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POLICY CONCERNING DENYING ACCESS TO THE PUBLIC FOR SEVEN DAYS TO AREAS “OPEN TO USE BY THE PUBLIC”

ADOPTED July 10, 2015

Background

At the December, 2014, and the April and June, 2015 meetings, the Board had discussions regarding pesticide applications to private lands which are held open for public use. State statutes define pesticide applications made to property open to use by the public as “custom applications” which may only be conducted by a licensed commercial applicator.

Section 2 (P) (2) of Chapter 10 defines “property open to use by the public.” Property is deemed to be open to use by the public where its owner, lessee or other lawful occupant operates, maintains or holds the property open or allows access for routine use by members of the public. The rule also defines when those areas are NOT considered open to the public.

One of those exemptions includes areas, “where the public has not been permitted upon the property at any time within seven days of when the property received a pesticide application.”

The Board discussed what the term “property” means in the context of this exemption and whether or not to interpret it in a way that allows land trusts and other land owners to control invasive plants or other vegetation and then close off only the area that was treated instead of the entire property.

Board Policy

The Board determined that because pesticide applications to recreational areas, trails and parks pose minimal risks, the exemption from consideration as a “property open to use by the public” is appropriate when the public is excluded from treated areas for seven days. Therefore pesticide applications under those circumstances will not require supervision by a licensed commercial applicator.