

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

**Subject:** Paul Soucy  
Maine Seed Company  
295 Leeds Junction Road  
Wales, ME 04280

**Date of Incident(s):** May 21, 2015 and May 29, 2015

### **Background Narrative:**

Through information gathered from a restricted use pesticide dealer inspection, it was determined that a restricted use pesticide dealer sold a restricted use pesticide to a private applicator with an expired license and expired certification. The restricted use pesticide was Lumax EZ Herbicide. Sales were made on two different dates.

### **Summary of Violation(s):**

M.R.S. 22 § 1471-D(3)(B) - No pesticide dealer shall: Distribute limited or restricted use pesticides to any person who is not licensed or certified by 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, CONSERVATION AND FORESTRY  
BOARD OF PESTICIDES CONTROL**

Paul Soucy	)	ADMINISTRATIVE CONSENT AGREEMENT
Maine Seed Company	)	AND
295 Leeds Junction Road	)	FINDINGS OF FACT
Wales, ME 04280	)	

This Agreement, by and between Maine Seed Company (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. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That on August 10, 2015, a Board inspector conducted a routine pesticide dealer inspection with the Company in Wales.
2. That during the inspection in paragraph one, the inspector collected and reviewed invoice # 275. That invoice along with the company's restricted use pesticide sales log, indicated that Kendall Cooper was sold twenty 2 ½ gallon containers of Lumax EZ Herbicide and was invoiced for that purchase on May 21, 2015.
3. That during the inspection in paragraph one, the inspector also collected and reviewed invoice # 369. That invoice along with the company's restricted use pesticide sales log, indicated that Cooper was sold thirty 2 ½ gallon containers of Lumax EZ Herbicide and was invoiced for that purchase on May 29, 2015.
4. That Lumax EZ Herbicide (EPA reg. # 100-1442) is classified as a restricted use pesticide.
5. That CMR 01-026 Chapter 40 Section 1(D) specifies restricted use pesticides may be purchased and used only by applicators licensed by the Board as provided in Chapters 31 and 32 of the Board's regulations.
6. That M.R.S. 22 § 1471-D(3)(B), states that no pesticide dealer shall distribute limited or restricted use pesticides to any person who is not licensed or certified by the Board.
7. That Cooper was not certified or licensed at the time of the Company's sale of restricted use pesticides to him as described in paragraphs two and three.
8. That the circumstances described in paragraphs one through seven constitute two separate violations of M.R.S. 22 § 1471-D(3)(B)
9. That the Board has regulatory authority over the activities described herein.
10. 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.

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

12. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violations referred to in paragraph eight, the Company agrees to pay a penalty to the State of Maine in the sum of \$500.00. (Please make checks payable to Treasurer, State of Maine).

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

MAINE SEED COMPANY

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

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

BOARD OF PESTICIDES CONTROL

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

Henry Jennings, Director

APPROVED:

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

Mark Randlett, Assistant Attorney General