

Proposed Administrative Consent Agreement

Background Summary

Subject: Roof Cleaning Solutions
141 Mayflower Heights Drive
Oakland, Maine 04963

Date of Incident(s): April of 2016; October 31, 2016

Background Narrative: The Board received a call that Roof Cleaning Solutions was advertising an ecofriendly product for power washing house roofs. The caller from Cumberland County hired the company only to realize that ZeroTol 2.0 was going to be applied. A board inspector later met with the company owner at an agreed upon site where the owner was spraying a customer's roof. The owner was applying ZeroTol 2.0 to the roof of a home in Raymond to control mold. No one from the Roof Cleaning Solutions company was a licensed applicator and ZeroTol 2.0 is not labeled for roofs.

Summary of Violation(s): 22 M.R.S. § 1471-D(1)(A) No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

CMR 01-026 Chapter 31 Section 1(A) III. An unlicensed commercial applicator must be supervised on-site by either a licensed commercial applicator/master or a licensed commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator.

7 U.S.C. § 136j (a)(2)(G), UNLAWFUL ACTS: to use any registered pesticide in a manner inconsistent with its labeling.

7 M.R.S. § 606 (2)(B): A person may not: Use or cause to be used any pesticide in a manner inconsistent with its labeling or with rules of the board, if those rules further restrict the uses provided on the labeling

22 M.R.S. § 1471-D(8)(F) Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labeling or other restrictions imposed by the board.

Rationale for Settlement: Compared the settlement to similar case settlements in the past.

Attachments: Proposed Consent Agreement

11. That the Company did not employ a master applicator, and no one from the Company had a commercial pesticide applicator's license at the time the applications described in paragraphs three, four, five, and eight were made.
12. That the circumstances described in paragraphs one through eleven constitute violations of 22 M.R.S. § 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
13. That the Board has regulatory authority over the activities described herein.
14. 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.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. 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 paragraphs seven and twelve, the Company agrees to pay to the State of Maine the sum of \$500. (Please make checks payable to Treasurer, State of Maine).

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

ROOF CLEANING SOLUTIONS

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

APPROVED

By: _____ Date: _____

Mark Randlett, Assistant Attorney General