



STATE OF DELAWARE
DEPARTMENT OF AGRICULTURE
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MICHAEL T. SCUSE
SECRETARY

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Respondent:

A-1 Kevin's Landscaping Inc.
620 West South Street
Smyrna, DE 19977

Violations:

§1224(a)(10) – Neglecting or after notice, refusing to comply with the LAW, the Rules adopted under the LAW, or any lawful order of the Department.

Penalty:

Respondent signed a consent agreement in September 2023. In the agreement, Respondent agrees to the imposition of disciplinary sanctions which included a civil penalty of \$1120.00.

STIPULATED FACTS

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1. A-1 Kevin's Landscaping Inc. ("Respondent") is a commercial pesticide applicator business with an office located at 620 West South Street, Smyrna, DE 19977. Respondent holds a valid license (License No. 917) that was issued by the Delaware Department of Agriculture ("the Department").
2. Kevin Patterson ("Patterson") is the owner/operator of A-1 Kevin's Landscaping Inc. Mr. Patterson is certified by the Department as a commercial pesticide applicator (Cert. # 99-745), in Category 7.3 Ornamental and Turf.
3. Dalton Leager and David McKeown are employed by the Respondent. Both employees were not listed as service employees at the time of the inspection. Both employees are still not listed as a registered service employee in the Departments Salesforce database at the time of this documents creation on 8/2/2023.
4. The Pesticide Section of the Department ("Complainant,") is bringing this enforcement action against Respondent. Dustin Borntreger ("Borntreger") is employed as an Environmental Scientist III with the Department.
5. On July 11th, 2023, while on patrol in Kent County Borntreger observed two of the Respondents employees wearing backpack sprayers at NKS Distributors in Smyrna, Delaware, both employees

were applying weed killer to mulch beds. Borntreger stopped, identified himself and asked to see the workers service employee cards. Neither applicator was able to present their card. Borntreger checked the Departments Salesforce database and neither applicator was listed on the business license. Borntreger then asked how long each employee had worked for the Respondent. Dalton Leager stated that he was hired in 2019 or 2020 and David McKeown stated that he was hired in early April of 2023. During this inspection Borntreger also documented that the herbicide being applied Prosecutor Pro required applicators to wear long-sleeved shirt, long pants, and shoes plus socks. The applicators were wearing short sleeved shirts during inspection.

6. 601 Delaware Pesticide Rules and Regulations, Section 4.2 Employee Registration states in part:
4.2 Employee Registration

4.2.1 Licensees shall register with the Department all employees who handle pesticides. Registration shall be made when making an application for a license or within 45 days after employment. The fee for registering an employee shall be \$25.00. However, the employee registration fee shall be waived if the employee is certified under the LAW.

4.2.2 Licensees shall be responsible for ensuring that all employees handling pesticides (other than a certified applicator) have successfully completed a training program approved by the Department. This training shall be completed within 45 days of employment and before the employees are registered with the Department.

4.2.2.1 The Department will not approve any training program that does not include the following subjects:

- 4.2.2.1.1 Pesticide Law and Regulations;
- 4.2.2.1.2 Label comprehension;
- 4.2.2.1.3 Safety and emergency procedures;
- 4.2.2.1.4 Proper pesticide handling, storage and disposal;
- 4.2.2.1.5 Pest identification and control procedures;
- 4.2.2.1.6 Pesticide application techniques;
- 4.2.2.1.7 Environmental and health concerns; and
- 4.2.2.1.8 Integrated pest management principles

4.2.2.2 Upon request by the Department, each licensee shall provide written verification that an employee has completed an approved training program.

4.2.3 The name and address of employees who have been trained according to this Section shall be provided to the Department by the licensee. The Department shall issue a registration card bearing the employee's name and the licensee's name, address and license number. The employee registration shall become null and void upon termination of employment with the licensee. This card is to be carried by the employee during working hours and is to be displayed upon request.

7. In the past 5 years, Respondent has no pesticide compliance violations with the Department.

