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MEMORANDUM

DATE: July 10, 2009
TO: Board Members
FROM: Staff
SUBJECT: Defining “spot treatment” next to surface waters in chapter 29

Board staff is asking for guidance on drafting a policy that clarifies the use of “spot treatments” of pesticides within the 25-foot buffer required near water.

Chapter 29 of the Board’s regulations set standards to protect water quality. The summary found at the beginning of that chapter is copied below.

SUMMARY: These regulations establish standards for protecting surface water. This chapter establishes a fifty-foot setback from surface water for mixing and loading of pesticides, sets forth requirements for securing containers on sprayers and cleaning up spills occurring within the setback zone, establishes restrictions on pesticide applications to control browntail moths near marine waters and requires an untreated 25-foot buffer zone for outdoor terrestrial broadcast pesticide applications near waters of the State.

Section 6(A) further states:

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...

The above underlined language implies that although a “broadcast application” is prohibited in the 25-foot buffer areas near water, something other than a broadcast application is allowed. The staff interprets this other type of allowable application to be a “spot treatment.”

Our regulations do not define spot treatment. This causes problems for both applicators and staff because this regulation, as it exists, is not clear.

Staff made an online search of “spot treatment” to see how this term is defined elsewhere. Examples of these findings are summarized below.

EPA—within structures

- A “spot” will not exceed 2 square feet
- Limited to 20% of the lower wall and floor surfaces
- The 2-square-foot “spots” cannot be contiguous

New York State Department of Environmental Conservation

The Neighbor Notification Law defines a spot application to mean the application of pesticides in a manually pressurized or non-pressurized container of thirty-two ounces or less to an area of ground less than nine square feet.

Massachusetts EQIP 2006 Pest Management Guide

No more than 20% of a field can be treated to classify as a “spot” treatment.

USDA Pesticide Record keeping Inspection Form

When a restricted-use pesticide is applied on the same day to less than 1/10 acre.