

**Proposed Administrative Consent Agreement
Background Summary**

Subject: Starbucks
38 Bangor Mall Road
Bangor, ME 04401

Date of Incident(s): July 23, 2020

Background Narrative: On July 27, 2020, the BPC was contacted by a member of the public health inspection team to report an incident where a “bug bomb” had been used inside a Starbucks café that set off the fire alarm and triggered a response by the Bangor Fire Department. The resulting inspection revealed that the Starbucks’ manager, Bianca Godfrey, had released one canister of Raid Max No Mess Dry Fogger, EPA Reg. No. 4822-601, after the café had closed on July 23, 2020, to control a fruit fly infestation. Shortly after releasing the fogger a repairman arrived to work inside the café. Ms. Godfrey opened the building, removed the fogger and attempted to air out the premises which caused the fire alarm to sound.

Summary of Violations: Any person making a pesticide application that is a custom application, including any application to a food establishment, as defined under 22 M.R.S. § 1471-C, must either be a certified commercial applicator or be working under the direct supervision of a certified applicator in accordance with 22 M.R.S. § 1471-D.

Raid Max No Mess Dry Fogger bug bombs label states “Do not re-enter for four (4) hours after application.” 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S. § 606 (2)(B) and 22 M.R.S. § 1471-D(8)(F) prohibit the use of any pesticide in manner inconsistent with its label.

Rationale for Settlement: No employees of the Starbucks café are licensed pesticide applicators with the BPC. The product used has a labeled 4-hour re-entry interval that was not followed by Ms. Godfrey. That Bianca Godfrey acted in good faith in attempting to address the ongoing fruit fly infestation and cooperated fully with the Board investigation.

Attachments: Proposed Consent Agreement

JUN 12 2023

CK Amt: 500.00
CK date: 3-25-23
#: 455

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

In the Matter of:
Starbucks
38 Bangor Mall Road
Bangor, Maine 04401

) ADMINISTRATIVE CONSENT AGREEMENT
) AND
) FINDINGS OF FACT
)

This Agreement by and between Starbucks (hereinafter called the "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 develops and manages coffee shops, including in the Bangor area.
- 2) That on July 27, 2020, the City of Bangor Building Code Enforcement Officer, Greg Higgins, notified Public Health Inspector Jennifer Springer of a call he received from the Bangor Fire Department. They were notifying him of a call out to the Company that occurred on July 23, 2020, at 9:17 PM where a bug bomb had set off the fire alarm. Jennifer Springer contacted Maine Board of Pesticides Control.
- 3) That on July 29, 2020, a Board inspector met with Company manager, Bianca Godfrey to document the facts associated with the report directed to the Board as described in paragraph two.
- 4) That during the inspection described in paragraph three, Godfrey reported:
 - a) That the cafe had a severe fruit fly problem. Godfrey stated that a professional pest management company had been there on July 22, 2020. The pest management company treated the drains and walls for fruit flies but had told her they couldn't do anything more about the problem.
 - b) That the severe fruit fly infestation continued following the pest management company's treatment on July 22, 2020.
 - c) That she believed additional steps to control the infestation were necessary due to the continuing pest problem. Consequently, Godfrey purchased a three pack of Raid Max No Mess Dry Fogger bug bombs (EPA Reg. No. 4822-601).
 - d) That on July 23, 2020, after food and utensils were stored safely, and employees had left for the day, she released one bug bomb in the middle of the cafe.
 - e) That as she was leaving, she met a repairman headed into the building to repair grout. Godfrey told him to wait outside. She returned to the building, removing the bug bomb, and then opening the doors to air out the building.
 - f) That while airing the building out, the fire alarms began to sound.
 - g) That she and the repairman waited outside until the fire department to responded to turn off the fire alarms.

- h) That after the fire department left, Godfrey believed it would be safe to reenter the cafe because the fogger had not completely exhausted its contents and the cafe had been aired out. Consequently, she allowed the repairman inside to do the grouting and Godfrey went home.
 - i) That Godfrey disposed of the emptied can at her home.
 - j) That Godfrey requested employees who were scheduled to work the morning of July 24, 2020, to start two hours early to move food and items from the cooler and to clean and sanitize the facility before opening.
- 5) That from the inspection described in paragraphs three and four, the inspector documented the details relating the July 23, 2020, pesticide application involving one Raid Max No Mess Dry Fogger bug bomb, EPA Reg. No. 4822-601, in the Starbucks café on 38 Bangor Mall Road in Bangor, ME.
 - 6) That application of a pesticide inside a cafe constitutes a custom application pursuant to 22 M.R.S. § 1471-C (5) (C).
 - 7) That custom application of a pesticide may only be conducted by persons certified by the Board pursuant to 22 M.R.S. §1471-D.
 - 8) That no one from the Company held a commercial pesticide applicator's license at the time of the application described in paragraphs four and five.
 - 9) That the circumstances described in paragraphs five through eight constitute a violation of 22 M.R.S. §1471-D.
 - 10) The during the inspection described in paragraphs three, four and five, the inspector documented that:
 - a) The repairman entered within the 4-hour window when there is a no re-entry requirement.
 - b) Godfrey believed it was safe because she had aired out the facility.
 - 11) That the Raid Max No Mess Dry Fogger bug bombs label states "Do not re-enter for four (4) hours after application.
 - 12) That 7 U.S.C. § 136j (a)(2)(G), 7 M.R.S. § 606 (2)(B) and 22 M.R.S. § 1471-D(8)(F) prohibit the use of any pesticide in manner inconsistent with its label.
 - 13) That the circumstances described in paragraphs ten, eleven and twelve, constitute use of a pesticide inconsistent with the product labeling in violation on U.S.C. § 136j (a)(2)(G), 7 M.R.S. § 606 (2)(B) and 22 M.R.S. § 1471 D (8)(F).
 - 14) That Bianca Godfrey acted in good faith in attempting to address the ongoing fruit fly infestation and cooperated fully with the Board investigation.
 - 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 cause of action which the Board has against the Company resulting from the violations referred to in paragraphs nine and thirteen, the Company agrees to pay a penalty to the State of Maine in the sum of \$500 (Please make checks payable to Treasurer, State of Maine).

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

STARBUCKS

By: Bianca Godfrey Date: 3/25/23

Type or Print Name: Bianca Godfrey

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Megan Patterson, Director

APPROVED:

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



JANET MILLS
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

MEGAN PATTERSON
DIRECTOR

Compliance Verification Statement

12-7-2022

Individual Company or Store Name	Starbucks	Inspection Numbers	<u>220729LRS01</u>
		Inspection Dates	<u>7-29-2022</u>
Address	38 Bangor Mall Road		
Town	Bangor	State	ME Zip 04401

I verify that I have taken steps to correct the violations of:

- **Uncertified/unlicensed commercial pesticide applications.**
- **Failure to use pesticide in a manner consistent with pesticide label.**

Brian Godfrey
Owner or Company Representative Signature

3/25/23
Date:

Bianca Godfrey
Print Name

The above **Compliance Verification Statement** should be signed and returned with the **signed Consent Agreement** to verify that steps have been taken to prevent violations in the future.