

**Proposed Administrative Consent Agreement
Background Summary**

Subject: Randi Bollenbach
Woodford Street Apartments, LLC
51 Belfield Road
Cape Elizabeth, ME 04107

Date of Incident(s): February 13 and February 20, 2012

Background Narrative: The Board received a call on February 28, 2012, alleging that the owners of an apartment building in Portland were directing their employee to make unlicensed pesticide applications to the apartments and common hallways. A Board inspector confirmed that the unlicensed employee applied Demand CS Insecticide to 15 apartments and hallways with a hand sprayer. The pesticide was applied at higher than labeled rates.

Summary of Violation(s):

- Any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D(1)(A) and CMR 01-026 Chapter 31 Section 1(A) III.
- 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).
Has applied a pesticide inconsistent with the pesticide labeling

Rationale for Settlement: The staff compared the violations to similar cases settled by the Board and in formulating the penalty proposal of \$700.

Attachments: Proposed Consent Agreement

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL

Randi Bollenbach)
Woodford Street Apartments, LLC) ADMINISTRATIVE CONSENT AGREEMENT
51 Belfield Road) AND
Cape Elizabeth, ME 04107) FINDINGS OF FACT

This Agreement, by and between Woodford Street Apartments, LLC, c/o Randi Bollenbach, (the "Owner") 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 Owner own and manage apartment buildings in Portland, Maine, including a building located at 259 Woodford Street.
2. That on February 28, 2012, the Board received a call alleging an employee of the Owner was performing unlicensed pest control work at the 259 Woodford Street apartment building.
3. That in response to the call in paragraph two, a Board inspector met with the Owner on March 2, 2012. The Owner provided a signed, typed statement that summarized the recent pest control history in Apartment 16 at the 259 Woodford Street Apartments. This summary stated in part, that the maintenance man sprayed a closet.
4. That on March 3, 2012, a Board inspector did a follow-up inspection with David Martin, the Owner's maintenance man. Martin acknowledged that on February 13 and February 20, he applied Demand SC insecticide (EPA reg. no. 100-1066) with a 1 gallon hand sprayer to all apartments and hallways, treating baseboards and lower bed frames. Martin's dilution rate was 4 ounces/gallon. The maximum dilution rate on the label is 0.8 ounces/gallon.
5. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D(1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
6. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) as any application of any pesticide under contract, or for which compensation is received or any application of a pesticide to a property open to use by the public. Applications made to rented apartments are considered applications for which compensation is received, and applications made to the halls of the apartment building are considered as applications made to areas that are open to the public.
7. That neither owner nor anyone it employed had a commercial pesticide applicator's license at the time of the applications described in paragraph four.
8. That the circumstances described in paragraphs one through seven constitute violations of 22 M.R.S. § 1471-D(1)(A) and CMR 01-026 Chapter 31 Section 1(A) III.
9. That from the inspection referenced in paragraph four, it was determined that the insecticide was applied at higher than the maximum allowed rate on the Demand SC insecticide label.

10. That the circumstances described in paragraphs four and nine constitute the use of a pesticide inconsistent with the product labeling 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).
11. That the Board has regulatory authority over the activities described herein.
12. 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.
13. That this Agreement shall not become effective unless and until the Board accepts it.
14. That, in consideration for the release by the Board of the causes of action which the Board has against the Owner resulting from the violations referred to in paragraphs eight and ten, the Owner agrees to pay to the State of Maine the sum of \$700. (Please make checks payable to Treasurer, State of Maine).

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

WOODFORD STREET APARTMENTS, LLC

By: _____
 Randi Bollenbach, Owner

Date: _____

BOARD OF PESTICIDES CONTROL

By: _____
 Henry Jennings, Director

Date: _____

APPROVED

By: _____
 Mark Randlett, Assistant Attorney General

Date: _____