

**From:** [Pluecker, Bill](#)  
**To:** [Patterson, Megan L](#)  
**Cc:** [McBrady, Nancy](#); [Horton, Emily K](#)  
**Subject:** BPC Agenda item  
**Date:** Wednesday, October 30, 2019 12:28:52 PM

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Megan -

I am writing to request the Board of Pesticide Control to convene a stakeholders meeting in order to discuss potential improvements to outcomes of pesticide notification registry and regulations. I had a meeting with representatives of DACF this summer to discuss the current processes around the registry, how they are functioning, and ways to review the rules and regulations around it. As this falls under the purview of the BPC, it would seem a natural vehicle for calling together stakeholders affected by the registry to discuss potential areas of improvement.

Thanks for your help in this matter -  
Bill Pluecker

. . . . .  
Representative Bill Pluecker  
1133 Finntown Rd.  
Warren, ME 04864  
273-3044

Please be aware that all communication with this email address is potentially subject to a FOAA request.

## Notification for Outdoor Pesticide Applications

Chapter 28, *Notification Provisions for Outdoor Pesticide Applications*. These regulations establish procedures and standards for informing interested members of the public about outdoor pesticide applications in their vicinity. Everyone has the right to use pesticides, but with that right comes the responsibility to follow the pesticide application laws, including reading and following label directions, and notifying nearby neighbors who request it. Maine law assures the right to know about neighboring pesticide applications. For outdoor applications, there are two methods available to a neighbor:

1. request for notification, which applies to all types of outdoor pesticide applications, including agricultural: and
2. the notification registry, which applies only to non-agricultural applications.

### Request for notification

Anyone who lives or works within 500 feet of any outdoor site treated with pesticides from the ground or within 1000 feet of any outdoor site aerially treated with pesticides, including agricultural land, is entitled to be notified of impending applications. This law exists to enable neighbors to obtain basic information from the applicator such as when and what pesticides are applied before an application occurs.

Neighbors must ask for notification. That request may be made in any fashion so long as the applicator is given a name, address, phone number and the interest in being notified. The request should be made to the person responsible for management of the land on which a pesticide application takes place. Once the applicator, land manager or land owner receives a request for notification, notification must be given before applications. The timing of this notification must be agreed to by both parties.

### Notification Registry

The *Notification Registry* is a list of Maine residents who wish to be contacted by commercial applicators and their neighbors prior to the non-agricultural use of pesticides by either a commercial applicator or a neighbor. The registry best serves urban and suburban residents who want a more formal means of knowing in advance when pesticides are applied on neighboring lawns, in landscapes or around structures.

For an annual fee of \$20, residents' names, addresses and contact details and the addresses for all neighbors within 250 feet are distributed to licensed commercial

applicators. Once on the list, residents can expect applicators to provide pretreatment notification via telephone, personal contact or mail. This communication must occur between six hours and fourteen days ahead of pesticide use within 250 feet of a registrant's property. Neighbors who treat their own property are required to notify registrants as well. Pesticides used in agriculture or on rights-of-way are exempt from registry notification. The registry is updated annually. To be listed, contact the BPC.

## **Other forms of required notification**

### **Posting signs**

Chapter 28 requires posting for applications to:

- turf,
- ornamentals,
- outdoor areas around structures,
- outdoor areas for control of biting flies, mosquitoes and ticks
- some vegetation management under Category 6B

Notification signs should be located to inform people at points of ingress and egress, in common areas, and places obvious to abutters. The posting must be made before spraying starts, and must remain at least two days after spraying ends. The notification signs must alert people to the fact that pesticide spraying has occurred or is about to occur. The sign must be sturdy, weather resistant, and able to last at least forty-eight hours in outdoor conditions. It must be at least five inches wide and four inches high, light-colored with dark, bold letters. The word **CAUTION** must be written in seventy-two-point type and the words **PESTICIDE APPLICATION** must be written in thirty-point type or larger. The sign must bear the BPC's designated symbol ("keep children/pets-off-the-grass" logo) as well as the name and phone number of the company making the pesticide application. The bottom of the sign, when in place, must be at least one foot above the surface of the turf. The sign must also include the date and time of pesticide application, the phone number of the applicator, date and time to remove the sign (forty-eight hours after application), and any reentry precautions as listed on the label. If no reentry precautions are on the label the sign must say, "Keep Off Until Dry" or "Keep Off Until Watered In" or some other appropriate warning.

Applications for vegetation management to sidewalks and trails (Category 6B) require notice per Board policy. This policy is intended to be easily amended and therefore should be consulted regularly. Accepted notice may include signs where practical, notices on kiosks, web alerts or other forms of communication the Board

finds effective.

