

Proposed Administrative Consent Agreement Background Summary

Subject: Green Shield Pest Solutions
5 Caroline Way
Saco, Maine 04072

Date of Incident(s): June 9, 2021

Background Narrative: The owner of Green Shield Pest Solutions self-reported a misplaced pesticide application by one of their applicators. Brian Nash applied Tempo 1% Dust insecticide to exterior windows, trim, and eaves, and Taurus SC Termiticide/Insecticide as an exterior band application around the house foundation to a home at 26 Harold Ave. in Biddeford on June 9, 2021. The owners of this residence were not company customers. The intended property was 22 Harold Ave. in Biddeford.

Summary of Violation(s): CMR 01-026 Chapter 20 Section 6(D)2 No person may apply a pesticide to a property of another unless prior authorization for the pesticide application has been obtained from the owner, manager, or legal occupant of that property.

CMR 01-026 Chapter 20 Section 7 Commercial applicators making outdoor treatments to residential properties must implement a system, based on Board approved methods, to positively identify the property of their customers. The Board shall adopt a policy listing approved methods of positive identification of the proper treatment site.

Rationale for Settlement: Green Shield Pest Solutions did not have the property owners' authorization to apply a pesticide to their property and did not take the necessary steps to confirm the correct address.

Attachments: Proposed Consent Agreement

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

In the Matter of:

Green Shield Pest Solutions)
5 Caroline Way)
Saco, Maine 04072)

ADMINISTRATIVE CONSENT
AGREEMENT
AND
FINDINGS OF FACT

This Agreement by and between Green Shield Pest Solutions (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 provides commercial pest control services and has the firm license number SCF 2569 issued by the Board pursuant to 22 M.R.S. § 1471-D (1)(B).
2. That the Company operations manager/co-owner Gregory England, called the Board's office to report one of the Company's licensed applicators made a pesticide application to the wrong property in Biddeford on June 9, 2021.
3. That in response to the call described in paragraph two, a Board inspector met with Company licensed applicator, Brian Nash, and the Company owner on June 25, 2021 to conduct a follow up inspection. Nash also completed a written statement about the misapplication at that time.
4. That from the inspection described in paragraph three, the inspector documented that Nash applied Tempo 1% Dust insecticide to exterior windows, trim, and eaves, and Taurus SC Termiticide/Insecticide as an exterior band application around the house foundation of Crystal Matteau's home at 26 Harold Ave. in Biddeford on June 9, 2021. The owner of this property was not a Company customer. The intended property was Susan Loring's residence at 22 Harold Ave. in Biddeford.
5. That from the inspection with Nash described in paragraphs three and four, and also in his written statement, Nash reported that the work order he was given to make the application had a typographical error for the address. The address on the work order, 26 Harold Avenue, should have been 22 Harold Avenue.
6. That CMR 01-026 Chapter 20 Section 6(D)2 requires prior consent from the property owner before another person can apply pesticides to the property.
7. That the Company did not have the homeowner's authorization to make a pesticide application at 26 Harold Ave. in Biddeford
8. That the circumstances described in paragraphs one through seven constitute a violation of CMR 01-026 Chapter 20 Section 6(D)2.
9. That CMR 01-026 Chapter 20 Section 7 requires Commercial applicators making outdoor treatments to residential properties to implement a system, based on Board approved methods, to positively identify the property of their customers.
10. That the Company's original work order, as described in paragraph five, was reviewed to see if the Company used a Board approved method to positively identify Susan Loring's residence at 22 Harold Avenue in

Biddeford on June 9, 2021 before making the pesticide application. The review determined that the Company had not.

11. That on June 14, 2021 Board staff called England to discuss the misplaced pesticide application and ask about the Company's system to positively identify customer properties. England explained that Company applicators knock on customers' doors and talk to the customers to confirm the application before making the application. This is not a Board approved method and it led to confusion resulting in the June 9, 2021 misapplication. In this instance the applicator initially talked to the daughter of the homeowner when she answered the door who then called to her father to come to the door. The applicator then talked to the father. The father, who had a contract with TruGreen, thought the applicator was with TruGreen.
12. That the circumstances described in paragraphs one through five and nine through eleven constitute a violation of CMR 01-026 Chapter 20 Section 7.
13. 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.
14. That this Agreement shall not become effective unless and until the Board accepts it.

That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraphs eight and twelve and the Company agrees to pay a penalty to the State of Maine in the sum of \$1,000.00. (Please make checks payable to Treasurer, State of Maine).

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

GREEN SHIELD PEST SOLUTIONS

By:  Date: 2/2/2022
Type or Print Name: Gregory D. England

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Megan Patterson, Director

APPROVED:

By: _____ Date: _____
Mark Randlett, Assistant Attorney General