



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III
COMMISSIONER

HENRY JENNINGS
DIRECTOR

MEMORANDUM

DATE: March 21, 2008
TO: Board Members
FROM: Staff
SUBJECT: Recommendations for Site Planning and Identification of Sensitive Areas for Aerial Spraying

At the February 29, 2008, meeting, the Board continued its review of aerial spraying issues and discussed staff ideas to improve notification procedures and prevent spraying of the wrong site. Following that discussion, the Board directed the staff to develop ideas to improve site planning and identification of sensitive areas for aerial spraying. The staff met to discuss the issues, review concepts put forward previously and develop recommendations.

Overview of the Current Requirements

Chapter 22 of the Board's regulations requires that applicators, including aerial applicators, monitor the boundaries of the area to be treated and the surrounding properties. Such monitoring must include any sensitive areas in the vicinity. Chapter 22 goes on to require that applicators "identify and record sensitive areas located within 500 feet of the target area." The purpose of these requirements was to establish a minimum standard of care on the part of pesticide applicators to ensure they were knowledgeable about the target site and the surroundings.

For many historical agricultural drift incidents, the BPC compliance staff has observed that the pilot's familiarity with the target site, the boundaries and the surrounding area is often inadequate. In general, aerial applicators do not identify sensitive areas or keep records of them: they rely on the land manager to fulfill this requirement (this is technically a violation). However, the compliance staff questions to what extent the site information is consistently conveyed to the aerial applicator. Moreover, the requirement to identify and record sensitive areas appears to be inadequate, given that Chapter 22 does not require the location or type of sensitive area to be recorded. Finally, even if sensitive areas are properly documented and provided to the applicator, it's questionable how this information will assist the applicator if handed a stack of 25 site maps just before taking off. Ensuring that aerial applicators have adequate advance knowledge about target fields and adjacent sensitive areas has been identified as a priority area by the staff.

Recommended Changes to Improve Site Planning and Identification of Sensitive Areas

- Amend Chapter 22 to create a separate section covering requirements for aerial spraying.
- In the new section, require the person contracting for an aerial application of pesticides to provide a scaled, detailed map depicting the boundaries of the target area, the property boundaries, roads and the type and location of all "sensitive areas likely to be occupied"

(SALO) within 1000 feet. Other sensitive areas within 500 feet should also be identified. This requirement should be coordinated with parallel requirements intended to ensure that applicators spray the correct site. The map must be provided to the pilot far enough in advance to allow the pilot to review it and develop a spray strategy [Board/stakeholder input needed here]. Applicators should retain copies of the maps consistent with other record-keeping requirements to demonstrate this requirement has been fulfilled. Finally, it may be necessary to create exemptions to the site map requirements for public health spraying and other wide-area spray projects where spraying occurs over populated areas.

- (Optional) Require aerial applicators that plan to spray within 1000 feet of SALOs to develop and submit written drift management plans to the Board detailing how they plan to protect SALOs adjacent to the target fields. The Board and staff could develop a list of criteria that must be addressed. Plans would remain in effect until updated by the applicator. Language currently in Chapter 22 allowing the Board to review the adequacy of a drift management plan in the event of a complaint should be retained for this section.