### **Notice of aerial pesticide applications**

*Chapter 51, Notice of Aerial Pesticide Applications* includes special notification requirements when making aerial applications to control forest, ornamental, right-of-way, biting fly and public health pests.

For applications to forest or right-of-way sites, the applicator or landowner must provide notice through newspaper articles/advertisements and provide details about the planned spray activity to the BPC and the Maine Poison Center. In some situations, notice to landowners within five-hundred feet of the target site must be given. Application areas must be posted before treatment begins, with signs remaining in place forty-eight hours after treatment ceases.

For applications to control ornamental, biting fly or public health pests the applicator or landowner must provide notice through newspaper articles/advertisements, notify all landowners within 500 feet of the target site and provide details about the planned application activity to the BPC and Maine Poison Center. The notice requirements are waived under certain public health emergency situations.

### **Notification for Indoor Pesticide Applications**

*Chapter 26, Standards for Indoor Pesticide Applications and Notification.* Chapter 26 applies to indoor application of pesticides to licensed childcare facilities and nursery schools; governmental, commercial, and institutional buildings; condominiums; and rented residential buildings. Below is a general overview of the requirements.

- Application of pesticides with a higher potential for human exposure is discouraged.
- Applicators treating inside buildings must employ appropriate elements of Integrated Pest Management (IPM) to control pests and utilize measures that minimize exposure and risks to occupants.
- Application may not be made to a residence if the tenant objects, unless a public health or code enforcement official has determined a need for immediate pest management.
- Board-approved written notice (see below) is required prior to liquid or aerosol pesticide applications (except for crack and crevice applications). This notice must be posted at agencies, businesses, and institutions.

- Residents of rented residential buildings and parents or guardians of children in licensed child care facilities and nursery schools must be given the written notice (see below) individually.

<b>Notice of Pesticide Application</b>	
<b>Pesticides May Be Applied in this Building as Part of an Integrated Pest Management Program on (date) _____</b>	
To request information about the use of pesticides in this building contact:	
Company: _____	
Phone/E-mail: _____	
<i>This sign must remain posted for at least 48 hours after the application is completed.</i>	
Date Posted or Provided: _____ Person Providing Notice: _____ Date/Time Completed: _____ Remove sign on: _____	For general information on pesticides and regulations contact: Maine Board of Pesticides Control 287-2731, or visit <a href="http://www.thinkfirstspraylast.org">www.thinkfirstspraylast.org</a>
	

## Notification for Applications at Schools and on School Grounds

*Chapter 27, Standards for Pesticide Application and Public Notification in Schools.* Chapter 27 applies to indoor applications to school buildings and outdoor applications on school grounds. It establishes requirements for School IPM Coordinators whose responsibilities consist of, in part, authorization of pesticide applications and ensuring compliance with notification regulations. Below is a general overview of the requirements:

- The school's policy manual or handbook must include:
  - notice of the school's IPM policy and its availability for review,
  - notice that pesticides may periodically be applied in school buildings and on school grounds and that application notification will occur according to requirements in CMR 01-026 Chapter 27,
  - contact information for the school's IPM Coordinator,
  - notice of the availability for review of the school's Pest Management Activity Log, which includes pesticide application information.

- When school is in session and pesticide applications of non-exempted pesticide products are performed inside a school building or on school grounds, the school must:
  - Provide notice, at least five days prior to the planned application, to all school staff, parents/guardians and students and the notice must consist of:
    - (a) the trade name and EPA Registration number of the pesticide to be applied
    - (b) the approximate date and time of the application
    - (c) the location of the application
    - (d) the reasons for the application
    - (e) the name and phone number of the person to whom further inquiry regarding the application may be made
  - Post the application at each point of access to the treated area and in a common area of the school at least two working days prior to the application and for at least 48 hours following the application.
- When school is not in session and pesticide applications of non-exempted pesticide products are performed inside a school building or on school grounds, the school must:
  - Post the application at each point of access to the treated area and in a common area of the school at least two working days prior to the application and for at least 48 hours following the application.

