

## **Proposed Administrative Consent Agreement Background Summary**

**Subject:** Tractor Supply  
5401 Virginia Way  
Brentwood, TN 37027

**Date of Incident(s):** 2008, 2009, 2010, 2012, 2013 and 2014

**Background Narrative:** Maine pesticide regulations describe display requirements for retail businesses that offer pesticides for sale in self-service areas. These requirements include displaying a sign that informs the public where they can get additional information about pesticides, keeping pesticides 10 feet away from food or animal feed, and having a cleanup kit available in case of pesticide spills. During routine marketplace inspections, inspectors documented multiple violations of these requirements.

**Summary of Violation(s):** Fourteen marketplace inspections conducted by Board inspectors at Tractor Supply Stores in 2008, 2009, 2010, 2012 and 2013, documented 20 violations of CMR 01-026 Chapter 24 Section 7. All of these violations except one were either violations of having pesticides in the self-service area within ten feet of food or animal feed- CMR 01-026 Chapter 24 Section 7(C) or failure to post the required sign in this same area- CMR 01-026 Chapter 24 Section 7(A). The other violation was for not having the required clean up kit- CMR 01-026 Chapter 24 Section 7(E). In 2014, inspections at eight Tractor Supply Stores documented 14 violations in aggregate, seven for not posting signs and seven for violations of the ten-foot regulation.

**Rationale for Settlement:** At each inspection, inspectors left a copy of the completed marketplace inspection form with the person in charge that documented the violations needing correction. On July 9, 2013, a warning letter was sent to Tractor Supply Company's corporate office outlining the Maine store locations that were in violation and what those violations were. The letter included that section of the Board's regulation where the requirements are found. The letter also stated that future violations could result in a fine. The company did not take steps to correct the violations which persisted into 2014. The penalty considered the scope and duration of the violations and the company's failure to take corrective action when the violations were pointed out.

**Attachments:** Proposed Administrative Consent Agreement

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

CK # 2221512  
Date 4/23/15  
Amt 1050.00

Tractor Supply Company ) ADMINISTRATIVE CONSENT  
Attn: Mike Borrello ) AGREEMENT  
5401 Virginia Way ) AND  
Brentwood, TN 37027 ) FINDINGS OF FACT

This Agreement, by and between Tractor Supply Company (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 June 3, 1998.

The parties to this Agreement agree as follows:

1. That the Company operates a chain of retail stores in many states, including Maine.
2. That the Company currently has nineteen stores licensed as general use pesticide dealers in Maine.
3. That the self-service areas of general use pesticide dealers must comply with Board regulations in CMR 01-026 Chapter 24 Section 7.
4. That fourteen marketplace inspections conducted by Board inspectors in 2008, 2009, 2010, 2012 and 2013, documented 20 violations of CMR 01-026 Chapter 24 Section 7. All of these violations except one were either violations of having pesticides in the self-service area within ten feet of food or animal feed- CMR 01-026 Chapter 24 Section 7(C) or failure to post the required sign in this same area- CMR 01-026 Chapter 24 Section 7(A). The other violation was for not having the required clean up kit- CMR 01-026 Chapter 24 Section 7(E).
5. That a Board staff member summarized the violations in paragraph four in a warning letter to the Company dated July 9, 2013. The letter provided links to the Board's relevant statute and regulation on self-service areas at general use pesticide dealer facilities and stated that any future violations could result in a fine.
6. That Board inspectors conducted additional routine market place inspections in 2014 at Company stores. There were violations documented at eight of these stores. The store locations, store numbers and dates of inspection at these eight Company stores follow: Sanford #1464, 5-19-14/ Scarborough #1197, 5-19-14/ Windham #1596, 5-19-14/ Lewiston #1362, 5-20-14/ Oxford #1332, 5-20-14/ Rumford #1718, 5-21-14/ Ellsworth #1593, 6-2-14/ Millinocket #1552, 7-23-14.
7. That during the inspections in paragraph six, inspectors documented fourteen violations in aggregate at these eight Company stores. Seven of these involved failures to post the required sign and seven others were violations of having pesticides within ten feet of food or animal feed.
8. The conditions outlined in paragraphs one through seven, constitute multiple violations of CMR 01-026 Chapter 24 Section 7(A) and CMR 01-026 Chapter 24 Section 7(C).
9. That the Board has regulatory authority over the activities described herein.

- 10. 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.
- 11. That this Agreement shall not become effective unless and until the Board accepts it.
- 12. That the Board has regulatory authority over the activities described herein.
- 13. That the Company expressly waives:
  - d. Notice of or opportunity for hearing;
  - e. Any and all further procedural steps before the Board; and
  - f. 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.
- 15. 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 eight, the Company agrees to pay to the State of Maine the sum of \$\$1,050. (Please make checks payable to Treasurer, State of Maine).

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

TRACTOR SUPPLY COMPANY

By: [Signature] Date: 4-22-15

Type or Print Name: STEVE BARBARICK

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_

Henry Jennings, Director

APPROVED

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mark Randlett, Assistant Attorney General