

**Proposed Administrative Consent Agreement  
Background Summary**

**Subject:** Prime Cut Landscaping  
201 US Route 1, PMB 223  
Scarborough, ME 04074

**Date of Incident(s):** October 29, 2021

**Background Narrative:** On October 28, 2021, the Board received a call from a homeowner in Scarborough, Maine, who had a severe grub problem in the turf areas surrounding their home. The Complainant stated that their existing lawncare contractor had failed to control the grub infestation, so she had contracted with the Company in hopes of addressing the problem. Their complaint centered around conflicts and overlap between the two companies working on her property.

That during the course of the inspection, a Board inspector determined that Company employee Michael Fowler made an application of Dylox 6.2 Granular Insecticide (State Restricted Use), EPA Reg. No. 5481-641-432, to the Complainant's lawn for control of grubs on October 29, 2021. The Board inspector also determined that Company employee Michael Fowler had passed the core and biting fly exams with the Board, but was not yet licensed with the Company, and had not taken the turf exam, which is required for commercial pesticide applications made to control turf pests.

**Summary of Violations:** CMR 01-026, Chapter 31, Section 1 (A) prohibits commercial application of pesticides by applicators who are not properly licensed.

CMR 01-026, Chapter 31, Section 2 (A) requires all commercial applicators to carry the proper category for the type of work performed, i.e. Category 3B, Turf.

**Rationale for Settlement:** Prime Cut Landscaping is currently operating in compliance with Maine pesticide laws, rules and regulations concerning certification and licensure. The Company no longer employs the applicator involved in this incident. The company accepts responsibility for these violations and have made appropriate corrective actions.

**Attachments:** Proposed Consent Agreement

JAN 19 2024

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

Amt: 1500 —  
CK# 3951  
Date: 1-3-24

In the Matter of: ) ADMINISTRATIVE CONSENT  
Prime Cut Landscaping ) AGREEMENT  
201 US Route 1, PMB 223 ) AND  
Scarborough, Maine 04074 ) FINDINGS OF FACT

This Agreement by and between Prime Cut Landscaping (hereinafter referred to as the "Board") 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. § 1471M(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 on October 28, 2021, the Board received a call from a homeowner in Scarborough, Maine, who had a severe grub problem in the turf areas surrounding their home.
2. That the Complainant stated that their existing lawncare contractor had failed to control the grub infestation, so she had contracted with the Company in hopes of addressing the problem. Their complaint centered around conflicts and overlap between the two companies working on her property.
3. That on November 4, 2021, a Board inspector conducted a follow-up inspection with Company personnel at the headquarters in Buxton, Maine.
4. That during the course of the inspection described in Paragraph 3, the Board inspector determined that Company employee Michael Fowler made an application of Dylox 6.2 Granular Insecticide (State Restricted Use), EPA Reg. No. 5481-641-432, to the Complainant's lawn for control of grubs on October 29, 2021.
5. That during the course of the inspection described Paragraph 3, the Board inspector determined that Company employee Michael Fowler had passed the core and biting fly exams with the Board, but was not yet licensed with the Company, and had not taken the turf exam, which is required for commercial pesticide applications made to control turf pests.
6. That the application described in Paragraph 4 is a commercial pesticide application pursuant to 22 M.R.S § 1471-C(5).
7. That 01-026 C.M.R. ch. 31, § 1 requires that anyone performing a commercial pesticide application to either be licensed by the Board or supervised by an on-site licensed applicator at the time of the application.
8. That Michael Fowler was not licensed by the Board or supervised by an on-site licensed applicator at the time of application described in Paragraph 4.
9. That circumstances described in Paragraphs 1 through 8 constitute a violation of 01-026 C.M.R. ch. 31, § 1.
10. That while Michael Fowler was technically certified and eligible for licensing with the Board at the time of the application described in Paragraph 4, he was not eligible to be licensed to make commercial applications to turf as required under 01-026 C.M.R. ch. 31, § 2.
11. 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.

12. That this Agreement shall not become effective unless and until the Board accepts it.

13. 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 Paragraph 9, the Company agrees to pay a penalty to the State of Maine in the sum of \$1,500.00, due by January 25, 2024. (Please make checks payable to Treasurer, State of Maine.)

14. 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 13) on the express condition that all actions listed in Paragraph 13 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 13.

15. 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 13 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.

16. 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.

17. 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.

18. 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.

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

PRIME CUT LANDSCAPING

By:  Date: 1/14/24

Type or Print Name: Matthew P Corbeau

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John Pietroski, Acting Director

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Carey Gustanski, Assistant Attorney General