### **Outdoor Posting**

Outdoor notification signs should be located at each point of access to the treated area and in a common area of the school. The posting must be made at least two days before spraying starts, and must remain at least two days after spraying ends. The notification signs must alert people to the fact that pesticide spraying has occurred or is about to occur. The sign must be sturdy, weather resistant, and able to last at least ninety-six hours in outdoor conditions. It must be at least five inches wide and four inches high, light-colored with dark, bold letters. The word **CAUTION** must be written in seventy-two-point type and the words **PESTICIDE APPLICATION** must be written in thirty-point type or larger. The sign must bear the BPC's designated symbol ("keep children/pets-off-the-grass" logo) as well as the name and phone number to whom further inquiry regarding the application be made. The bottom of the sign, when in place, must be at least one foot above the

surface of the turf. The sign must also include the date and time of pesticide application, the phone number of the company/applicator, date and time to remove the sign (forty-eight hours after application), and any reentry precautions as listed on the label. If no re-entry precautions are on the label the sign must say, “Keep Off Until Dry” or “Keep Off Until Watered In” or some other appropriate warning.

### **Indoor Posting**

Indoor notification signs should be located at each point of access to the treated area and in a common area of the school. The posting must be made at least two days before spraying starts and must remain at least two days after spraying ends. The notification signs must alert people to the fact that pesticide spraying has occurred or is about to occur. It must be at least 8.5 inches wide and eleven inches high, light-colored with dark, bold letters. The word **CAUTION** must be written in seventy-two-point type and the words **PESTICIDE APPLICATION** must be written in thirty-point type or larger. The sign must bear the name and phone number to whom further inquiry regarding the application be made. The sign must also include the date and time of pesticide application, the phone number of the company/applicator, any reentry precautions as listed on the label, the trade name and EPA Registration number(s) of the pesticide(s) to be applied, the location of the application, the reason(s) for the application. If no re-entry precautions are on the label the sign must say, “Keep Off Until Dry” or some other appropriate warning.

**01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY****026 BOARD OF PESTICIDES CONTROL****Chapter 26: STANDARDS FOR INDOOR PESTICIDE APPLICATIONS AND NOTIFICATION FOR ALL OCCUPIED BUILDINGS EXCEPT K - 12 SCHOOLS**

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**SUMMARY:** These regulations establish procedures and standards for applicators applying pesticides inside occupied private and public buildings other than K - 12 schools that are covered by Chapter 27. This chapter also sets forth the requirements for notification about pending pesticide applications to residents of rented space, employees of agencies, businesses and institutions, and parents or guardians of children in licensed child care facilities and nursery schools.

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**Section 1. Definitions**

- A. **Applicator.** For the purposes of this regulation, Applicator means a commercial applicator or other persons who apply pesticides to occupied buildings.
- B. **Client.** For the purposes of this regulation, Client is the person who either owns or manages the Occupied Building and who contracts with a commercial applicator to monitor and/or control pests.
- C. **Crack and Crevice Treatment.** For the purposes of this regulation, Crack and Crevice Treatment means using an injector tip and placing the tip inside an opening to apply small amounts of pesticides into cracks and crevices in which pests hide or through which they may enter a building. Such openings commonly occur at expansion joints, between elements of construction, and between equipment and floors. These openings may lead to voids such as hollow walls, equipment legs and bases, conduits, motor housings, and junction or switch boxes. This does not include spraying a band covering the baseboards or mopboards or spraying above the baseboards or mopboards.
- D. **Integrated Pest Management.** For the purposes of this regulation, Integrated Pest Management (IPM) is a process that utilizes regular monitoring to determine if and when a treatment is needed. It employs physical, mechanical, cultural, chemical, biological and educational programs to keep pest populations low enough to prevent intolerable damage or annoyance. Pesticides should be only one of many options considered for solving a pest problem, and when required, target-specific, low impact pesticides and application techniques should be employed. Furthermore, pesticide applications are not made according to a pre-determined schedule but are only made when and where monitoring, or a previous history of pest incidence has indicated that the pest will cause unacceptable economic, medical or aesthetic damage. The IPM program must as a result be environmentally, socially, and economically compatible to meet current public expectations.
- E. **Occupied Building.** For the purposes of this regulation, Occupied Building means any public, private, commercial or institutional structure used or occupied by persons on a regular, long-term basis as a residence or for occupations. These include but are not



limited to rented residential buildings, condominiums, licensed childcare facilities and nursery schools, and governmental, commercial and institutional buildings.

## **Section 2. Exemptions**

- A. The following pesticide uses are exempt from the requirements of this Chapter:
1. application of ready-to-use general use pesticides by hand or with non-powered equipment to control or repel stinging or biting insects when there is an urgent need to mitigate or eliminate a pest that threatens the health or safety of any person;
  2. application of general use antimicrobial products by hand or with non-powered equipment to interior or exterior surfaces and furnishings during the course of routine cleaning procedures;
  3. application of paints, stains or wood preservatives that are classified as general use pesticides;
  4. application of pesticides by a resident to his or her own residential unit;
  5. commercial application of pesticides where the resident has contracted for application to his or her own personal residential unit; and
  6. indoor applications of pesticides injected into closed systems for control of nuisance microbial organisms.
- B. The use of baits, gels, pastes, dusts and granular materials placed in areas not readily accessible to residents, employees or children is exempt from the requirements of Sections 3(A), 3(B) and 3(C) of this Chapter.
- C. The use of crack and crevice treatments placed in areas not readily accessible to residents, employees or children and done in a manner that minimizes exposure to vapors and/or aerosolized materials is exempt from the requirements in Sections 3(A), 3(B) and 3(C) of this Chapter.

