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DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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MAINE BOARD OF PESTICIDES CONTROL INTERIM POLICY
REGARDING INTERPRETION OF “DOMINATED BY EMERGENT OR AQUATIC PLANTS”
AS USED IN CHAPTER 29 SECTION 6A(V)

Adopted June 23, 2017

BACKGROUND

At the May, 2017 Board meeting, the Board discussed whether the definition of wetlands in Chapter 29 Section 6A(V)(c), below: “dominated by emergent or aquatic plants” was intended to include small areas without standing water which contain plants such as phragmites, cattails, or other plants typically associated with a wetland habitat. Areas characterized by visible surface water (as in 6 A V b), including small natural depressions and swales and the equipment ruts and roadside ditches associated with normal forestry operations were also discussed.

Section 6. Buffer Requirement

- A. No person shall make an outdoor terrestrial broadcast application of pesticides, except for applications made to control arthropod vectors of human disease or stinging insects, within twenty-five (25) feet from the mean high water mark of:
 - V. Wetlands, except man-made wetlands that are designed and managed for agricultural purposes, which are:
 - a. connected to great ponds at any time of the year; or
 - b. characterized by visible surface water; or
 - c. dominated by emergent or aquatic plants.

A review of the historical discussion of this topic indicates that the BPC did not intend for the rule to apply to every small area in which standing water accumulates, even if those conditions persist long enough for a plant community typical of wetlands to develop. The Board agrees that buffering these areas does not provide significant additional protection of the environment or water resources beyond existing rules and pesticide label directions.

POLICY

For the purposes of CMR 01-026 Chapter 26 Section 6A(V)(c), small areas which do not contain standing water do not require buffering even if they contain plant communities normally associated with wetlands. Manmade depressions, such as skidder ruts and road ditches, do not require buffering even if they contain standing water.

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