

Proposed Administrative Consent Agreement Background Summary

Subject: Matt Ten Eyck
Salmon Falls Resort and Golf Club LLC
PO Box 240
Hollis Center, Maine 04042

Date of Incident(s): Two occasions in June of 2016

Background Narrative: On June 23, 2016, an inspector conducted a routine records and operations inspection at Salmon Falls Resort and Golf Club LLC in Hollis.

The inspector determined that an employee at the facility made two fungicide applications to the golf course in June of 2016.

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) and CMR 01-026 Chapter 31 Section 1(A)III.

No one at Salmon Falls Resort and Golf Club was certified or licensed as a commercial pesticide applicator at the time the pesticide applications were 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) and CMR 01-026 Chapter 31 Section 1(A) III.

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**

Salmon Falls Resort & Golf Club LLC)	ADMINISTRATIVE CONSENT AGREEMENT
PO Box 240)	AND
Hollis Center, ME 04042)	FINDINGS OF FACT

This Agreement, by and between Salmon Falls Resort & Golf Club LLC (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 June 3, 1998.

The parties to this Agreement agree as follows:

1. That the Company operates a golf course in Hollis Maine.
2. That the golf course is considered open to use by the public in accordance with 22 M.R.S. § 1471-C(5-A).
3. That the use of any pesticide in an area open to use by the public constitutes a commercial pesticide application in accordance with 22 M.R.S. § 1471-C(5).
4. That commercial pesticide applications can only be made or supervised by licensed commercial applicators pursuant to CMR 01-026 Chapter 31, Section 1(A) and (D) and 22 M.R.S. § 1471-D(1)(A).
5. That each company that employs commercial applicators must employ at least one commercial master applicator as required by CMR 01-026 Chapter 31, Section 1(D).
6. That on June 23, 2016, a Board inspector conducted a records and operations inspection at the company. From that inspection it was determined that Matt Ten Eyck, a Company employee, made two pesticide applications to the golf course in June of 2016.
7. That neither Ten Eyck nor any other employee of the company was licensed as a commercial applicator or commercial master applicator at the time the pesticide applications described in paragraph six were made.
8. That the circumstances described in paragraphs one through seven constitute violations of CMR 01-026 Chapter 31, Section 1(A) and (D) and of 22 M.R.S. § 1471-D(1)(A).
9. That the Board has regulatory authority over the activities described herein.
10. 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;
11. That this Agreement shall not become effective unless and until the Board accepts it.
12. That, in consideration for the release by the Board of the causes of action which the Board has or may have against the Company resulting from the violation referenced in paragraph eight, the Company agrees to pay to the State of Maine the sum of \$400.00.

(Please make checks payable to Treasurer, State of Maine).

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

SALMON FALLS RESORT & GOLF CLUB LLC

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED

By: _____ Date: _____

Mark Randlett, Assistant Attorney General