

MAR - 7 2025

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

In the Matter of:) ADMINISTRATIVE CONSENT
Mosquito Squad of Southern Maine) AGREEMENT
28 Adams Way) AND
Scarborough, Maine 04074) FINDINGS OF FACT

This Agreement by and between Mosquito Squad of Southern Maine (hereinafter referred to as the "Company") and the State of Maine Board of Pesticides Control (hereinafter referred to as the "Board"), as approved by the Office of the Attorney General ("OAG"), is entered into pursuant to 22 M.R.S. § 1471 M(2)(D), and in accordance with the Enforcement Protocol, as amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the Company offers outdoor nuisance pest control services in Southern Maine using Board-licensed applicators to apply pesticides.
2. That the Company previously entered into administrative consent agreements with the Board in 2021 and 2024 to resolve violations of state and federal pesticide laws.
3. That the Company committed new violations of state and federal pesticide laws in 2024, in Old Orchard Beach, Gray, and Scarborough, and that this Agreement covers the violations at all three locations as described in location-specific sections below. The Company was responsive and cooperative throughout the inspection and investigation process.

Old Orchard Beach, Maine

4. That on May 16, 2024, a Board inspector observed two Company applicators applying Talak 7.9 % F, EPA Reg. No. 91234-145, and Devito, EPA Reg. No. 91234-250, insecticides for control of ticks and mosquitoes, including to the lawn at a residential property in Old Orchard Beach, Maine. Body camera footage of this application was later supplied to the Board by the Company. The footage obtained substantiates the observations of the inspector.
5. That neither applicator described in Paragraph 4 was wearing chemical-resistant gloves. The Talak 7.9% F label states—in part—"All pesticide handlers (mixers, loaders, applicators) must wear long-sleeved shirt and long pants, socks, shoes, and chemical-resistant gloves."
6. That the top-front panel of the Devito label states, "For Both Indoor and Outdoor Use. For use in, on, and around buildings and structures for the control of listed pests, including on non-residential lawns, ornamental trees and shrubs around residential, institutional, public, commercial, agricultural and industrial buildings."

7. That under a section titled “Perimeter Pest Control, subsection Restrictions,” the Devito label states—in part—“**DO NOT** apply to residential lawns and turf in residential settings (e.g. homes, parks, schools, athletic fields or other area frequented by the general public).”
8. That under a section titled “Lawn/Turfgrass, subsection Restrictions,” the Devito label states—in part—“**DO NOT** apply to residential lawns and turf in residential settings (e.g. homes, parks, schools, athletic fields or other area frequented by the general public).”
9. That 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) prohibit the use or supervision of such use of a pesticide inconsistent with its label, and 22 M.R.S. § 1471-D(8)(F) provides for court action to seek suspension or revocation of an applicator’s license and/or certification for use or supervision of such use of a pesticide inconsistent with its label.
10. That the circumstances described in Paragraphs 4 through 8 constitute multiple violations of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) and would permit court action to seek suspension or revocation of an applicator’s license and/or certification pursuant to 22 M.R.S. § 1471-D(8)(F).

Gray, Maine

11. That on May 16, 2024, a Board-licensed commercial applicator called the Board’s office to report that a Company employee had sprayed a residential property in Gray without authorization.
12. That in response to the phone call described in Paragraph 11, a Board inspector investigated the allegations. The investigation revealed that a Company employee applied Talak and Devito to the residential lawn located at 28 Eagles Nest Road in Gray instead of the authorized location of 26 Eagles Nest Road.
13. That 01-026 C.M.R. ch. 20, § 6(D)(2) (2024) prohibits the application of a pesticide to the property of another without prior authorization from the owner, manager or legal resident of the property.
14. That the Company did not have the prior authorization of the resident of 28 Eagles Nest Road for the pesticide application described in Paragraph 12.
15. That the circumstances described in Paragraphs 11 through 14 constitute a violation of 01-026 C.M.R. ch. 20, § 6(D)(2).
16. That the application of Devito on residential lawns, as described in paragraphs 11 and 12, is not permitted by the product label as described in Paragraphs 6, 7, and 8.
17. That body camera video supplied by the Company showed the applicator was not wearing chemical-resistant gloves.

18. That the Talak 7.9% F label requires applicators to wear chemical-resistant gloves as described in Paragraph 4.
19. That 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) prohibit the use or supervision of such use of a pesticide inconsistent with its label, and 22 M.R.S. § 1471-D(8)(F) provides for court action to seek suspension or revocation of an applicator's license and/or certification for use or supervision of such use of a pesticide inconsistent with its label.
20. That the circumstances described in Paragraphs 16 through 19 constitute multiple violations of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) and would permit court action to seek suspension or revocation of an applicator's license and/or certification pursuant to 22 M.R.S. § 1471-D(8)(F).

Scarborough, Maine

21. That between May 20, 2024, and September 6, 2024, a Scarborough resident contacted the Board on multiple occasions to express concerns about alleged drift and/or vapors arising from Company applications to the abutting property. The caller indicated that there is no physical barrier or distance separating lawns between the two properties. The caller also cited a May 2, 2024 Company application that resulted in symptoms. The caller stated that the mosquito and tick applications to the abutting property were resulting in exposure and symptoms which included burning eyes, lips, and throat. The caller also expressed concern about possible residue on vegetable gardens.
22. That a Board inspector responded to each of the complaints and conducted follow-up inspections with the Company each time.
23. That on May 24, 2024, a Board inspector collected residue samples following the May 23, 2024 Company pesticide application to the abutting property. Laboratory sample results for one of two off-target samples was positive for bifenthrin at a concentration below the quantification limits.
24. That on July 5, 2024, the Board received another call from the Scarborough resident again alleging pesticide drift from a Company application to the abutting property. Due to the timing of the call, the Board's response was delayed until the following Monday. Significant rainfall occurred over the weekend. A decision was made to not collect residue samples in this instance. A follow-up inspection with Company personnel showed that Talak and Avesta were applied to the abutting residence on July 5, 2024.
25. That on July 26, 2024, the Board received another call from the Scarborough resident alleging pesticide drift had occurred from a Company pesticide application. Samples were taken from both properties. Laboratory analysis showed residues on the caller's (non-target) property of 0.0084 PPM bifenthrin while the residues on the abutting (target) property were at 1.2 PPM. A comparison of the residue levels demonstrates off-target residues were 0.7 % of the on-target residues. A follow-up inspection revealed that a Company employee applied

Talak and Avesta on July 26.

