

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

Respondent:

Cory's Produce
26343 Butler Branch Road
Seaford, Delaware 19973

Violations:

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

Penalty:

Respondent signed a consent agreement August 6th, 2015. In the agreement, Respondent agreed to the imposition of disciplinary sanctions which included a civil penalty of \$400.00 (four hundred dollars) for violating §1224(c)(1).

STIPULATED FACTS

1. Cory's Produce LLC ("Respondent") is a commercial pesticide applicator business with a mailing address of 26343 Butler Branch Road, Seaford, DE 19973 licensed by the Delaware Department of Agriculture ("the Department").
2. Cory Atkins (Cert. No. 06-465) ("Atkins") the owner/operator of Cory's Produce. Respondent is certified by the Department in Category 1A, Agricultural Plant.
3. The Pesticide Section of the Department ("Complainant") is bringing this enforcement action against Respondent. Dustin Borntreger ("Borntreger") is employed as an Environmental Scientist I with the Department. Stephen McReynolds ("McReynolds") is employed as an Environmental Scientist II with the Department. James Hughes is employed as an Environmental Program Manager I with the Department.
4. On May 22nd, 2015, the Department received a phone call from Riley Williamson III. Mr. Williamson was calling to report damage to his pea field. Mr. Williamson stated that Cory's produce was hired to do applications to his corn fields and pea fields. Mr. Williamson suspected the damage had occurred during these applications. Mr. Williamson estimated 60 acres of the 75 acre pea field showed some sort of herbicide damage.
5. On May 22nd, 2015, Borntreger and McReynolds arrived at Mr. Williamson's property. Borntreger issued a notice of inspection to Mr. Williamson. Mr. Williamson showed them

where the application started and where the second load began. Herbicide damage was evident on the first area sprayed. Borntreger took vegetative sample (sample number SN153021) from this area. Eleven (11) photographs of the damaged pea field were taken.

6. On May 26th, 2015 Borntreger contacted Atkins to obtain records of the applications. Atkins faxed the May 10, 2015 pesticide application records. Three field records were received. Two records for the field corn and one pea field. All three applications were made on May 10, 2015. The field corn applications were made at 11:00a.m and 4:00p.m. The pea application was conducted at 7:05p.m.. The corn spray mixes consisted of: Keystone EPA Reg. No. 62719-368, Ravage EPA Reg. No. 8968-16-89391 for 11:00a.m., and these two pesticides with Envy, EPA Reg. No. 89168-17-89391 for the 4:00p.m mix. The pea spray mix consisted of: Basagran, EPA Reg. No. 7969-45-66330.
7. On May 26th, 2015 Borntreger contacted Mr. Williamson to inform him that a more random sample of the field needed to be taken. The field was re-sampled and given the same sample number. After completing this vegetative sample, Mr. Williamson took Borntreger and Hughes to the area where Atkins had performed his washout prior to spraying the peas. Large chunks of washout residue were observed at this site. A sample of this residue was collected for analysis. The sample was given sample number SN153022.
8. Due to the active ingredients suspected of killing the peas, the vegetative sample was sent to The University of Iowa State Hygienic Laboratory. The laboratory results showed a detection of glyphosate, the active ingredient in Envy herbicide. Glyphosate was detected at One-thousand (1000) parts per billion.
9. **Envy Herbicide**, EPA Registration No. 89168-17-89391, is registered for sale and use in the State of Delaware by the Department. The label of Envy Herbicide Insecticide states, in part:
 - a. “DO NOT allow the herbicide solution to mist, drip, drift or splash onto desirable vegetation since minute quantities of this product can cause severe damage or destruction to the crop, plants or other areas on which treatment was not intended.”
10. The large chunks collect at the rinse out area were analyzed using the GC/MSD. The sample results for sample number SN153022, the residue chunks collected in rinse out area, showed the presence of atrazine, metolachlor and penoxaline.