

**Proposed Administrative Consent Agreement  
Background Summary**

**Subject: Bruce Coulombe  
Collins Insect Control Inc.  
326 Presumpscot Street  
Portland, Maine 04103**

**Date of Incident(s):** July 17, 2013

**Background Narrative:** The Board received a call from a Westbrook resident alleging that a commercial application of pesticide to control mosquitoes on their next door neighbor's property, led to the death of one of their dogs.

**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), use of a pesticide inconsistent with the product labeling. (applicator failed to wear chemical resistant gloves)
- CMR 01-026 Chapter 22 section 4(B)I. **General Standard.** Pesticide applications shall be undertaken in a manner which minimizes pesticide drift to the maximum extent practicable, having due regard for prevailing weather conditions, toxicity and propensity to drift of the pesticide, presence of Sensitive Areas in the vicinity, type of application equipment and other pertinent factors.

**Rationale for Settlement:** The active ingredient in Lesco Cross Check plus, the pesticide used in the commercial application, is bifenthrin. Sample results from the caller's property were positive for bifenthrin at 0.144 ppm (16% of the target property sample) and the sample from the customer's property was positive for bifenthrin at 0.887 ppm. Evidence indicated that the application was made without taking sufficient precautions to keep the pesticide from drifting onto the caller's property. The evidence did not support the claim that the commercial application led to the dog's death.

**Attachments:** Proposed Consent Agreement

**STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY  
BOARD OF PESTICIDES CONTROL**

In the Matter of:	)	
Bruce Coulombe	)	ADMINISTRATIVE CONSENT AGREEMENT
Collins Insect Control Inc.	)	AND
326 Presumpscot Street	)	FINDINGS OF FACT
Portland, Maine 04103	)	

This Agreement by and between Collins Insect 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 provides commercial pesticide application services for compensation.
2. That the Company is a licensed spray contracting firm holding license number SCF 15005 issued by the Board pursuant to 22 M.R.S. § 1471-D(1)(2).
3. That Bruce Coulombe (CMA 16725) is a licensed commercial applicator as well as the owner of the Company.
4. That on July 18, 2013, the Board received a call from a Westbrook resident who resides at 85 Huntress Avenue. The caller complained that the Company sprayed an abutting property, located at 84 Huntress Avenue, for mosquitoes the previous day. The caller expressed a belief that exposure to pesticide drift onto his property from the application had caused one of his dogs to die, although the Board's subsequent inspection did not produce any evidence to support this claim.
5. That on July 18, 2013, a Board inspector conducted a follow-up investigation with the caller's wife about this incident. During this inspection, the inspector collected a vegetation sample along the stockade fence line on the caller's property (sample no. 130718EPM01A).
6. That on July 18, the inspector also contacted Coulombe and did a pesticide inspection for the application described in paragraph four. From this inspection the inspector determined that on July 17, 2013, Coulombe applied Cross X Check Plus Multi-Insecticide with a motorized backpack sprayer to part of the front yard and all of the back yard of a customer's property at 84 Huntress Avenue in Westbrook. The inspector obtained a copy of the Cross X Check Plus Multi-Insecticide label (sample # 130718EPM02A).
7. That on July 18, 2013, the Board inspector met with the owner of 84 Huntress Avenue, the property treated by the Company for mosquitoes as described in paragraphs 4 and 6. The

inspector collected a vegetation sample from the property in the back corner of the stockade fence. The sample was identified as 130718EPM03A.

8. That the Board sent the vegetation samples described in paragraphs 5 and 7 to a lab for analyses and requested tests for bifenthrin, the active ingredient in Cross X Check Plus Multi-Insecticide.
9. That the lab results were positive for bifenthrin for the sample collected from the caller's property at 0.144 ppm and positive for bifenthrin for the sample collected from 84 Huntress Avenue (the target property) at 0.887 ppm.
10. That CMR 01-026 Chapter 22 section 4(B)I requires that pesticide applications be made in a manner such as to minimize pesticide drift to the maximum extent practicable.
11. That CMR 01-026 Chapter 22 section 4(B)II provides that evidence of pesticide residues in or on any off-target Sensitive Area Likely to Be Occupied resulting from off-target drift of pesticides from a nearby application in an amount 1% or greater of the residue in the target area is prima facie evidence that the application was not conducted in a manner to minimize drift to the maximum extent practicable.
12. That in CMR 01-026 Chapter 10 (2) BBB defines a Sensitive Area Likely to Be Occupied as an area where humans are likely to be present and includes residential buildings, together with any associated maintained areas likely to be occupied by humans, such as lawns, gardens, recreational areas and livestock management and housing areas.
13. That the caller's property is a Sensitive Area Likely to Be Occupied.
14. That based on the lab results described in paragraph nine, drift from the application described in paragraphs 4 and 6 resulted in pesticide residue on a Sensitive Area Likely to Be Occupied at a rate greater than 1% of the residue found in the target area (16% of the target area).
15. That, based on the prima facie evidence, the application described in paragraphs 4 and 6 was not made in a manner that minimized pesticide drift to the maximum extent practicable in violation of CMR 01-026 Chapter 22 section 4(B)I.
16. That the labeling for Cross X Check Plus Multi-Insecticide requires applicators to wear chemical-resistant gloves.
17. That Coulombe acknowledged to the inspector that he did not wear chemical-resistant gloves when making the application described in paragraphs 4 and 6.
18. That the failure to wear chemical-resistant gloves when making the application described in paragraphs 4 and 6 constitutes the use of a pesticide inconsistent with its product labeling in violation of 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S. § 606 (2)(B) and 22 M.R.S. § 1471D (8)(F).
19. That the Board has regulatory authority over the activities described herein.

CX# 14394  
Date 3-6-14  
\$400.00

20. That the Grower 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.

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

22. That in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraphs fifteen and eighteen, the Company agrees to pay to the State of Maine the sum of \$400 at the same time the Company signs and submits this Consent Agreement to the Board. (Please make checks payable to Treasurer, State of Maine).

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

COLLINS INSECT CONTROL INC.

By: Bruce Coulombe Date: 3/6/14

Type or Print Name: Bruce Coulombe

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Henry Jennings, Director

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mark Randlett, Assistant Attorney General