

Delaware Department of Agriculture
Pesticides Section, Enforcement
2320 South DuPont Highway
Dover, Delaware 19901
Enforcement Action/Violation

Respondent:

Sposato Landscape Co. Inc.
16181 Hudson Road
Milton DE 19968

Violations:

§1224(b)(1) – The first offense of 1224 (a)(1) Use or Application Inconsistent with the Labeling
§1224(c)(2) – Refusing or neglecting to keep and maintain records required by the LAW , or to make reports when and as required.

Penalty:

Respondent signed a consent agreement on November 28th 2017. In the agreement, Respondent agrees to the imposition of disciplinary sanctions which included a civil penalty of \$1400.00.

STIPULATED FACTS

1. Sposato Landscape Co. Inc. ("Respondent") is a commercial pesticide applicator business with an office located at 16181 Hudson Road, Milton DE 19968. Respondent is licensed (License No. 761) by the Delaware Department of Agriculture ("the Department"). David A. Sposato is the Manager of Respondent and is certified by the Department as a commercial pesticide applicator (Cert. # 95-157), in Category 7.3, Ornamental and Turf Pest Control (03).
2. Respondent employs Milton Harmon as a lawn care technician. Mr. Harmon is a registered service employee for Respondent. Mr. Harmon has been a registered service employee since 3/4/2014.
3. The Pesticide Section of the Department ("Complainant") is bringing this enforcement action against the Respondent. James Hughes, ("Hughes"), is employed as an Environmental Program Manager I with the Department.
4. On July 25th 2017, Hughes conducted a routine use observation with Respondent's employee Milton Harmon at a home located at 36005 Wahoo Ln, Lewes DE 19958. During the inspection Hughes asked Mr. Harmon if he had the label of the product

he was applying. Mr. Harmon did not know what the product name was that he was applying. After several phone calls Mr. Harmon was able to find out the name of the fungicide after speaking to Dennis his manager. The fungicide being applied was Armada 50WP EPA Reg. No. 432-1412. Hughes asked Mr. Harmon if he had a copy of the product label so he could review the personal protective equipment requirements and other label precautions. Mr. Harmon did not have a copy of the product label available at the site of application. ." Section 14.1.7 of the Delaware Pesticides Rules and Regulations states: In addition to the above record keeping requirements, the applicator shall have available at the site of application, a copy of the label of the pesticide being used. Upon request, the applicator shall provide any interested person at or adjacent to the application site, with any information contained on the pesticide label.

5. During the July 25th 2017 inspection Mr. Harmon wore a short sleeved shirt and one chemical resistant glove. The Armada 50WP label states in part: Mixers/loaders, applicators and other handlers must wear: Long-sleeved shirt and long pants. Chemical-resistant gloves made of waterproof material such as neoprene, butyl rubber, barrier laminate or nitrile rubber when mixing/loading, when using handheld equipment or handheld nozzles.
6. The records which were received from Respondent on July 31st 2017 did not have the weather conditions recorded at the site of application. The Armada 50WP label states in part: "Do not make applications when weather conditions favor drift from target area." Section 14.1 of the Delaware Pesticides Rules and Regulations states: Commercial applicators shall, for a period of two years from the date of application, keep records detailing the application of any pesticides to include: Section 14.1.6 of the Delaware Pesticides Rules and Regulations states: When label directions advise precaution in regard to drift, on-site weather conditions to include: 14.1.6.1 Wind velocity and direction. 14.1.6.2 Temperature. 14.1.6.3 Relative Humidity.
7. Armada 50WP, EPA Reg. No. 432-1412 is a registered pesticide in the State of Delaware.
8. On November 30th 2016, the Department issued a Notice of Warning to the Respondent. A copy of the Notice of Warning has been included below.

November 30, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David A. Sposato
Sposato Landscape
16181 Hudson Road
Milton, DE 19968

RE: Notice of Warning

Dear Mr. Sposato,

This Notice of Warning is issued pursuant to Section 1224(a) (1) and Section 1224(c) (2) of the State of Delaware Code Title 3, Part II Chapter 12 (Pesticide LAW).

The Delaware Department of Agriculture is taking this action based on a routine inspection conducted on October 12th 2016, by Delaware Department of Agriculture Environmental Program Manager, Jimmy Hughes. Mr. Hughes conducted the inspection with applicator Justin Riddagh and Manuel Palacios.

Mr. Hughes documented the following information:

1. Pesticide application records were missing brand name for the liquid portion of the application. Record states "1 gal of RU". Not clear if this stands for "Roundup or "Ready to Use" etc.
2. Bucket containing the Snapshot granules did not have a label stating what the product was. There was no label for the product onsite. 14.1.7 of the Rules and Regulations states in part: "the applicator shall have available at the site of application, a copy of the label of the pesticide being used."
3. The backpack sprayer was not labeled and the applicators were not sure of the brand name of the product. They believed it was Roundup. No Roundup label was present for review.
4. Dilution rate was missing for the backpack sprayer portion of the record.
5. Applicator making the liquid application had on short sleeved shirt and did not have gloves on.

State of Delaware Code Title 3, Part II Chapter 12 Section 1224(c) (2) Refusing or neglecting to keep and maintain records required by the LAW, or to make reports when and as required.

State of Delaware Code Title 3, Part II Chapter 12 Section 1224(a) (1) Making a pesticide recommendation or use or application inconsistent with the labeling, the E.P.A., or state

registration for the pesticide, or in violation of the E.P.A., or state restrictions of the use of that pesticide.

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Sposato Landscape

To bring your facility into compliance, you need to:

- 1) Ensure that all future pesticide applications made on behalf of Sposato Landscape be in full accordance with all product label language, including all precautionary statements on the label.**
- 2) Ensure all pesticide application records have all of the required information recorded.**
- 3) Make sure all product labels are available at the site of application, whether they be electronic or hard copies.**

Failure to bring your facility into compliance, may subject you to further enforcement actions under the Delaware Pesticide Law, which provides for civil and criminal penalties for violations of the Delaware Pesticide Law.

Within (14) fourteen days of the receipt of this Notice, please provide the Department with a written response outlining what steps you have taken or will take to achieve compliance with the law.

Please direct questions and correspondence relating to this matter to me at:

Environmental Program Administrator
2320 S. DuPont Highway
Dover, DE 19901

Sincerely:

Christopher Wade
Environmental Program Administrator

Enclosure

9. The Department received a response to this Notice of Warning in which the Respondent outlined steps to correct these violations. A copy of this letter has been placed into the case file.