## **Section 3. Notification**

### **A. Notice to Residents**

1. At least 24 hours and no more than seven days in advance of a pesticide application not exempted by Section 2, the applicator must provide or cause to be provided a Board approved written notice (see Appendix A) to the resident or residents of an apartment unit, condominium unit or other rented residential unit to be treated, where the residents of that unit did not request the impending pesticide application. The notice may be mailed or provided directly to the residents and shall explain that pesticides may be used in their residential unit and that they have the right to ask for and receive more specific information described

in Section 3(D) of this regulation. If the resident asks for further information specified in Section 3(D), the applicator must provide it.

2. If an application not exempted by Section 2 will be made to common areas of these rental residential buildings, the applicator must post or cause to be posted a Board approved written notice (see Appendix A) at least 24 hours in advance and no more than seven days in advance of the planned application informing the residents of that building that pesticides will be used in the common areas and that they have the right to ask for and receive more specific information as described in Section 3(D). The Board approved written notice must remain posted for at least 48 hours following the application.
3. The applicator may fulfill the requirements of subsections 3(A)(1) and 3(A)(2) by providing the Board approved notice and instructing the landlord or building manager to distribute the notice to the residents as described in subsection 3(A)(1) or to post the notice as described in subsection 3(A)(2) as appropriate. The applicator must confirm with the landlord or building manager that the requirements of subsections 3(A)(1) and 3(A)(2) have been met before making any application not exempt under Section 2 of this Chapter. The person who carries out the notification and confirms that the requirements have been fulfilled is responsible for that notification.

**B. Notice to Employees of Agencies, Businesses and Institutions**

At least 24 hours and no more than seven days in advance of a pesticide application in a building housing an agency, business or institution that is not exempted under Section 2, the applicator must post or cause to be posted a Board approved written notice (see Appendix A) in a conspicuous place or places where notices to employees are customarily posted. The notice must inform employees of the planned application and about their right to ask for and receive more specific information, as described in Section 3(D). The Board approved written notice must remain posted for at least 48 hours following the application. If an employee asks for further information specified in Section 3(D), the applicator must provide it. The applicator may fulfill the requirements of subsection 3(B) by providing the Board approved notice and instructing the building manager, the person requesting the application or another responsible individual to post the notice as described in this subsection. The applicator must confirm with the building manager, the person requesting the application or another responsible individual that the requirements of this section have been met before making any application not exempt under Section 2 of this Chapter. The person who carries out the notification and confirms that the requirements have been fulfilled is responsible for that notification.

**C. Notice to Parents and Guardians of Children in Licensed Childcare Facilities or Nursery Schools**

At least 24 hours and no more than seven days in advance of a pesticide application in a licensed child care facility or nursery school that is not exempted by Section 2, the applicator must provide or cause to be provided a Board approved written notice of the planned application (see Appendix A) to parents or guardians of currently enrolled children. The notice must inform parents or guardians that pesticides will be used in the building and that they have the right to ask for and receive more specific information, as

described in Section 3D. If a parent or guardian asks for information specified in Section 3(D), the applicator must provide it. The applicator may fulfill the requirements of subsection 3(C) by providing the Board approved notice and instructing the manager of the daycare or nursery or another responsible individual to distribute the notice to parents or guardians as described in this subsection. The applicator must confirm with the manager or responsible individual of the daycare or nursery that the requirements of this subsection have been met before making any application not exempt under Section 2 of this Chapter. The person who carries out the notification and confirms that the requirements have been fulfilled is responsible for that notification.

- D. If residents, employees, parents or guardians ask for information about a pesticide application, the applicator shall provide the information requested, including as applicable: (a) the trade name and EPA Registration number of the pesticide(s) intended to be applied; (b) the approximate date and time of the application; (c) the location of the application; (d) the re-entry interval listed on the product label; and (e) the name and phone number of the person to whom further inquiry regarding the application may be made. If requested, the applicator shall also provide a copy of the pesticide product label and Material Safety Data Sheet, and shall make reasonable efforts to fulfill any other requests for pesticide information. However, such requests for additional information will not delay nor prohibit the applicator from performing the pesticide application as scheduled.

