

Proposed Administrative Consent Agreement Background Summary

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

Date of Incident(s): June 23, 2009

Background Narrative: A Board inspector conducted a routine pesticide use inspection with a commercial applicator. The applicator was applying an herbicide to a residential lawn in Westbrook. The inspector documented that the applicator was not wearing a long sleeved shirt, chemical-resistant gloves or protective eyewear as required by the pesticide label.

Summary of Violation(s): 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S.A. § 606 (2)(B) and 22 M.R.S.A § 1471 D (8)(F). It is unlawful to use a pesticide inconsistent with the product labeling.

Rationale for Settlement: The applicator was not wearing the required personal protective equipment required by the label. In May of 2007, Board staff sent the company a warning letter because a different company employee failed to wear the personal protective equipment required by the label.

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 amended by the Board on June 3, 1998.

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 June 23, 2009, Wayne Hemmingway, a Company employee, applied Q4 Turf Herbicide (EPA reg. # 2217-886) to the property of Barbara Willette, at 334 Spring Street in Westbrook, Maine, as a service for compensation.
3. That a Board inspector conducted a pesticide use inspection for that application with Hemmingway.
4. That the labeling for Q4 Turf Herbicide requires applicators to wear a long sleeved shirt, chemical-resistant gloves made of any waterproof material, and protective eyewear.
5. That Hemmingway acknowledged to the inspector that he did not wear a long sleeved shirt, chemical-resistant gloves or protective eyewear when making the application in paragraph two.
6. That the circumstances described in paragraphs two through five constitute use of a pesticide inconsistent with the product labeling and in violation of 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S.A. § 606 (2)(B) and 22 M.R.S.A § 1471 D (8)(F).
7. That in a letter from the Board to the Company dated May 7, 2007, a warning was issued because a Company employee failed to wear the personal protective equipment required by the pesticide label for the pesticide he was applying.
8. That the Board has regulatory authority over the activities described herein.
9. 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.

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

11. 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 six, the Company agrees to pay to the State of Maine the sum of \$200. (Please make checks payable to Treasurer, State of Maine).

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

STERLING INSECT-LAWN CONTROL, INC

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Henry S. Jennings, Director

APPROVED:

By: _____ Date: _____
Mark Randlett, Assistant Attorney General