

Proposed Administrative Consent Agreement Background Summary

Company: Dan Davis **License:** None

Origin of Case: Restricted use pesticide dealer inspection at Northeast Agricultural Sales in Detroit on 4-27-2012

Dates of Incident: 6-10-2010

Pesticide(s) Involved: Charger Max ATZ Herbicide

Summary of Allegation(s): A Board inspector did a routine restricted use pesticide dealer inspection at Northeast Agricultural Sales in Detroit on April 27, 2012. As part of that inspection, the inspector asked for and received random, representative copies of Northeast Agricultural Sales sales transactions records for some 2010 restricted use pesticide sales. A review of those records revealed that Dan Davis purchased a 2 ½ gallon container of Charger Max ATZ Herbicide on June 10, 2010. Charger Max ATZ Herbicide is a restricted use pesticide that requires a pesticide applicator license to purchase. Davis was not licensed at the time of this purchase

Staff Action: A Board inspector collected a copy of Northeast Agricultural Sale's transaction record showing Davis's purchase of the restricted use pesticide. A consent agreement was given to Davis that included a \$100 penalty. Davis signed the consent agreement and paid the penalty.

Staff Findings: Davis purchased a restricted use pesticide without a pesticide applicator license.

Applicable Citations of Law: CMR 01-026 Chapter 40 Section 1(D) - Restricted use pesticides may be purchased and used only by applicators licensed by the Board as provided in Chapters 31 and 32.

Attachment(s):

- Consent agreement for Dan Davis

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

Dan Davis) ADMINISTRATIVE CONSENT AGREEMENT
340 Bowden Road) AND
Corinna, ME 04965) FINDINGS OF FACT

This Agreement, by and between Dan Davis 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 amended by the Board on June 3, 1998.

The parties to this Agreement agree as follows:

1. That on April 27, 2012, a Board inspector conducted a routine pesticide dealer inspection with Northeast Agricultural Sales, Inc. in Detroit.
2. That during that inspection, the inspector collected and reviewed invoice # 38449. That invoice indicated that Davis purchased a 2 ½ gallon container of Charger Max ATZ Herbicide (EPA reg. # 100-817-1381) and was invoiced for that purchase on June 10, 2010.
3. That Northeast Agricultural Sales, Inc's. payment sheet # 4017, also collected during the inspection in paragraph one, indicates that Davis paid for the purchase in paragraph two on June 10, 2010.
4. That Charger Max ATZ Herbicide (EPA reg. # 100-817-1381) is classified as a restricted use pesticide.
5. That CMR 01-026 Chapter 40 Section 1(D) specifies restricted use pesticides may be purchased and used only by applicators licensed by the Board as provided in Chapters 31 and 32 of the Board's regulations.
6. That Davis was not certified or licensed at the time of the pesticide purchase described in paragraph two.
7. That the circumstances described in paragraphs one through six constitute a violation of CMR 01-026 Chapter 40 Section 1(D)
8. That the Board has regulatory authority over the activities described herein.
9. That Davis 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.
10. That this Agreement shall not become effective unless and until the Board accepts it.
11. That in consideration for the release by the Board of the cause of action which the Board has against Davis resulting from the violation referred to in paragraph seven, Davis agrees to pay a penalty to the State of Maine in the sum of \$100.00. (Please make checks payable to Treasurer, State of Maine).

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

DAN DAVIS

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Henry Jennings, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General