

Proposed Administrative Consent Agreement Background Summary

Subject: Sterling Insect-Lawn Control, Inc.
643 B Main Street
Gorham, Maine 04038

Date of Incident(s): April 23, 2007

Background Narrative: On April 23, 2007, an employee of Sterling Insect-Lawn Control, Inc., applied a pesticide to the lawn at 47 Glenn Road in Yarmouth. This address is listed on the 2007 Pesticide Notification Registry because it is within 250 feet of registry member David Inger's home. Sterling Insect-Lawn Control, Inc., failed to notify Inger in advance of the treatment. The failure to notify was due to a data entry issue at Sterling Insect-Lawn Control, Inc.

Summary of Violation(s): CMR 01-026 Chapter 28, Section 2 (D). Commercial applicators shall notify individuals listed on the registry when performing an outdoor, non-agricultural pesticide application that is within 250 feet to the property boundary of the listed registry residence.

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:)	ADMINISTRATIVE CONSENT
Sterling Insect-Lawn Control, Inc.)	AGREEMENT
643 B Main Street)	AND
Gorham, Maine 04038)	FINDINGS OF FACT

This Agreement by and between Sterling Insect-Lawn Control, Inc. (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 is a licensed spray contracting firm holding license number SCF15010 issued by the Board pursuant to 22 M.R.S.A § 1471-D (1)(B).
2. That on April 23, 2007, Carl Macomber, a Company employee, applied Dimension 0.10% Plus Fertilizer 19-0-6 to the property of Hanna Klepinger, at 47 Glen Road in Yarmouth, Maine, as a service for compensation.
3. That the property described in paragraph two is located within 250 feet of the David Inger property located at 59 Glen Road in Yarmouth, Maine, which is listed on the 2007 Pesticide Notification Registry, and requires prior notification pursuant to CMR 01-026 Chapter 28, Section 2(A).
4. That the Company failed to notify David Inger pursuant to CMR 01-026, Chapter 28, Section 2(D) prior to making the application described in paragraph two.
5. That the actions described in paragraphs two, three, and four constitute a violation of CMR 01-026, Chapter 28, Section 2(D).
6. That the Board has regulatory authority over the activities described herein.
7. 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.
8. That this Agreement shall not become effective unless and until the Board accepts it.
9. That in consideration for the release by the Board of the causes of action which the

Board has against the Company resulting from the violation referred to in paragraph five, the Company agrees to pay to the State of Maine the sum of \$425. (Please make checks payable to Treasurer, State of Maine).

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

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry S. Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General