



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
BOARD OF PESTICIDES CONTROL  
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**Memorandum**

To: Board of Pesticides Control  
From: Alexander Peacock, Director  
Subject: Policy on Determining Allowable Pesticide Applications Pursuant to CMR 01-026, Chapter 29, Section 6

April 25, 2025

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**Background:**

On November 18, 2011, the Board approved an interim policy allowing staff to approve Chapter 29 requests for variances to control vegetation that poses a dermal toxicity hazard.

On December 13, 2013 the Board revised this policy to give staff the authority to approve requests for variance from CMR 01-026 Chapter 29, Section 6, for the control of invasive plants.

Many of these variance requests are for controlling Japanese Knotweed (*Fallopia japonica*, *syn. Polygonum cuspidatum*, *Reynoutria japonica*).

On March 5, 2010, The Board adopted a policy on Determining Allowable Pesticide Applications Pursuant to CMR 01-026, Chapter 29, Section 6.

Pesticide applications must be:

1. Directed away from surface water;
2. Directed at specific pest organisms or infestations in a manner that minimizes deposition to non-target species and areas;
3. Conducted using non-powered application equipment capable of targeting pest organisms while avoiding non-target species;
4. During any calendar year, is confined to no more than 20% of the area located within 25 feet of surface water; and

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5. During any calendar year, does not cover any one contiguous area greater than 100 square feet.

Number 5 establishes the definition of broadcast applications as greater than 100 square feet. Any 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 require a variance permit pursuant to CMR 01-026, Chapter 29, Section 6.

It has recently come to the attention of staff through several inquiries that applicators may believe that cut stump/stem treatments of Japanese knotweed do not require a variance permit when the treatment area exceeds 100 square feet.

Although cut stump/stem treatments eliminate the possibility of pesticide drift into the adjacent waterway there is concern for runoff. Round Up Custom for Aquatic & Terrestrial Use, EPA Reg No. 524-343, is the common herbicide used to control Japanese knotweed adjacent to water bodies. This product label allows for 2% solution when making a spray application to foliage of knotweed. When applying to cut stumps/stems of knotweed the label allows for a 50% solution and direct stem injection allows for full concentrate to be used.

**Draft Policy:**

To create clarity for the need to obtain a variance permit pursuant to CMR 01-026, Chapter 29, Section 6 when making cut stump/stem treatments of Japanese knotweed, staff proposes an amendment to the Policy on Determining Allowable Pesticide Applications Pursuant to CMR 01-026, Chapter 29, Section 6.

Proposed addition:

6. During any calendar year, cut stump and/or direct injection treatments for control of Japanese Knotweed (*Fallopia japonica*, syn. *Polygonum cuspidatum*, *Reynoutria japonica*) does not cover any one contiguous area greater than 100 square feet.

**Conclusion:**

Staff believe this amendment will clarify the need for a variance permit when making these types of pesticide applications within the designated 25-foot buffer zone for water bodies and waterways and ensure that properly trained and certified applicators are performing these applications to prevent adverse impacts on Maine's waters. Attached is a copy of the revised policy, an example of pesticide label language, and a photo of cut stem treatment.