

Proposed Administrative Consent Agreement Background Summary

Subject: Todd Purington
TRP Logging
PO Box 178
East Machias, Maine 04630

Date of Incident(s): August 7, 2012

Background Narrative: The Board received a call alleging that an individual in a truck marked TRP Logging was making what appeared to be an application to the turf area at McDonald's Restaurant in Machias to control weeds. A follow up inspection confirmed the owner of that company applied Ortho Weed B GON (EPA Reg. # 239-2689), a ready to use herbicide, on August 7, 2012. No one employed by TRP Logging was certified or licensed as a commercial applicator at the time of the commercial pesticide application to this public area.

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).

Rationale for Settlement: The staff compared the violation to similar cases settled by the Board.

Attachments: Proposed Consent Agreement

FEB 22 2013

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

Todd Purington	)	ADMISTRATIVE CONSENT AGREEMENT
TRP Logging	)	
P.O. Box 178	)	AND
East Machias, ME 04630	)	FINDINGS OF FACT

This Agreement by and between TRP Logging (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 adopted by the Board on September 19, 1984.

The parties to this Agreement agree as follows:

1. That the Company provides property maintenance services for compensation, including in the Machias area.
2. That on August 7, 2012, the Board received a phone call in which the caller alleged the Company made a commercial herbicide application to the shrub/flower beds at McDonald's Restaurant in Machias.
3. That in response to the call in paragraph two, a Board inspector conducted a follow-up inspection with Company owner Todd Purington on August 8, 2012.
4. That from the inspection in paragraph three, it was determined that Purington applied Ortho Weed B GON (EPA Reg. # 239-2689) to turf areas at McDonald's Restaurant at 3 M&M Place in Machias on August 7, 2012.
5. That application of any pesticide under contract or for which compensation is received is considered a custom application in accordance with 22 M.R.S.A. § 1471-C (5)(A).
6. That the pesticide application described in paragraph four was a custom application pursuant to 22 M.R.S.A. § 1471-C(5-A).
7. 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.
8. That no one employed by the Company was certified as a commercial pesticide applicator at the time of the application described in paragraph four.
9. That the actions described in paragraphs one through eight constitute a violation of 22 M.R.S.A. § 1471-D(1)(A).
10. That the Board has regulatory authority over the activities described herein.
11. 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.

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

13. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraph nine, the Company agrees to pay to the State of Maine \$350.00. (Please make checks payable to Treasurer, State of Maine.)

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

TRP LOGGING

By: Todd Purington Date: 2/12/13

Type or Print Name: Todd Purington TRP Logging

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Henry Jennings, Director

APPROVED:

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