

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

**Respondent:**

Rentokil North America, Inc. dba JC Ehrlich  
18904 Unit 2, Maranatha Way  
Bridgeville, Delaware 19933

**Violations:**

§1224(a)(10) Neglecting or, after notice, refusing to comply with the LAW, the rules adopted under the LAW, or any lawful order of the Department.

§1224(b)(1) First offense of 1224(a)(1).

**Penalty:**

Respondent signed a consent agreement September 21<sup>st</sup> 2016. In the agreement, Respondent agrees to the imposition of disciplinary sanctions which included a civil penalty of \$2,072.00 (two thousand seventy two dollars).

**STIPULATED FACTS**

1. Rentokil North America, Inc., (dba JC Ehrlich). “Respondent” is a commercial pesticide application business with an office located at 18904 Unit 2 Maranatha Way, Bridgeville, Delaware 19933. Respondent is licensed (license # 697) by the Delaware Department of Agriculture (“the Department”).
2. William Dornenburg “Dornenburg” is the District Manager of Rentokil North America, Inc., (dba JC Ehrlich). Respondent is certified (04-865) by the Department in Category 5C, Mosquito Control, Category 7A, General Pest Control, Category 7B, Wood Destroying Pest, Category 7C, Fumigation Pest Control (Non-Ag) and Category 06 Right-of-Way.
3. Wesley Collins “Collins” is an employee of Rentokil North America, Inc., (dba JC Ehrlich). Collins is certified (12-517) in Category 7A, General Pest Control, Category 7B, Wood Destroying Pest.
4. Aimee Klinger “Klinger” is an employee of Rentokil North America, Inc., (dba JC Ehrlich). Klinger is an Administrative Assistant at the office.
5. The Pesticide Section of the Department “Complainant” is bringing this enforcement

- action against Respondent. James Hughes “Mr. Hughes” is employed as an Environmental Program Manager I with the Department. Dustin Borntreger, “Borntreger”, is employed as an Environmental Scientist I with the Department.
6. On May 12, 2016, Borntreger received a call from Sylvia Davis, owner of Kids-R-Us Learning Center Inc. located at 425 Webbs Lane, Dover Delaware 19904. Mrs. Davis was concerned about how a termite treatment had been done to her business property. She felt that some aspects of the job were not correct. She also stated she had active termites inside of her business and had to close one of her classrooms. Mrs. Davis also stated that she had captured part of the application on video surveillance. Borntreger arranged to meet at the business the next day.
  7. On May 13, 2016, Borntreger and Hughes arrived at Kids-R-Us Learning Center Inc. Credentials were presented and a notice of inspection was issued. Mrs. Davis took Borntreger and Hughes to classroom number 3 to show them the live termites. Termites (workers) were falling from drop ceiling. After visiting the classroom Mrs. Davis took them back to her office. Once there they viewed the surveillance video.
  8. The video surveillance showed Collins arriving at the property at approximately 4:45PM. At 5:04PM, Collins enters the building. The applicator starts the application at 6:04PM and he finished at 7:05PM. The two cameras that were viewed were the rear camera and the right side camera. The video showed the applicator applied the termiticide directly onto the concrete apron. The video also showed the applicator applied the termiticide by rodding only. The video also showed that the applicator did not wear gloves during the application.
  9. After viewing the video, Borntreger and Hughes inspected the exterior perimeter of the business. While inspecting the exterior perimeter they documented not seeing any signs of trenching around the exterior of the building. They also documented that other than the rear patio, none of the other adjoining concrete structures had been drilled. Photographs of these areas were taken.
  10. During the outside perimeter check Mrs. Davis expressed concern over the treatment of the fenced-in play area. She stated that none of the toys and other play structures close to the foundation wall appeared to have been moved. She was concerned that these items may have been contaminated with the termiticide. The camera on that side of the building does not store the recording, so no video was available for this side of the building. Photographs of this area were also taken. Borntreger took a swab sample from the leg of a play table located in the play yard. It was given sample number SN163022.
  11. Borntreger also took soil samples from the exterior perimeter of the building. These two samples were labeled SN1630120 and SN163021.
  12. During this inspection Borntreger also collected application records Mrs. Davis had

received from Rentokil North America, Inc. dba JC Ehrlich, invoice number 037196334-000.

