



Recommended Performance Standards for Maine's Significant Vernal Pools in Overhead Utility ROW Projects

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Applicability: This document applies to linear right-of-way projects that host Significant Vernal Pools (SVPs) as defined in Chapter 335 of Maine's Natural Resources Protection Act. The definition of SVP habitat for the purposes of the standards below includes the pool depression and the 250 ft radius around the high water boundary of the pool that lies within the ownership or control of the ROW developer.

Data Submission: All vernal pool data assessments (significant and non-significant) by the permittee must be provided to MDIFW before or during the permit application process. Delays in submission of vernal pool data may affect the speed and efficiency of project review and permitting.

General Project Alignment: Where practicable, right-of-way alignment should be designed to avoid impacts to SVP habitat. Where full avoidance is not an option, alignments should minimize impacts to SVP habitat by siting development as close as practicable to the outside edge of the SVP habitat, and by designing alignments that do not require vegetation management within the pool and depression components of a SVP habitat. Where avoidance is not practicable, and project impacts to SVPs are realized, close adherence to the minimization standards outlined in this document should be considered a mitigating factor by MDEP when calculating partial habitat compensation requirements.

SVP Habitat Performance Standards:

A. Defining Management Boundaries:

The SVP habitat boundaries and all setbacks defined in subsections of this document must be clearly marked in the field prior to the start of construction or subsequent maintenance work.

B. Arboricultural Management Practices:

(1) Capable vegetation may be removed and controlled within the transmission line corridor portions of the development. Capable vegetation is defined as species that are capable of growing to a height that would reach the conductor safety zone. Most tree species in Maine are defined as capable vegetation.

(2) When terrain conditions permit (e.g., ravines and narrow valleys) capable vegetation must be permitted to grow within SVP habitats where maximum growing height can be expected to remain below the conductor safety zone. Narrow valleys are those that are spanned by a single section of transmission line, pole-to-pole.

(3) If a powerline right-of-way crosses a SVP depression, utility poles should be spaced to minimize line sagging and maximize potential growing height of otherwise capable vegetation in the SVP depression and habitat zone.

(4) When capable vegetation within SVP habitat must be removed for the purpose of construction, natural re-generation of non-capable woody vegetation must be allowed within the SVP habitat. To facilitate the regeneration of natural vegetation, the contractor must separate the topsoil from the mineral soil when excavating during project construction. The excavated topsoil should be returned to its original place and position in the landscape and appropriate erosion control methods utilized.

(5) Within a SVP habitat impacts to scrub-shrub and herbaceous vegetation, and other non-capable species must be minimized to the maximum extent practicable.

C. *Herbicide Application:*

(1) Herbicide usage must comply with all label requirements and standards established by the Maine Board of Pesticides Control (MBPC), as periodically amended. Herbicide restrictions and approvals are governed by MBPC. Some key standards include the following:

- (a) Use of only trained applicators working under licensed supervisors.
- (b) Awareness of the impacts of climatic conditions prior to application.
- (c) Application prohibited when wind speed exceeds 15 MPH as measured on-site at the time of application and administered in such a manner that drift is minimized.

(2) Products with low potential for mobility and low persistence in the environment must be selected for use in SVP habitats. When operating within SVP habitats the following is required:

(a) Only the following herbicides may be used unless otherwise approved in consultation with MDIFW prior to application:

- (i) 2,4-D salt formulation, NOT the ester formulation,
- (ii) Glyphosate,
- (iii) Imazapyr,
- (iv) Fosamine Ammonium,
- (v) Aminopyralid Triisopropanolammonium, and
- (vi) Metsulfuron methyl

(b) Only the following surfactants may be used unless otherwise approved in consultation with MDIFW prior to application:

- (i) Agri-Dex,
- (ii) Competitor,

- (iii) Dyne-Amic,
- (iv) Clean Cut,
- (v) Cide-Kick,
- (vi) Nu-Film IR,
- (vii) Induce,
- (viii) Chemsurf90, and
- (viii) 41-A

- (3) Herbicides must be applied in accordance with USEPA label requirements to minimize washoff.
- (4) There may be no aerial or motorized application of herbicides.
- (5) Pre-application planning meetings between the ROW owner or agent and pesticide applicator must be conducted.
- (6) The ROW owner or agent must closely supervise and inspect all SVP habitats during application.
- (7) Low-pressure, manual backpack sprayers, with appropriate nozzles to minimize drift, must be used.
- (8) Herbicide application must be specific to individual targeted species.
- (9) No herbicide may be stored, mixed or loaded within any SVP habitat.
- (10) Herbicides should not be applied within 100 feet of SVP depressions whether there is standing water present or not during time of application.

D. Spill Management:

- (1) Any spill or release of petroleum products or other hazardous material within a utility transmission line corridor must be managed in accordance with the Spill Contingency Plan as approved by the Maine Department of Environmental Protection.
- (2) No fuel storage, vehicle/equipment parking and maintenance, and refueling activity may occur within a SVP habitat.

E. Equipment Use & Vegetation Clearing:

- (1) Heavy machinery should be avoided within the SVP depression; removal of capable species must be accomplished using hand cutting or "reach-in" techniques to cut and remove trees.

(2) The use of heavy machinery for clearing and maintenance of vegetation within the SVP habitat should be avoided between March 15 and June 15. Maintenance clearing during this period within the SVP habitat should utilize hand tools (e.g. brush hooks, chainsaws and selective herbicide applications), unless otherwise approved in consultation with MDIFW. No vegetation maintenance operations may occur within 25 feet of a vernal pool depression during this time period.

(3) To minimize rutting and ground disturbance, vegetation clearing, construction and non-emergency infrastructure maintenance within a SVP habitat by heavy machinery should be undertaken during frozen or dry ground conditions. Where possible, machinery should be deployed only on pre-existing or pre-designated trails within the SVP habitat.

(4) Matting used for any construction or maintenance purposes:

(a) shall not be made from wood from ash trees (*Fraxinus spp*);

(b) shall be free of bark;

(c) shall be cleaned of soil and vegetative material by pressure washing if imported from out of State;

(d) shall not have been used in, or made from lumber from, Federally Quarantined areas as set out in 7 CFR 301 unless accompanied by the appropriate USDA certificate of treatment required for interstate transport. Said certificates will be maintained in a central filing location available for review by appropriate Agency personnel for a period of three years after project completion, as determined by utility owner; and,

(e) must have shipping information sufficient to identify the shipper and number and shipping origin of the mats.

(f) shall be subject to potential inspection for compliance with these standards by the Maine Forest Service and U. S. Department of Agriculture.

F. *Slash Management:*

(1) No accumulation of slash shall be left within 25 feet of the edge of a SVP depression. In all other areas slash must either be distributed in such a manner that it lies on the ground and no part thereof extends more than 18 inches above the ground.

(2) Large volumes of debris (more than 5 limbs or branches) that fall into the SVP depression must be removed; such removal must occur outside of the primary egg hatching period from March 15-July 15th.

G. *Inspector Oversight:*

The permittee must have a third-party inspector provide oversight to the clearing of SVP habitats during construction.