

Proposed Administrative Consent Agreement Background Summary

Subject: Timothy Littlefield
Riverview Psychiatric Center
250 Arsenal Street
Augusta, Maine 04330

Date of Incident(s): July 19, 2017

Background Narrative: On July 19, 2017, a Board staff member saw a man making an herbicide application to the mulched beds around the ornamental trees at the Riverview Psychiatric Center on the Augusta Mental Health Institute (AMHI) campus.

The inspector followed up with a maintenance worker at the facility the same day and determined from that inspection that the worker applied Roundup Extended Control herbicide to mulch beds around ornamental trees to control grass and broadleaf weeds.

The regulations require 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)

No one at the Riverview Psychiatric Center was certified or licensed as a commercial pesticide applicator at the time the pesticide application was made.

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

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

Timothy Littlefield	)	ADMINISTRATIVE CONSENT AGREEMENT
Riverview Psychiatric Center	)	
250 Arsenal Street	)	AND
Augusta, Maine 04333	)	FINDINGS OF FACT

This Agreement, by and between Riverview Psychiatric Center 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 July 19, 2017, a Board staff member saw a man making an herbicide application to the mulched beds around the ornamental trees at the Riverview Psychiatric Center on the Augusta Mental Health Institute (AMHI) campus.
2. That the same day, a Board inspector conducted a follow up inspection with Tim Littlefield, a maintenance worker at the Riverview Psychiatric Center.
3. That during the inspection described in paragraph two, Littlefield said he mixed Roundup Extended Control herbicide and used a non-powered backpack to make an application to ornamental tree mulch beds targeting grass and broadleaf weeds.
4. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S.A. § 1471-C(5-A), must be a certified commercial applicator in accordance with 22 M.R.S.A. § 1471-D(1)(A).
5. That “commercial applicator” also includes individuals who apply pesticides in connection with their duties as employees of local governments, according to 22 M.R.S.A. § 1471-C(5).
6. That a custom application is defined in 22 M.R.S.A. § 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.
7. That the application described in paragraphs one through three constitutes a custom application as defined in 22 M.R.S.A. § 1471-C(5-A).
8. That no one at the Riverview Psychiatric Center had a commercial pesticide applicator’s license at the time of the custom application described in paragraphs one through three.
9. That the circumstances 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 Riverview Psychiatric Center 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 causes of action which the Board has against the Riverview Psychiatric Center resulting from the violation referred to in paragraph nine, the Riverview Psychiatric Center agrees to pay to the State of Maine 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.

RIVERVIEW PSYCHIATRIC CENTER

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Cam Lay, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General