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MAINE BOARD OF PESTICIDES CONTROL INTERIM INTERPRETATIVE POLICY ON THE APPLICABILITY OF CMR 01-026 CHAPTER 26

ADOPTED AUGUST 27, 2009

BACKGROUND

The Board first adopted Chapter 26 of its rules in 2006 and later amended it in 2008. At the time of adoption, the Board intended to regulate the use of pesticides inside occupied buildings because the air-tight environment poses unique exposure risks to building occupants. However, when the Board crafted the definition of an “occupied building”, it used the term “structures”, which is a more general term than “building”. Consequently, Chapter 26, as currently written, could be interpreted to regulate the roofed areas of retail stores that are otherwise open to the outdoors. Such areas have ample ventilation and do not pose the same exposure risks as an air-tight building space.

POLICY

The Board determined that one of its main purposes in promulgating Chapter 26 was to regulate the use of pesticides inside enclosed buildings in which reduced airflow affects dissipation of airborne pesticides. Consequently, the Board adopted an interim interpretation of the term “occupied buildings” to exclude roofed areas that are open to the outdoors on at least one side allowing for rapid dissipation of airborne pesticides in a manner comparable to outdoor applications.