

## **Proposed Administrative Consent Agreement Background Summary**

**Subject:** David Register  
244 Ridge Street  
Lisbon, Maine 04252

**Date of Incident(s):** May 6, 2007

**Background Narrative:** David Register reported through his legal counsel that he applied Clorox Bleach to rental property that he owns to control a mold problem. The property, located in Lisbon, was rented at the time of the application. Clorox is a registered pesticide. The use of any pesticide to rental property occupied by a tenant is considered a custom application. Such applications can only be made by a licensed commercial applicator. Register was not licensed as a commercial applicator.

**Summary of Violation(s):** 22 M.R.S.A. § 1471- D (1) (A). That commercial pesticide applications may only be conducted by certified commercial applicators.

**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**

David Register            )  
244 Ridge Street        )  
Lisbon, ME 04252        )

ADMISTRATIVE CONSENT AGREEMENT  
AND  
FINDINGS OF FACT

This Agreement by and between David Register (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 on May 23, 2007, Jackie Ross called the Board's office and stated that his landlord, the Applicator, applied a pesticide to try to correct a mold problem in the cellar of the house he rented at 7 Woodlawn Avenue in Lisbon.
2. That Ross rented the entire house including the cellar at the site in paragraph one.
3. That on May 24, 2007, a Board inspector conducted a follow-up investigation with Jackie Ross at 7 Woodlawn Avenue and photographed equipment at that site the Applicator used in making the pesticide application to the cellar.
4. That on May 31, 2007, a Board inspector met with the Applicator's attorney, Joshua Klein-Golden, as directed to by the Applicator, to conduct a follow-up use inspection for the application made in paragraph one.
5. That through Klein-Golden, the Applicator reported that on May 6, 2007, he diluted Clorox Bleach with water to treat the cellar area specified in paragraph one, to correct a mold problem.
6. That Clorox Bleach is a registered pesticide.
7. That application of any pesticide under contract or for which compensation is received is considered a custom application in accordance with 22 M.R.S.A. § 1471-C (5)(A).
8. That the use of any pesticide by a landlord to rental property occupied by a tenant is considered a custom application pursuant to CMR 01-026 Chapter 10, Section 2 (P) 2.
9. That pursuant to CMR 01-026 Chapter 10, Section 2 (I) 2, anyone who makes a custom application is a commercial applicator.
10. That commercial pesticide applications may only be conducted by certified commercial applicators pursuant to 22 M.R.S.A. § 1471- D (1) (A).

11. That the Applicator did not have a commercial pesticide applicator's license at the time of the application described in paragraph five.
12. That the circumstances described in paragraphs one through eleven constitute a violation of 22 M.R.S.A. § 1471-D (1)(A).
13. That the Board has regulatory authority over the activities described herein.
14. 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.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. 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 twelve, the Applicator agrees to pay a penalty to the State of Maine in the amount of \$200.00. (Please make checks payable to Treasurer, State of Maine.)

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

DAVID REGISTER

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

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

BOARD OF PESTICIDES CONTROL

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

Henry Jennings, Director

APPROVED:

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

Mark Randlett, Assistant Attorney General