

Proposed Administrative Consent Agreement Background Summary

Subject: James Vickerson
Sports Fields Inc.
PO Box 118
Monmouth, ME 04259-0118

Date of Incident(s): July 19, 2013; August 13, 2013; May 18, 2014; August 12, 2014

Background Narrative:

Chapter 27 of the Board's rules establishes procedures and standards for applying pesticides in school buildings and on school grounds. Section 6 of that chapter specifies the requirements for commercial pesticide applicators making applications in school buildings or on school grounds. Commercial pesticide applicators must, within one business day of each pesticide application, provide the IPM Coordinator with specific information about the pesticides applied. While conducting routine inspections at schools to monitor compliance with this regulation, inspectors determined that Sports Fields Inc. was not in compliance with this requirement.

Summary of Violation(s):

CMR 01-026 Chapter 27 Section 6(B): Commercial pesticide applicators shall, within one business day of each pesticide application, provide the IPM Coordinator with a written record of the application including the date, time, location, trade name of the product applied, EPA Registration number and the name of the licensed applicator. If the product has no EPA Registration number then the applicator will provide a copy of the label.

Rationale for Settlement: The commercial pesticide application company was not providing the required pesticide application information to schools where they made applications. The consent agreement is intended to be the impetus for the company to provide application information to schools where they make applications.

Attachments: Proposed Consent Agreement

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

James Vickerson)	ADMINISTRATIVE CONSENT
Sports Fields Inc.)	AGREEMENT
PO Box 118)	AND
Monmouth, ME 04259-0118)	FINDINGS OF FACT

This Agreement, by and between Sports Fields Inc. (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 September 22, 2014, a Board inspector conducted a routine school inspection at RSU 52, located at 486 Turner Center Road in Turner.
2. That from the inspection described in paragraph one the inspector determined that the Company applied roundup herbicide and a preemergent herbicide to RSU 52 school property. The school received invoice number 38581, dated August 16, 2013, indicating the service was sold to RSU 52 Leavitt /Turner Maintenance Department at the 486 Turner Center Road in Turner address and the herbicides were applied to their "infields and FB bleachers, HS football, HS baseball, HS softball, MS softball, Tripp softball, HS shot put. The invoice listed a ship date of 8-13-13 and a due date of 9-15-13. There was a school received date stamped on the invoice of August 23, 2013, and a school paid date stamp of August 29, 2013.
3. That from the inspection described in paragraphs one and two, it was further determined that Company invoice # 39945 dated 5-28-14, was received by the school on June 4, 2014, and paid on June 20, 2014, as indicated by school date stamps. The invoice listed field work of applying weed control to "HS FB, HS FH/SB, PR FOOTBALL with a shipping date of 5-18-14 and a due date of 6-27-14.
4. That on September 23, 2014, a Board inspector conducted a routine school inspection at RSU 73, located at 9 Cedar Street in Livermore Falls.
5. That from the inspection described in paragraph four, the inspector documented an invoice the Company sent the school for pesticide applications made to school grounds. Invoice number 38393 dated July 23, 2013, listed field work done of "APPLY ROUNDUP + PREEMERGENT TO INFIELDS LIVERMORE, APPLY ROUNDUP + PREEMERGENT TO INFIELDS IN JAY". The shipping date was 7-19-13 and the due date was 8-22-13. A date stamp of July 26, 2013, was on the invoice.
6. That on September 26, 2014, a second Board inspector completed a routine school integrated pest management inspection at SAD 24 in Belfast.
7. That from the inspection described in paragraph six, the inspector collected a copy of invoice number 40804 dated 8-13-14. The shipping date was 8-12-14 and the due date was 9-12-14. The received date stamp of the school was August 18, 2014.

8. That the invoice described in paragraph seven listed nine different herbicide treatments to RSU 20 school fields. Seven of those entries were general such as "Spray broadleaf weed control to HS FB/TRACK"
9. That CMR 01-026 Chapter 27 Section 6(B) requires that commercial pesticide applicators shall, within one business day of each pesticide application, provide the IPM Coordinator with a written record of the application including the date, time, location, trade name of the product applied, EPA Registration number and the name of the licensed applicator. If the product has no EPA Registration number then the applicator will provide a copy of the label.
10. That the circumstances in paragraphs one through nine include multiple violations of CMR 01-026 Chapter 27 Section 6(B).
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 Company resulting from the violations in paragraph ten, the Company agrees to pay a penalty to the State of Maine in the sum of \$350 (Please make checks payable to Treasurer, State of Maine).

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

SPORTS FIELDS INC.

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General