2. MA Department of Agricultural Resources: Pesticide Board

Exclusions from Pesticide Application

333 CMR

13.03: Exclusions from Pesticide Application

(1) General.

(a) Wide Area Applications of pesticides and mosquito control applications of pesticides approved by the State Reclamation and Mosquito Control Board shall not be made to private property which has been designated for exclusion from such application by a person living on or legally in control of said property.

(b) Designation for exclusion from Wide Area Applications of pesticides and mosquito control applications of pesticides approved by the State Reclamation and Mosquito Control Board may be made by supplying the clerk of the municipality in which such lands lie with a certified letter providing the name, address, and telephone number (if any) of the person requesting the exclusion, the address of the property to be excluded, and a description of the types of pesticide application programs for which exclusion is requested.

(c) Designation for exclusion may be made prior to March 1st of each year and shall be effective from April 1st of that year through March 31st of the following year.

(d) A designation for exclusion made by a tenant shall not be deemed to limit the right of the landlord to apply, or authorize the application of, pesticides to that land if by the express or implied terms of the written or oral rental agreement the owner retains the right to apply or authorize the application of such pesticides.

(e) 333 CMR 13.03 shall not be deemed to limit the right of an easement holder to apply pesticides to land which is subject to the easement if the easement expressly or implicitly included the right to apply pesticides.

(f) A designation for exclusion made by a joint owner, tenant in common, or owner of a condominium unit shall not be deemed to limit the right of any other joint owner, tenant in common, condominium unit owner or condominium association to apply or authorize the application of pesticides to land if by the express or implied terms of the deed, condominium agreement or other agreement governing such land such other joint owner, tenant in common, condominium unit owner or condominium association retain the right to apply or authorize the application of such pesticides.

(2) Marking Areas for Exclusion.

All areas designated for exclusion from Wide Area Applications of pesticides and mosquito control applications of pesticides approved by the State Reclamation and Mosquito Control Board shall be marked as follows:

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(b) Ground Applications. The person requesting exclusion shall mark the boundaries or areas to be excluded at least every 50 feet with orange surveyor's tape or another Department -approved marking device which clearly defines the area of exclusion. These markings shall be made known to the Contracting Entity, who shall be responsible for communicating the details of their marking to those who will carry out the application.

(3) Requests for exclusion shall not be honored in those cases in which:

(a) The Commissioner of Public Health has certified that the application is to be made to protect the Public Health

Definition of Wide Area Applications: All aerial applications made for the control of Public Nuisance Pests, and all ground applications made for the control of Public Nuisance Pests which cross property lines or are made to areas that exceed one acre.