



STATE OF DELAWARE  
**DEPARTMENT OF AGRICULTURE**  
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**Respondent:**

**Western Pest Services  
3202 Concord Pike  
Wilmington, DE 19803**

**Violations:**

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

§1224(b)(2) – Refusing or neglecting to comply with any limitations or restrictions on or in a duly issued license, permit or certification.

**Penalty:**

Respondent signed a consent agreement on October 2020. In the agreement, Respondent agrees to the imposition of disciplinary sanctions which included a civil penalty of \$1680.00

**STIPULATED FACTS**

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1. Western Pest Services (“Respondent Western”) is a commercial pesticide applicator business with an office located at 3202 Concord Pike, Wilmington DE 19803. Mark Ford is the service supervisor for the respondent. Respondent Western is licensed (License No. 113) by the Delaware Department of Agriculture (“the Department”).
1. Mr. Kevin Brennan (“Mr. Brennan”) is certified by the Department in Category 8.3.7.1.1 General Pest Control and 8.3.7.1.2 Wood Destroying (Certificate Number 03-715).
2. The Pesticide Section of the Department (“Complainant”) is bringing this enforcement action against Respondent. Elena Smith, (“Ms. Smith”) is employed as an Environmental Scientist I. Dustin Borntreger, (“Mr. Borntreger”) is employed as an Environmental Scientist II with the Department.
3. On July 17<sup>th</sup>, 2020, the Department conducted a routine use observation with your company at 966 Marl Pitt Road, Middletown DE 19709. Mr. Brennan was conducting a preventive pest control treatment around the outside perimeter or the

house. During the inspection Ms. Smith asked Mr. Brennan what target pest he was treating for and what pesticide was he applying. Mr. Brennan stated that he was treating for general pest using Termidor SC (EPA Reg. No. 7969-210). Mr. Brennan handed a Termidor container to the inspectors and offered them the label booklet off this container. While doing this Mr. Brennan also stated that several of the Termidor containers were full of water. Mr. Brennan was using a backpack sprayer to treat the perimeter of the house. During the inspection, Mr. Brennan showed the inspectors a Cicada Killer nest and described the life cycle of the insect and then proceeded to spray the entrance of the nest with the Termidor SC from the backpack sprayer. Photographs taken at the time of the inspection show that Termidor SC was the pesticide that Mr. Brennan showed to the inspectors. Both inspectors present stated that Termidor SC was the pesticide the applicator stated he was using at the time of the inspection.

4. During the treatment Mr. Brennan wore boots, long pants, a short-sleeved shirt, and gloves. The PPE required on the Termidor label is long-sleeved shirt and long pants, shoes, socks and chemical resistant gloves.
5. On Tuesday, July 21<sup>st</sup>, 2020 Ms. Smith received the application records from Western Pest Service. The service record (WO#12153596) indicated that Mr. Brennan had applied Suspend SC (EPA Reg. No. 43-763). Ms. Smith contacted your office to inquire as to why the records indicated Suspend SC. Mr. Jim Smith called Ms. Smith back on Wednesday July 22<sup>nd</sup> and stated that he spoke with the applicator who stated he used Suspend SC. He also confirmed that Mr. Brennan did treat the cicada killer hole and did not document on records.
6. Under the General Pest Control on Structure Exterior Surfaces and Foundation Perimeter section of the Termidor SC label it states: DO NOT apply to wasp or hornet nests if they are not attached to the structure exterior or inside structural voids.
7. Under the Storage and Disposal section of the label, the Termidor Sc label states: Container Handling. Nonrefillable Container. DO NOT reuse or refill this container. Triple rinse or pressure rinse container (or equivalent) promptly after emptying; then offer for recycling , if available , or reconditioning, if appropriate, or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities.
8. Records collected as part of the inspection state that Suspend SC .06%, EPA Reg. No. 432-763 was applied to the residence around the exterior perimeter of the home at a dilution rate of 1.5 oz per gal of H<sub>2</sub>O, finished quantity 2 gal of H<sub>2</sub>O.
9. According to the departments records/database the Respondent is not licensed in Category 03 Ornamental and Turf.
10. In the past 5 years, Respondent has no pesticide compliance violations with the

Department.