

Proposed Administrative Consent Agreement Background Summary

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Subject: Nervous Ticks, LLC
516 Cross Point Road
Edgecomb, Maine 04573

Date of Incident(s): Various dates in 2019

Background Narrative: Eric and Heather Brewer, owners of Nervous Ticks, LLC made a minimum of forty-nine unlicensed and unsupervised commercial pesticide applications in 2019. The applications were made in the Mid Coast region. Neither Mr. nor Mrs. Brewer were licensed commercial pesticide applicators at the time of these applications. The required commercial pesticide application records for these applications were not kept and treated sites were not posted as required by Board regulations.

Summary of Violation(s):

- 22 M.R.S. § 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III. Any commercial applicator must be a certified commercial applicator or under the direct supervision of a certified applicator.
- CMR 01-026 Chapter 50, Section I(A). Commercial applicators making pesticide applications, must keep complete and up to date pesticide application records.
- CMR 01-026 Chapter 28 Section 3(B)1(a) requires posting when commercial pesticide applications are made to outdoor ornamentals and CMR 01-026 Chapter 28 Section 3(B)2 prescribes those posting requirements.

Rationale for Settlement: There were a significant number of unlicensed/unsupervised applications made in this case. Application records were incomplete. The company's posting practice was not compliant with the Board's posting requirement of treated areas.

Attachments: Proposed Consent Agreement

JUN 10 2022

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY
BOARD OF PESTICIDES CONTROL

CK#: 1222
Date: 6/7/22
Amt: 5000.00

Nervous Ticks, LLC)
516 Cross Point Road) ADMINISTRATIVE CONSENT AGREEMENT
Edgecomb, Maine 04573) AND
FINDINGS OF FACT

This Agreement, by and between Nervous Ticks, LLC (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the Company is a commercial pesticide application company offering services in Maine.
2. That on June 11, 2019, a caller contacted Board staff about an April 25, 2019 article about the Company in The Lincoln County News. The article implied the product the Company was applying to control ticks was not a pesticide, which was contrary to the caller's understanding.
3. That in response to the call described in paragraph two, on June 11, 2019 Board staff conducted a follow up inspection with the Company owners Eric and Heather Brewer.
4. That during the inspection described in paragraph three, Board staff documented that the Company applied Tick Killz insecticide, to a minimum, of forty-nine lawns and property perimeters of residential customers to control ticks. The applications were made in the mid-coast area.
5. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
6. That a custom application as defined in 22 M.R.S. § 1471-C(5-A) includes any application of any pesticide under contract or for which compensation is received, or any application of a pesticide to a property open to use by the public. The applications described in paragraph four were applications for which compensation were received and, therefore, they were custom applications under 22 M.R.S. § 1471-C(5-A).
7. That the Company did not employ a master applicator, and no one from the Company had a commercial pesticide applicator's license at the time the applications described in paragraph four were made.
8. That the circumstances described in paragraphs one through seven constitute multiple violations of 22 M.R.S. § 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
9. That commercial applicators making pesticide applications, must keep complete and up to date pesticide application records as required by CMR 01-026 Chapter 50, Section I(A).
10. That from a review of the Company's applicator records collected on June 11, 2019, it was concluded that the Company application records were incomplete.
11. That the circumstances described in paragraphs one through six, nine, and ten, constitute a violation of CMR 01-026 Chapter 50, Section I(A).

12. That CMR 01-026 Chapter 28 Section 3(B) requires that when outdoor tick applications are made, the treated area must be posted prior to making the pesticide application.
13. That the Company's applications described in paragraphs four were not in compliance with the requirements of CMR 01-026 Chapter 28 Section 3(B).
14. That the circumstances described in paragraphs four, six, twelve, and thirteen, constitute multiple violations of CMR 01-026 Chapter 28 Section 3(B).
15. That the Board has regulatory authority over the activities described herein.
16. That the Company expressly waives:
 - a. Notice of or opportunity for hearing;
 - b. Any and all further procedural steps before the Board; and
 - c. The making of any further findings of fact before the Board.
17. That this Agreement shall not become effective unless and until the Board accepts it.
18. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraphs eight, eleven, and fourteen, the Company agrees to pay to the State of Maine the sum of \$5,000. (Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

NERVOUS TICKS, LLC

By:  Date: 6/7/22

Type or Print Name: Heather L. Brewer

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

APPROVED

By: _____ Date: _____

Mark Randlett, Assistant Attorney General