and documented in accordance with OISC's standard operating procedures, which have been determined to be equivalent to the guidance provided in the EPA FIFRA Inspection Manual. All inspections conducted with Federal credentials, at the request of EPA, will be forwarded to EPA for further review and enforcement action, regardless of potential violations discovered.

OISC and EPA will follow the below listed outline when processing a referral.

1. Within five (5) business days of a determination by OISC that a violation of FIFRA may have been documented as the result of an OISC investigation or inspection, the OISC Compliance Officer or his/her designee will send an e-mail notification to the EPA Region 5 OISC

Enforcement Technical Contact, with a copy to the Pesticide & Toxics Compliance Section (PTCS) Chief. The e-mail notification will reference the OISC case number, the identified respondent, the suspected FIFRA violation, that all of the case file materials have been copied into the EPA R5 SharePoint file, and the anticipated response date by EPA R5.

2. Within ten (10) business days of receipt of the e-mail from OISC, the EPA Region 5 Enforcement Technical Contact or his/her designee will e-mail a reply to the OISC Compliance Officer indicating:
 - a. the Region is interested in pursuing the suspected violation;
 - b. the Region requires an additional fifteen (15) days, unless another review period is negotiated with OISC; or
 - c. the Region is remanding the case to OISC for consideration of state enforcement.

EPA Region 5 and OISC will track the progress and disposition of any referrals through the quarterly enforcement conference calls and the mid-year and end-of-year cooperative agreement review processes.

XIV. Appeals of Enforcement Actions

An appeal of any enforcement action by OISC will be administered according to IC 15-16-4-64.5 and IC 15-16-5-67 as follows:


- (a) A person who is:
 - (1) regulated under this chapter; and
 - (2) aggrieved by any decision of the state chemist; may obtain a review by the board if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.
- (b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.
- (c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.
- (d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.
- (e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.
- (f) A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.

Revision History

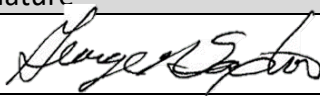


Date	Change	Justification
1-15-16	Initiated the process of communicating ERP content with entire pesticide staff annually.	Need make policy more transparent to entire OISC staff.
2-15-17	<ol style="list-style-type: none"> 1. Expanded the introduction. 2. Added reference to process for civil penalty assessment. 3. Converted drift response table to text. 4. Added worker protection standard (WPS) guidance. 5. Added portable refillable container and containment guidance. 6. Added termiticide preconstruction application guidance. 7. Added guidance for assessing civil penalty versus late filing fee for annual credentials or registrations. 	<ol style="list-style-type: none"> 1. Need to incorporated recognition of OISC practical experience in working with IPRB. 2. Need to highlight the philosophies outlined in the civil penalty rule. 3. Need to relate drift response to civil penalty rule for clarity. 4. Need to identify WPS violations addressed with compliance assistance versus other enforcement options. 5. Need to identify container/containment violations addressed with compliance assistance versus other enforcement options. 6. Need to incorporate a previously separate industry-specific ERP into overall comprehensive ERP. 7. Need to identify and make consistent for various sections within OISC pesticide section when civil penalties versus late filing fees would be appropriate.
3-13-17	Added guidance for federal product violation referrals to EPA Region 5.	Needed to ensure consistency regarding how and when documented product violations under FIFRA would be referred to EPA for federal enforcement consideration.
9-1-17	Expanded the drift response guidance to reflect how dicamba drift violations would be assessed differently than	Needed to elevate the level of enforcement response for dicamba-specific drift violations in consideration of IPRB recommendations to OISC intended to insure safe use and preservation of the new much needed resistant weed control technology.
7-27-18	<ol style="list-style-type: none"> 1. Revised WPS guidance to modify the list of violations that would be addressed with compliance assistance. 2. Added enforcement discretion to mitigate size of civil penalty for some violations of a daily repeating nature. 	<ol style="list-style-type: none"> 1. Needed to respond to EPA Region 5 request to shift from compliance assistance to enforcement for year old amendments to the WPS reg. 2. Needed to respond to IPRB recommendation to allow for mitigation of excessive civil penalties until formal rulemaking could be undertaken to implement the option.
6-23-19	Revised the drift response guidance to distinguish between violations involving RUPs versus GUPs and clarified when applicator credential suspension would be initiated.	Needed to incorporate the concept of greater potential environmental harm for violations involving RUPs, as it relates to more significant response options such as license suspension.
4-13-21	<ol style="list-style-type: none"> 1. Eliminated the reference to repeat violations. 2. Made revisions to change civil penalty amounts for various violations, made private applicator violations the same as commercial applicator violations, and eliminated the 	<ol style="list-style-type: none"> 1. Needed to comply with revisions enacted by SEA # 438 effective July 1, 2020. 2. Needed to comply with revisions enacted by SEA #227 effective July 1, 2021.

	implementation link to a civil penalty rule 357 IAC 1-6. 3. Made minor revisions to the EPA referral process.	3. Needed to adjust EPA referral process to account for conversion of paper file process to electronic file process, and to account for personnel resource changes in EPA R5.
5-5-22	Added detail to the "Legal Citations" section to spell out violations and penalty structure under state law. Added a "Consideration of Violations Under FIFRA" section. Added a "Consideration of Limiting the Number of Counts of Violation" section.	1. Needed to comply with new requirements under EPA's applicator certification and training regulation, 40 CFR 171.303(b)(7). 2. Needed to create guidelines for limiting potential impacts of some excessive civil penalties resulting from multiple instances of repeat violations documented in the same investigation.

Document Owner

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David E. Scott	Pesticide Administrator		4-May-22

Reviewed and Approved

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