

Proposed Administrative Consent Agreement Background Summary

Subject: Kendall Cooper
349 Paris Hill Road
Buckfield, ME 04220

Date of Incident(s): May 21, 2015

Background Narrative:

Through information gathered from a restricted use pesticide dealer inspection, it was determined that a private applicator with an expired private applicator license and expired certification, purchased Lumax EZ Herbicide, a restricted use pesticide.

Summary of Violation(s):

CMR 01-026 Chapter 40 Section 1(D): Restricted use pesticides may be purchased and used only by applicators licensed by the Board as provided in Chapters 31 and 32.

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**

Kendall Cooper)	ADMINISTRATIVE CONSENT AGREEMENT
349 Paris Hill Road)	AND
Buckfield, ME 04220)	FINDINGS OF FACT

This Agreement, by and between Kendall Cooper 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 Maine Seed 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 Cooper purchased 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 purchased 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 Cooper was not certified or licensed at the time of the pesticide purchases described in paragraphs two and three.
7. That the circumstances described in paragraphs one through six constitute two separate violations of CMR 01-026 Chapter 40 Section 1(D)
8. That the Board has regulatory authority over the activities described herein.
9. That Cooper 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 cause of action which the Board has against Cooper resulting from the violation referred to in paragraph seven, Cooper agrees to pay a penalty to the State of Maine in 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.

KENDALL COOPER

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General