



STATE OF DELAWARE  
**DEPARTMENT OF AGRICULTURE**  
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### **Respondent**

**Lawn Doctor of Dover/Middletown**  
**P.O. Box 719**  
**Greenwood, DE 19950**

### **Violations**

§1224(b)(1) – The first offense of 1224(a)(1). Making a pesticide recommendation or use or application inconsistent with the labeling.

### **Penalty**

Respondent signed a consent agreement on August 10<sup>th</sup>, 2020. In the agreement, Respondent agrees to the imposition of disciplinary sanctions which included a civil penalty of \$960.00.

### **STIPULATED FACTS**

1. Lawn Doctor of Dover/Middletown, (“Respondent”) is a commercial pesticide applicator business with a mailing address of P.O. Box 719, Greenwood, DE 19950. Respondent has a pesticide business license issued by the Delaware Department of Agriculture (“Department”). License number 253.
2. Aaron Hopkins (“Hopkins”) is the manager of Lawn Doctor of Dover/Middletown. Mr. Hopkins is a certified applicator, certification number 06-442. Hopkins is certified in category 03 Ornamental & Turf.
3. Mike McClure is employed by Lawn Doctor of Dover/Middletown as a registered service employee.
4. The Pesticide Section of the Department (“Complainant,”) is bringing this enforcement action against the Respondent. Dustin Borntreger, (“Borntreger”), is employed as an Environmental Scientist II with the Department.
5. On May 19<sup>th</sup>, 2020, Dustin Borntreger was patrolling Kent county for use observations. Borntreger noticed a service vehicle for the respondent setting up to begin an application for mosquito control to the property located on Plica Drive in Magnolia Delaware. Upon arrival to the site Borntreger recorded weather conditions on the site. The wind was well over 15mph at the time of the stop. Borntreger asked Mike McClure what product he was using and if he had a label for review. The label provided to Borntreger was wet and the pages would not come apart. Borntreger called the office and asked for assistance looking up

the product label. The product being looked up was Cross Check X Plus (EPA Reg. No. 279-3206-1040). Under the Mosquito Control section of the label it says, "Do not apply when wind speed exceeds 10mph." After hearing this Borntreger issued a Cease and Desist to the applicator due to the wind conditions.

6. Borntreger then contacted the office for the Respondent. Emily Hopkins was the employee that Borntreger spoke to. Borntreger explained the weather situation and relayed the fact that a Cease and Desist order had been issued and if any other technicians were out in the field performing similar work, they should also discontinue use of products with this weather restriction. Mrs. Hopkins agreed and stated she would call the other technicians. It was at this time that Borntreger asked for all of Mr. McClure's application records for the day May 19<sup>th</sup>, 2020.
7. A total of 17 applications records were supplied by the respondent for Mr. McClure. All of the records had a wind speed of 17mph recorded on them. Eleven of the records were for Cross Check X Plus, defined as Yard Armour Mosquito & Tick 1. One application recorded the use of Trimec LAF (EPA Reg. No. 2217-710). In the course of following up on this complaint, Borntreger checked weather conditions in the area of treatment. According to the DEOS UDEL website recorded weather conditions in the area of concern during the estimated times of application. The records did not have a time recorded so Borntreger worked backward from the time of the inspection where the Cease and Desist was issued.
  - 8:00AM wind speed gusting to 17 MPH
  - 9:00AM wind speed gusting to 17.2 MPH
  - 10:00AM wind speed gusting to 21 MPH
  - 11:00AM wind speed gusting to 21.9 MPH
  - 12:00PM wind speed gusting to 26.5 MPH
  - 1:00PM wind speed gusting to 28.5 MPH
  - 2:00PM wind speed gusting to 26 MPH
8. The herbicide Trimec LAF 637 Broadleaf Herbicide, EPA Reg. No. 2217-710 is a registered pesticide in the State of Delaware. This product has a signal word of "Danger" listed on the product label. Under the spray drift management section of the label it states in part "Do not apply at wind speeds greater than 10 mph. Only apply this product if the wind directions favors on-target deposition and there are not sensitive areas (including but not limited to bodies of water, known habitat for nontarget species, nontarget crops. within 250 feet downwind.
9. The insecticide Cross Check X Plus, EPA Reg. No. 279-3206-10404 is a registered pesticide in the State of Delaware. This product has a signal word of "Caution" listed on the product label. Under the Mosquito Control section of the label it states in part "Do not apply when wind speed exceeds 10 mph."
10. In the past 5 years, Respondent has no pesticide compliance violations with the Department.