

Proposed Administrative Consent Agreement Background Summary

Subject: Dependable Pest Solutions
PO Box 476
Rochester, NH 03866

Date of Incident(s): February through July of 2016

Background Narrative: The Board received an allegation that Dependable Pest Solutions was sending an unlicensed applicator to Maine to make commercial pesticide applications. A Board inspector conducted a follow up inspection at the company's Rochester, NH office. The inspection confirmed that 43 unlicensed and unsupervised commercial pesticide applications were made by a company applicator from February through July of 2016.

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 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.

Rationale for Settlement: The company was aware of Maine's licensing requirements at the time of the unlicensed applications and the number of the unlicensed applications was significant.

Attachments: Proposed Consent Agreement

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

Debra Thompson)	
Dependable Pest Solutions)	ADMINISTRATIVE CONSENT AGREEMENT
PO Box 476)	AND
Rochester, NH 03866)	FINDINGS OF FACT

This Agreement, by and between Dependable Pest Solutions (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 December 13, 2013.

The parties to this Agreement agree as follows:

1. That the Company is a commercial pest control company offering services in New Hampshire and Maine.
2. That on June 28, 2016, Board staff received a phone call alleging that the Company was making unlicensed commercial pesticide applications in Maine.
3. That in response to the call described in paragraph two, a Board inspector conducted a follow up inspection at the Company's Main Street office in Rochester, NH on August 1, 2016.
4. That during the inspection described in paragraph three, the inspector collected three Company pesticide service orders for pesticide applications made in Maine in February of 2016, five Company pesticide service orders for pesticide applications made in Maine in March of 2016, nine Company pesticide service orders for pesticide applications made in Maine in April of 2016, thirteen Company pesticide service orders for pesticide applications made in Maine in May of 2016, seven Company pesticide service orders for pesticide applications made in Maine in June of 2016, and six Company pesticide service orders for pesticide applications made in Maine in July of 2016.
5. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
6. That a custom application as defined in 22 M.R.S. § 1471-C(5-A) includes any application of any pesticide under contract or for which compensation is received, or any application of a pesticide to a property open to use by the public.
7. That the forty-three pesticide applications described in paragraph four constitute custom applications of pesticides in accordance with 22 M.R.S. § 1471-C (5-A).
8. That the forty-three pesticide applications described in paragraph four were made by unlicensed and unsupervised Company applicators.
9. That the circumstances described in paragraphs one through eight constitute forty-three violations of 22 M.R.S. 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
10. That the Board has regulatory authority over the activities described herein.

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 nine, the Company agrees to pay to the State of Maine the sum of \$1,500. (Please make checks payable to Treasurer, State of Maine).

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

DEPENDABLE PEST SOLUTIONS

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Cam Lay, Director

APPROVED

By: _____ Date: _____

Mark Randlett, Assistant Attorney General