

# **Proposed Administrative Consent Agreement Background Summary**

**Subject:** John E. Tibbetts  
Tibbetts Family Farm  
765 Clarks Wood Road  
Lyman, Maine 04002

**Date of Incident(s):** April and June 2008

**Background Narrative:** Through information gathered from a restricted use pesticide dealer, it was determined that a dairy farm operator with an expired private applicator license and expired certification, purchased and used Atrazine 4L, a restricted use pesticide.

**Summary of Violation(s):** 22 M.R.S.A. § 1471- D (2), No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the Board.

**Rationale for Settlement:** The staff compared the violation to similar cases settled by the Board in formulating a penalty proposal.

**Attachments:** Proposed Consent Agreement

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

In the Matter of:	)	
John E. Tibbetts	)	ADMINISTRATIVE CONSENT
Tibbetts Family Farm	)	AGREEMENT
765 Clarks Wood Road	)	AND
Lyman, Maine 04002	)	FINDINGS OF FACT

This Agreement by and between John E. Tibbetts (hereinafter called the "Applicator") 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 Applicator is in the business of commercially producing an agricultural commodity.
2. That in April, and again in June, of 2008, the Applicator purchased Atrazine 4L, a restricted use pesticide, from Paris Farmers Union.
3. That any person who uses or supervises the use a restricted use pesticide for producing an agricultural commodity is by definition a private applicator pursuant to 22 M.R.S.A. § 1471-C (22).
4. That private applicators must be certified by the Board prior to applying any restricted use pesticide in accordance with 22 M.R.S.A. § 1471- D (2).
5. That the Applicator was not certified, nor was anyone employed at Tibbetts Family Farm certified, at the time of the applications described in paragraph three.
6. That the circumstances described in paragraphs one through five constitute violations of 22 M.R.S.A. § 1471- D (2).
7. That the Board has regulatory authority over the activities described herein.
8. That the Applicator 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 Applicator resulting from the violation referred to in paragraph six, the Applicator agrees to pay a penalty to the State of Maine in the sum of \$100.00. (Please make checks payable to Treasurer, State of Maine.)

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

JOHN E. TIBBETTS

By: \_\_\_\_\_ Date: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_

Henry Jennings, Director

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mark Randlett, Assistant Attorney General