13. On May 16, 2016, Borntreger arrived at Rentokil North America, Inc. dba JC Ehrlich, located at 18904 Unit 2, Maranatha Way, Bridgeville DE 19933. Upon arrival a notice of inspection was issued to Aimee Klinger. Borntreger collected application records, invoice number 037196334-000 from Klinger. Klinger also provided a copy of the Termidor HE label.

14. Application records received during the investigation are missing the dilution rate. There was also no Termiticide Disclosure form used. Delaware Pesticide Rules and Regulations, Section 14.0 establishes record keeping requirements for commercial applicators and states in part, “When applicable, the dilution rate of the pesticide and amount of diluted material applied per unit” Section 22, establishes requirements for the use of soil applied termiticides. A continuous chemical barrier must be established according to the product label and all applicable areas must be treated as prescribed by the label. Specifically, the Section states:

22.3 Termiticides shall be used to establish a continuous chemical barrier in all applicable areas prescribed by the label. However, where the termiticide is applied such that a continuous barrier is not achieved, or where the termiticide is not applied to all applicable areas prescribed by the termiticide label, the conditions outlined in both 22.3.1 and 22.3.2 below must be satisfied:

22.3.1 One or more of the following situations is present:

22.3.1.1 Specific environmental conditions are such that application of the termiticide at the full labeled concentration and volume may result in adverse environmental impact. Examples may include the presence of a well, a footing drain that empties into a water body, a high water table, etc.;

22.3.1.2 Structural barriers or soil conditions or types exist that prohibit application of the labeled volume or limit access to applicable soil treatment areas;

22.3.1.3 Specific customer request, or the recommendation of the certified applicator.

22.3.2 Within fourteen (14) days following the termiticide application, the following information shall be furnished in writing to the customer or to the customer’s agent:

22.3.2.1 A full disclosure explaining the difference between full and partial applications. The disclosure shall include the termite control strategies being utilized and the reasons for those alternatives;

22.3.2.2 The pesticide used, including brand name and EPA registration number;

22.3.2.3 The actual volume of the termiticide applied;

22.3.2.4 Specific information of sufficient detail to distinguish where treatment actually occurred, including a diagram of the structure identifying treated areas, known well heads, and sites of visible termite activity;

22.3.2.5 A clear, concise statement indicating whether the application has any guarantee or warranty, and the terms of the guarantee or warranty, e.g., retreatment (full or partial), damage repair and retreatment, or no warranty.

22.3.3 This information shall be furnished to the customer or customer’s agent on a form approved by the Department. The applicator shall for a period of two years from the date of application, keep and maintain all completed copies of disclosure documents. Such records shall be made available to authorized employees of the Department upon request.

15. Application records received by Mrs. Davis state: "App Method Trenching." The comments section of the application record states: "Trenched & rodded exterior perimeter of building per graph." Borntreger did not find any evidence of trenching along the outside perimeter of the structure. The video surveillance of the applicator showed that the applicator did not dig any trenches.
16. Under the Post-construction Conventional Treatment section of the Termidor HE (EPA Reg. No. 7969-329) label it states: "The applicator must trench and rod into the trench or trench alone along the foundation walls and around pillars and other foundation elements from top of grade to the top of the footing. When trenching, trenches must be a minimum of 2 inches deep (no deeper than the bottom of the footing) and need not be wider than 4 inches."
17. Under the Post-construction Conventional Treatment section of the Termidor HE (EPA Reg. No. 7969-329) the label states: "Termidor HE finished dilution must be applied to provide a continuous treatment zone to prevent termites from infesting the structure." "Drilling and sub-slab injection treatment of sub soil is necessary for exterior concrete structure adjoining the foundation (e.g., patios, porches, sidewalks) to complete the exterior perimeter treatment zone.
18. Under the Post-construction/Localized Interior (EP/LI) Structural Treatments section of the Termidor HE (EPA Reg. No. 7969-329) the label states: "Structural termite protection is achieved by first establishing a continuous treated zone along the exterior of the foundation of the structure. Localized interior treatments are also made to areas where known termite activity is observed."
19. Termidor HE, EPA Registration Number 7969-329, is a pesticide registered for sale and use in the State of Delaware by the Department.
20. In the past 5 years, Respondent has no pesticide compliance violations with the Department.