

Proposed Administrative Consent Agreement Background Summary

Subject: Petro's Ace Hardware
965 Minot Avenue
Auburn, Maine 04210

Date of Incident(s): 2008, 2009, January–April 27, 2010

Background Narrative: Maine statutes require any company that distributes general use pesticides in Maine to be licensed as a General Use Pesticide Dealer. Petro's Ace Hardware distributes general use pesticides at their Auburn store. On May 9, 2007, through a marketplace inspection it was determined the store was selling pesticides without a license. This store was under new ownership at the time of that inspection and the company licensed a week after the inspection on May 16, 2007. That license expired on December 31, 2007. A routine marketplace inspection at the store on April 21, 2010, revealed the company failed to renew its license during 2008, 2009, and part of 2010 until prompted to do so by the inspection.

Summary of Violation(s): 22 M.R.S.A. § 1471-W (1) License required. Unless exempted under section 5, no person may distribute general use pesticides without a license.

Rationale for Settlement: A principle tenet of state enforcement philosophy is to ensure there is no economic benefit to non-compliance. Current staff policy to resolve General Use Pesticide Dealer license violations is to establish a base penalty of \$100 plus \$20 for each year the company operated without a license.

Attachments: Proposed Administrative Consent Agreement

**STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL**

In the Matter of:)	
John Petrocelli)	ADMISTRATIVE CONSENT AGREEMENT
Petro's Ace Hardware)	AND
965 Minot Ave)	FINDINGS OF FACT
Auburn, Maine 04210)	

This Agreement by and between Petro's Ace Hardware (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board") is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol adopted by the Board on September 19, 1984.

The parties to this Agreement agree as follows:

1. That the Company distributes general use pesticides in Maine.
2. That the distribution of general use pesticides in Maine requires a general use pesticide dealer's license pursuant 22 M.R.S.A. § 1471-W.
3. That the Company held a Maine general use pesticide dealer's license (GPD 43827) which expired 12/31/ 2007.
4. That on April 21, 2010, a Board inspector conducted a routine marketplace inspection at the Company
5. That from the inspection in paragraph four, it was determined that the Company did not possess a valid Maine general use pesticide dealer's license during calendar years 2008, 2009, and part of 2010, and that the Company distributed pesticides in Maine during this period.
6. That the circumstances described in paragraph one through five constitute three violations of 22 M.R.S.A. § 1471-W.
7. That the Board has regulatory authority over the activities described herein.
8. That the Company expressly waives:
 - A. Notice of or opportunity for hearing;
 - B. Any and all further procedural steps before the Board; and

C. The making of any further findings of fact before the Board.

9. That this Agreement shall not become effective unless and until the Board accepts it.

10. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violations referred to in paragraph six, the Company agrees to pay a penalty to the State of Maine in the sum of \$160.00. (Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

PETRO'S ACE HARDWARE

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General