

Proposed Administrative Consent Agreement Background Summary

Subject: Greenscapes Lawn Care, Inc.
68 Bartlett Road
Kittery Point, Maine 03905

Date of Incident(s): August 25, 2006

Background Narrative: On August 25, 2006, an employee of Greenscapes Lawn Care, Inc., applied a pesticide to the lawn at 12 Park Avenue in Kittery. This address is listed on the 2006 Pesticide Notification Registry because it is within 250 feet of registry member Beth Sehlmeier's home. Greenscapes Lawn Care, Inc., failed to notify Sehlmeier at least 6 hours in advance of the treatment. Only approximately 2 hours and 10 minutes advance notice was given.

Summary of Violation(s): CMR 01-026 Chapter 28, Section 2 (D) 5, Notification must be received between 6 hours and 14 days prior to the pesticide application.

Rationale for Settlement: The staff compared the violation to similar cases settled by the Board in formulating a penalty proposal.

Attachments: Proposed Consent Agreement

**STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL**

In the Matter of:)	ADMINISTRATIVE CONSENT
Greenscapes Lawn Care, Inc.)	AGREEMENT
68 Bartlett Road)	AND
Kittery Point, Maine 03905)	FINDINGS OF FACT

This Agreement by and between Greenscapes Lawn Care, Inc. (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.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol adopted by the Board on September 19, 1984.

The parties to this Agreement agree as follows:

1. That the Company provides lawn care services and has the firm license number SCF 15205 issued by the Board pursuant to 22 M.R.S.A § 1471-D (1)(B).
2. That on August 25, 2006 Glenn Holden, III, a Company employee and a licensed commercial applicator (COA 43394), applied Lesco Merit 0.2 Plus Fertilizer, EPA Reg. No. 432-1349-10404 to the lawn at the Terry Philips residence, located at 12 Park Avenue in Kittery, Maine.
3. That the lawn at 12 Park Avenue is located within 250 feet from property which is the residence of Beth Sehlmeier at 14B Park Avenue in Kittery, Maine.
4. That Beth Sehlmeier is listed on Maine's 2006 Pesticide Notification Registry, as described in CMR 01-026 Chapter 28, Section 2. The 12 Park Avenue property is also listed on the Registry as a property located within 250 feet of Beth Sehlmeier's residence. The Registry is distributed to commercial applicators annually.
5. That commercial applicators are required by CMR 01-026 Chapter 28, Section 2 (D) to notify individuals listed on the Maine Pesticide Notification Registry at least six hours in advance of any pesticide application made within 250 feet of a registrant's listed property.
6. That the Company failed to comply with the notification requirements of CMR 01-026 Chapter 28, Section 2 (D), by notifying Beth Sehlmeier approximately only 2 hours and 10 minutes prior to making the application described in paragraph two.
7. That the actions described in paragraphs two through six constitute a violation of CMR 01-026 Chapter 28, Section 2 (D).
8. That the Board has regulatory authority over the activities described herein.

9. 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.
10. That this Agreement shall not become effective unless and until the Board accepts it.
11. That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraph seven, the Company agrees to pay a penalty to the State of Maine in the sum of \$500.00. (Please make checks payable to Treasurer, State of Maine).

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

GREENSCAPES LAWN CARE, INC.

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Robert I. Batteese, Jr., Director

APPROVED:

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