

Proposed Administrative Consent Agreement Background Summary

Subject: Jim Reny
Waterville Schools
25 Messalonskee Ave
Waterville, ME 04901

Date of Incident(s): May 14, 2008

Background Narrative: Waterville Schools contracted Scotts Lawn Service to have herbicides applied to their athletic fields at both the Jr. and Senior High Schools on the above date. This was a regular school day and school was in session. There was minimal communication between school personnel and the applicator to assure the application would be made to allow maximum time for sprays to dry. School personnel did not follow notification regulations and record keeping requirements of Chapter 27.

Summary of Violation(s): CMR 01-026 Chapter 27 Section 2 B (3), records of all pesticide applications are required..., CMR 01-026 Chapter 27 Section 4 (B),....These notices must be sent to school staff and parents or guardians of students at least five days prior to the planned application, CMR 01-026 Chapter 27 Section 5A, ...the application should be conducted in a manner to minimize human risk to the maximum extent possible.... CMR 01-026 Chapter 27 Section 5 F, Outdoor applications should be scheduled so as to allow the maximum time for sprays to dry and vapors to dissipate and shall not occur when unprotected persons are in the target area or in such proximity as to likely result in unconsenting exposure to pesticides.

Rationale for Settlement: The pesticide regulations related to schools have been in effect since 2005. These regulations establish requirements that schools must follow. In this case, school personnel did not fulfill those requirements. Staff thought a monetary penalty was warranted based on the seriousness of the violations on the school's part.

Attachments: Proposed Consent Agreement

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

Jim Reny, Facilities Director)	ADMINISTRATIVE CONSENT
Waterville Schools)	AGREEMENT
25 Messalonskee Ave)	AND
Waterville, Maine 04901)	FINDINGS OF FACT

This Agreement by and between Waterville Schools (hereinafter called the "School") 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 on May 14, 2008, the Board received a complaint call from a student's parent. The student was using the softball field at Waterville Jr. High for a scheduled game. A posted sign indicated the field was treated with pesticides earlier that same day.
2. That on May 16, 2008, in response to the call in paragraph one, a Board inspector conducted follow-up inspections with school personnel at Waterville Jr. High and the Waterville Schools Superintendent's office on Messalonskee Avenue in Waterville.
3. That from the inspections it was determined that Scotts Lawn Service made a pesticide application at the Waterville Jr. High softball field at 12:15 pm on May 14, 2008.
4. That on May 16, 2008, Board staff conducted a pesticide use follow-up inspection with Casey Brooks, the Scotts Lawn Service applicator that made the pesticide application, and determined that two herbicides were applied as separate applications to the Waterville Jr. High softball field as well as other ball fields at the Jr. High and High School, on May 14, 2008.
5. That the two herbicides applied were Scotts SLS Fertilizer 22-0-8 Plus .28 Barricade (EPA Reg. # 8378-39-538) and Weed B Gon Pro (EPA Reg. # 228-292).
6. That on May 19, 2008, Board Staff again contacted school staff for another follow-up inspection and collected Scotts Lawn Service's invoice # 94280 for the applications made to the Waterville Jr. High softball field on May 14, 2008.
7. That the invoice indicates that Scotts Lawn Service called a school staff person on Monday, May 12th, and asked if Wednesday May 14th was ok to treat the ball fields at the Jr. High.
8. That after the Board's May 16, 2008 inspection follow-up, Scotts Lawn Service personnel mailed the Board copies of all application records for pesticide applications made to the Waterville Jr. High and High Schools on May 14, 2008.

9. That from the records referenced in paragraph eight it was determined that Scotts Lawn Service made pesticide applications to the ball fields at the High School from 8:45 am to 10:45 am and to the Jr. High ball fields from 12:15 pm to at least 1:15 pm on May 14, 2008.
10. That May 14, 2008, was a regular school day at the Jr. High and High schools. Students used the treated fields during the day.
11. That the school had an IPM coordinator and had an IPM policy in place at the time of the circumstances described in paragraphs one through ten.
12. The school did not provide notice to school staff, parents or guardians of students at least five days prior to the applications described in paragraph four above.
13. The school did not have records of the pesticide applications described in paragraph four on file and available through the School IPM coordinator.
14. The school did not schedule pesticide applications to allow the maximum time for sprays to dry.
15. That the circumstances described in paragraphs one through twelve constitute a violation of CMR 01-026 Chapter 27 Section 4 (B).
16. That the circumstances described in paragraphs one through eleven and thirteen constitute a violation of CMR 01-026 Chapter 27 Section 2 B (3).
17. That the circumstances described in paragraphs one through eleven and fourteen constitute a violation of CMR 01-026 Chapter 27 Section 5A.
18. That the circumstances described in paragraphs one through eleven and fourteen constitute a violation of CMR 01-026 Chapter 27 Section 5 F
19. That the Board has regulatory authority over the activities described herein.
20. That the School 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.
21. That this Agreement shall not become effective unless and until the Board accepts it.
22. That in consideration for the release by the Board of the cause of action which the Board has against the School resulting from the violations referred to in paragraphs fifteen, sixteen, seventeen and eighteen the School agrees to pay a penalty to the State of Maine in the amount of \$100.00. (Please make checks payable to Treasurer, State of Maine.)

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

Waterville Schools

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General