26. That on September 6, 2024, the Scarborough resident again contacted the Board's office alleging pesticide drift from a Company application to the abutting property. The caller reported that she had a burning throat and eyes, and that her neighbor reported similar symptoms.
27. That the Board's staff collected residue samples from the caller's property and the target property on the day of the call.
28. That laboratory analysis of the samples described in Paragraph 27 showed residues on the caller's (non-target) property of 0.018 PPM bifenthrin while the residues on the abutting (target) property were at 4.5 PPM. A comparison of the residue levels demonstrates that the off-target residues were 0.4 % of the on-target residues.
29. That the Company utilized motorized backpack mist blowers to make the pesticide applications described herein.
30. That, based on available scientific literature, motorized backpack mist blowers produce a droplet spectra categorized as fine to very fine.
31. That circumstances described in Paragraphs 26 through 30 are indicative of a very high potential for off-target movement of fine droplets.
32. That the caller's lawn area abuts the Company's client's lawn area without any physical barrier or spatial separation.
33. That residential lawn areas are considered a "sensitive area likely to be occupied" pursuant to 01-026 C.M.R. ch. 10, § 2(CCC)(8)(a) (2019).
34. That the Board's sample results described in Paragraphs 25 and 28 demonstrate that pesticides drifted from the target property to an abutting "sensitive area likely to be occupied".
35. That 01-026 C.M.R. ch. 22, § 4(B)(I) (2015) contains the Board's General Standard for off-target drift of pesticides which states, "**General Standard.** Pesticide applications shall be undertaken in a manner which minimizes pesticide drift to the maximum extent practicable, having due regard for prevailing weather conditions, toxicity and propensity to drift of the pesticide, presence of Sensitive Areas in the vicinity, type of application equipment and other pertinent factors."
36. That the circumstances described in Paragraphs 21 through 35 demonstrate that the Company failed to minimize drift to maximum extent practicable.
37. That the circumstances described in Paragraphs 21 through 36 constitute multiple violations of 01-026 C.M.R. ch. 22, § 4(B)(I).

38. That the body camera footage of the pesticide applications described in Paragraph 20 shows applications being made directly to blooming weeds in the lawn during daylight hours when bees would be foraging.
39. That the Talak 7.9% F label states under Environmental Hazards, "This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow to drift to blooming crops if bees are visiting the treatment area."
40. That 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) prohibit the use or supervision of such use of a pesticide inconsistent with its label, and 22 M.R.S. § 1471-D(8)(F) provides for court action to seek suspension or revocation of an applicator's license and/or certification for use or supervision of such use of a pesticide inconsistent with its label.
41. That the circumstances described in Paragraphs 38 through 40 constitute a violation of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) and would permit court action to seek suspension or revocation of an applicator's license and/or certification pursuant to 22 M.R.S. § 1471-D(8)(F).

General Provisions


42. That the Company expressly waive:
 - 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.
43. That this Agreement shall not become effective unless and until the Board accepts it.
44. That in consideration for the release by the Board of the causes of action which the Board may have against the Company resulting from the violations referred to in paragraphs 10, 15, 20, 37, and 41, the Company agrees to pay a penalty to the State of Maine in the sum of \$22,500.00. (Please make checks payable to Treasurer, State of Maine).
45. The Board and OAG grant a release of their causes of actions against the Company for the specific violations cited in the immediately preceding paragraph (Paragraph 44) on the express condition that all actions listed in Paragraph 44 of this Agreement are completed in accordance with the express terms and conditions of this Agreement and to the satisfaction of the Board and the OAG. The release shall not become effective until the Company has completed its obligations pursuant to Paragraph 44.
46. Any non-compliance with any term or condition of this Agreement, as determined by the Board and OAG in their sole discretion, voids the release set forth in Paragraph 44 of this

Agreement and may lead to an enforcement, suspension/revocation, equitable, and/or civil violation action pursuant to Titles 7 and 22 of the Maine Revised Statutes.

47. Nothing in this Agreement shall be construed to be a relinquishment of the Board's or OAG's powers under Titles 7 and 22 of the Maine Revised Statutes against the Company for any other violations other than those expressly listed in this Agreement.
48. This instrument contains the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written contract shall be valid or binding; this contract may not be enlarged, modified, or altered except in writing signed by the parties and indorsed on this Agreement.
49. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.
50. By signing and executing this Agreement, the Company knowingly, intentionally, permanently, and irrevocably waives any and all defenses it has or may have with respect to the enforcement of this Agreement, including the enforcement of this Agreement as a final administrative order and a money judgment pursuant to 14 M.R.S. § 3138.

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

MOSQUITO SQUAD OF SOUTHERN MAINE

By:  Date: 2-27-25

Type or Print Name: ERIK HANSON

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Alexander Peacock, Director

APPROVED:

By: _____ Date: _____
Carey Gustanski, Assistant Attorney General