



STATE OF DELAWARE
DEPARTMENT OF AGRICULTURE
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MICHAEL T. SCUSE
SECRETARY

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Respondent:

Sullivans Landscaping and Maintenance
1920 Bay Road
Milford, DE 19963

Violations:

§1224(c)(1) – Operating in a faulty, careless, or negligent manner.

Penalty:

Respondent signed a consent agreement on March 2023. In the agreement, Respondent agrees to the imposition of disciplinary sanctions which included a civil penalty of \$560.00.

STIPULATED FACTS

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1. Sullivans Landscaping and Maintenance, Inc. (“Respondent”) is a commercial pesticide applicator business with an office located at 1920 Bay Road, Milford DE 19963. Respondent holds a valid license (License No. 933) that was issued by the Delaware Department of Agriculture (“the Department”) at the time of inspection.
2. John Sullivan (“Sullivan”) is the owner of Sullivans Landscaping and Maintenance and is a certified commercial applicator 99-800 in category 7.3.1 (Ornamental and Turf Pest Control).
3. Johnny Ruiz is employed by the Respondent as a field worker/applicator. Mr. Ruiz is listed as a registered service employee in the Department's Salesforce database.
4. Blake Hickerson is employed by the Respondent as a certified applicator, certification number 19-105 in category 7.3.1 (Ornamental and Turf Pest Control).

5. The Pesticide Section of the Department (“Complainant,”) is bringing this enforcement action against Respondent. Emmanuel Sempeles (“Sempeles”) is employed as an Environmental Scientist II with the Department. Drexel Siok, is employed as a Hydrologist II with the Department.
6. On February 10th, 2023, while attending the Delaware Pest Control Association training meeting Drexel Siok noticed a spray crew in the parking lot at the Bally’s Casino, where the meeting was being held. Due to the weather conditions and the proximity of the application to parked cars, Mr. Siok decided to photograph the application and contact Emmanuel Sempeles, Environmental Scientist II. Mr. Sempeles was also in attendance at the meeting.
7. Sempeles left the meeting area and met with the applicator in the parking lot. Mr. Ruiz was the applicator and that is who Sempeles issue the notice of inspection to. Sempeles asked Mr. Ruiz if he had a copy of his service employee card on him. Mr. Ruiz did not have his service card. Sempeles then asked Mr. Ruiz for a copy of the pesticide label of the product he was using. Mr. Ruiz stated that he left the label at home. Mr. Ruiz stated that he would have to call his supervisor Mr. Blake Hickerson to find out about the product being applied. Mr. Hickerson spoke to Sempeles over the phone and told him the product being applied was Sunspray ULTRA-FINE spray oil with 98.8% mineral oil and that the EPA number was 86330-11. Sempeles looked up the label on the internet and notified Mr. Ruiz that the label required gloves to be worn during application and that the product label also stated that it must not be applied if the wind speed was greater than 15mph. Mr. Ruiz was not wearing gloves at the time of inspection and the wind speed was recorded greater than 15mph.
8. While in the parking lot, Sempeles noticed some car owners wiping spray residue from their cars. The photographs taken during the investigation show spray residue on cars legally parked in the parking lot and also spray residue on the windows of the casino.
9. On February 15th, 2023, Sempeles contacted Mr. Hickerson to request a copy of the application record from the job done at the Bally’s Casino. The records were received at 3:15 PM. They were missing the following required details: brand name of the product, dilution rate, the pest against which the pesticide was used, name of the certified applicator responsible for his supervision. The records provided recorded the wind speed at 17mph.
10. **SunSprayULTRA-FINE SPRAY OIL**, EPA Registration Number 86330-11, is a pesticide registered for sale and use in the State of Delaware by the Department.
11. The Sunspray labels states in part: Personal Protective Equipment: Mixers loaders, applicators, and other handlers must wear: chemical resistant gloves made of Barrier Laminate > 14mils.
12. The Sunspray label states in part: Directions for use: It is a violation of Federal Law to use this product in a manner inconsistent with its labeling. Do not apply this product through any type of irrigation system. Do not apply this product in a way that will

contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application.

13. The Sunspray label states in part: Do not apply at wind speeds greater than 15mph at the application site.

14. The Sunspray label states in part: Protect painted surfaces, carpet and furnishings from overspray. This product may cause discoloration of concrete brick or stone walkways.

15. 601 Delaware Pesticide Rules and Regulations, Section 14.0 Records states in part:

14.1 Commercial Applicators

Commercial applicators shall, for a period of two years from the date of application, keep records detailing the application of any pesticides to include:

14.1.1 The brand name of the pesticide used. In the case of a Restricted Use Pesticide or a pesticide which is used under the provisions of **40 Code of Federal Regulations**, Part 170, Worker Protection Standards, the EPA Registration Number shall also be recorded at or before the time of application.

14.1.2 When applicable, the dilution rate of the pesticide and the amount of diluted material applied per unit (i.e. gallons/acre, lbs./acre, etc.)

14.1.3 The date and specific area treated.

14.1.4 The pest against which the pesticide was used.

14.1.5 The applicator's name, and when applicable, the name of the certified applicator responsible for his supervision.

14.1.6 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

14.1.7 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.

16. On Monday February 13th, 2023, the Department received a phone call from one of the car owners parked in the lot during the application. They called to notify the department that their car had heavy oil residue on it and that they had contacted Bally's

Security to report the incident.
17.