Report of Alleged Loss Due to Pesticides Form

Oregon Department of Agriculture
Pesticides Division
(503) 986-4635

Form date 12/16

Who should file a "report of loss" form?

To claim a loss from the use of a pesticide by a commercial pesticide operator, you must file a "report of loss" form with the Department of Agriculture. According to the Liability Claims Procedure in Oregon Revised Statutes (ORS 634.172), filing a "report of loss" protects your right to pursue civil action against the commercial pesticide operator. The word "pesticide" includes fungicides, herbicides, insecticides, defoliants, desiccants and plant growth regulators. A "commercial pesticide operator" means someone who applies pesticides for hire.

You may also file a "report of loss" to claim a loss stemming from the use of a pesticide by a non-commercial operator, which includes any person—other than a commercial operator—who uses a pesticide. However, the law does not require that you file a "report of loss" against a non-commercial operator in order to pursue civil action.

When to file a "report of loss"

You must file the "report of loss" within 60 days of the pesticide application or your discovery of the loss. If the loss deals with a growing crop, you must file before 50% of the affected crop is harvested.

Investigations

The Oregon Department of Agriculture may conduct an investigation in response to a "report of loss". Although the Department will record all "reports of loss", limited resources restrict investigations to certain types of situations. If the Department conducts a "report of loss" investigation, investigators will seek to determine the extent and nature of an alleged loss. Investigations will not determine the source of the damage, the person who may have caused the damage, or the extent of the financial damage. Furthermore, the Department cannot require an operator to pay for a claimed loss.

Enforcement action

A "report of loss" investigation will not, of itself, result in the Department taking enforcement action against a commercial pesticide operator. However, a "report of loss" investigation may result in a "follow-up" investigation to determine the lawfulness of a specific pesticide application. This, in turn, could lead to an enforcement action by the Department against the commercial pesticide operator.

Legal assistance

The Oregon Department of Agriculture cannot act as your legal counsel. If you have questions concerning your legal rights, you should contact an attorney.

Important:

ORS 634.172 requires the claimant to send or personally deliver a true copy of the completed Report of Loss form to the operator who did the application and to the Landowner (renter) for whom the application was done.

Additional information

If you have questions regarding the "report of loss," including filling out appropriate forms, contact:
Oregon Department of Agriculture
Pesticides Program
635 Capitol St. NE, Salem OR 97301-2532
(Phone: 503-986-4635)

RETAIN THIS SHEET FOR YOUR INFORMATION

Instructions for Completing a Report of Loss Form

Lack of complete critical information may cause ODA to return the Report of Loss form for further information.

1. & 2. Date of claimed pesticide application; Date of Loss (or discovery of damage): Month, day and year.

3. Pesticide product name: Provide as much information as possible to identify the pesticide or pesticides used. For example: manufacturer and trade name (XYZ Chemical Company 2,4-D UHV Weed Killer). The EPA registration number will be very helpful. Lacking the manufacturer, trade name or EPA registration number, identify the pesticide by name of the active ingredient or common chemical name.

4. Describe claimant's loss: Be as specific as possible. Name and type of crop (winter wheat or spring wheat; seed potatoes or market potatoes), variety name, ornamentals, pasture, animals (cattle, sheep, bees, chickens), or individuals affected. Indicate size as acres, number of plants or number of animals or individuals. If a health care professional or veterinarian is involved, please provide their name, address and telephone number.

5. Non-performance: The Report of Loss procedure is not intended for incidents where the pesticide or application did not accomplish its intended purpose. The immediate cause of the problem must be due to the pesticide, not a secondary cause of the pesticide. For example: An insecticide is applied but does not kill the grasshoppers. Subsequently, the grasshoppers destroy the crop. The immediate cause of the crop damage is the insect; the secondary cause of the problem is the insecticide. This example would constitute non-performance of the pesticide and would not qualify under the Report of Loss procedures.

6. If damage to a growing crop, has 50% of the crop been harvested? Answer yes or no. Typically, ODA will not investigate an incident where evidence of the damaged crop or property has been removed from the site where the damage occurred.

7. Who made the pesticide application (choose one) and list the name, address and phone number.

8. Landowner (or renter) for whom the pesticide was applied: Name, address and telephone number of the person, business or agency who contracted for the pesticide application to be made.

9. Suspected cause or source of the damage: Indicate by marking appropriate selections. Explain "other."

10. Statement of facts concerning the pesticide application and claimed damage. Provide as much factual information as possible concerning the incident. A graphical representation such as a drawing or map showing affected areas in relation to the source of the pesticide will be very helpful.

11. History of pesticides, fertilizers, and other chemicals used by you or the previous occupant on damaged site (attach additional sheets if necessary).

12. Other investigators: People such as extension agents, cannery fieldpersons, private consultants, veterinarians, doctors, insurance agents, pesticide manufacturer representatives and representatives of other government agencies who have observed or investigated this incident.

13. Authentication: Sign the Report of Loss form, provide your printed name, your address, city, state, zip code, phone number and the date you signed the form.

Copy Distribution (four copies total needed):

First: Oregon Department of Agriculture

Second: Pesticide Operator

Third: Landowner (renter) who hired the work done

Fourth: Claimant

Important:

ORS 634.172 requires the claimant to send or personally deliver a true copy of the completed Report of Loss form to the operator who did the application and to the Landowner (renter) for whom the application was done.

Special Instructions:

Attach a map or drawing referencing known points such as streets, roads, towns, directions common landmarks to the Report of Loss. This map will insure the ODA representative can locate your property.

Report of Loss Allegedly Caused by Use of Insecticides, Herbicides, Fungicides and Other Pesticides

Form date 12/16

TO: OREGON DEPARTMENT OF AGRICULTURE
PESTICIDES DIVISION
635 CAPITOL ST. NE
SALEM, OR 97301-2532

1. Date of claimed pesticide application: _____

2. Date of loss (or discovery of damage): _____

3. Pesticide used or product name: _____

4. Description of claimed loss (crop, ornamentals, pasture, animals, individuals, etc.) If a health care professional or veterinarian is involved, please provide their name, address and phone number: _____

5. Is claim due to pesticide non-performance (failure to control insects, weeds or other pests)? ☐ Yes ☐ No

6. If damage to growing crop, has 50% of crop been harvested? ☐ Yes ☐ No

7. Who made the pesticide application (check one): ☐ Commercial Operator ☐ Farmer or Forester
☐ Unknown ☐ Other (specify) Name: _____

Address: _____

City, State, Zip: _____

Phone: _____

8. Landowner (or renter) for whom pesticide was applied:

Name: _____

Address: _____

City, State, Zip: _____

Phone: _____

9. Suspected cause or source of damage (mark all appropriate):

☐ Ground application ☐ Air application ☐ Neighbor spraying ☐ Other

10. Statement of facts concerning pesticide use and claimed damage:

Time of day: _____

Weather: _____

Age or stage of maturity of damaged property at time of alleged damage:

_____

11. History of pesticides, fertilizers, and other chemicals used by you or the previous occupant on damaged site (attach additional sheets if necessary): _____

12. Have other investigators observed the damage? ☐ Yes ☐ No

Name(s): _____

Affiliation: _____

13. The above information is true and correct to the best of my knowledge and I understand the Oregon Department of Agriculture may investigate this claim of loss in order to determine the extent and nature of damage allegedly caused. I agree to allow the said Department reasonable access to any of my property or records in order to carry out these activities.

Signature: _____ Date: _____

Print Name: _____

Address: _____

City, State, Zip: _____