#### **Section 4. Integrated Pest Management Techniques**

- A. Applicators must undertake pest management activities using appropriate elements of integrated pest management. In all cases, any application shall be conducted in a manner to minimize exposure and human risk to the maximum extent practicable using currently available technology.
- B. Applicators must identify conditions conducive to the development of pest problems. Commercial applicators must provide to the client a written evaluation of pest conducive conditions and must provide specific recommendations for practical non-pesticide control measures.
- C. Prior to any pesticide application, applicators must identify the pest specifically and evaluate the infestation severity and any associated damage except as provided in Section 4(C)(1) and (2) below.
1. Where there is a history of pest infestation and conditions are conducive to pest infestations, baits, gels, pastes or granular materials placed in areas not readily accessible to residents, employees, patients, or children and crack and crevice treatments designed to control commonly occurring pests in these areas may be used without specific evidence that a significant population is currently present.
  2. For specific public health pests designated by Board policy, baits, gels, pastes, granular materials or crack and crevice treatments placed in areas not readily accessible to residents, employees or customers may be used without specific evidence of an infestation.

**Section 5. Risk Minimization**

- A. Prior to pesticide application, applicators must take into account the toxicity of recommended product(s) and choose low risk product(s) based on efficacy, volatility, the potential for exposure, the signal word on the pesticide label, the material safety data sheet and any label language imposing a ventilation requirement.
- B. Unless prohibited by the label, only baits, gels, pastes or granular materials and crack and crevice treatments may be used when residents, patients, children, customers and unconsenting employees are in the same room.
- C. Prior to making an application, applicators must also consider the following:
  - 1. The principal uses for the room to be treated including if it is primarily occupied by sensitive individuals such as children, older adults or persons with chronic illnesses.
  - 2. The type of treatment being made and the likelihood that people or pets will come into contact with the treated area following the application.
  - 3. The volatility of the product being applied and the practical need to ventilate the treated room(s) prior to re-entry. In all cases, label statements relative to ventilation or re-entry shall be minimum requirements.
  - 4. The type of ventilation system, if present, including whether it serves only the treated room(s) or the entire building, and whether it can and should be shut off while the treatment is performed.

**Section 6. Tenant's Consent**

Except in cases where a public health or code enforcement official with jurisdiction has determined a need for immediate pest management, application to a tenant's residential unit is prohibited if the tenant is opposed to such treatment. A pesticide application may not be made until such time as alternative control measures have been tried and documented as to their failure to control a pest problem, which poses health risks, threatens significant property damage or threatens to infest other parts of the building.

**Section 7. Other Requirements**

These regulations do not affect pesticide label instructions, which may be more restrictive in certain cases. Under federal and state law, wherever particular label instructions impose standards that are more restrictive than these regulations, such label instructions must be followed. Similarly, these regulations do not affect more restrictive regulations or guidelines applicable to particular types of pesticide applications.

**Section 8. Transition**

This regulation will become effective on January 1, 2007.

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STATUTORY AUTHORITY: 7 M.R.S.A. §§ 601-625 and 22 M.R.S.A. §§ 1471-A-X.

EFFECTIVE DATE:

January 1, 2007 – filing 2006-204

AMENDED:

May 1, 2008 – filing 2008-153 (Final Adoption, major substantive)

CORRECTIONS:

February, 2014 – agency names, formatting

# Notice of Pesticide Application

**Pesticides May Be Applied in this Building as Part of an Integrated Pest Management Program on (date) \_\_\_\_\_**

To request information about the use of pesticides in this building contact:

Company: \_\_\_\_\_

Phone/E-mail: \_\_\_\_\_

*This sign must remain posted for at least 48 hours after the application is completed.*

Date Posted or Provided: \_\_\_\_\_

Person Providing Notice: \_\_\_\_\_

Date/Time Completed: \_\_\_\_\_

Remove sign on: \_\_\_\_\_

For general information on pesticides and regulations contact:

Maine Board of Pesticides Control

287-2731, or visit

[www.thinkfirstspraylast.org](http://www.thinkfirstspraylast.org)



**01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY****026 BOARD OF PESTICIDES CONTROL****Chapter 27: STANDARDS FOR PESTICIDE APPLICATIONS AND PUBLIC NOTIFICATION IN SCHOOLS**

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**SUMMARY:** This rule establishes procedures and standards for applying pesticides in school buildings and on school grounds. This rule also sets forth the requirements for notifying school staff, students, visitors, parents and guardians about pending pesticide applications.

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**Section 1. Definitions**

- A. **Integrated Pest Management.** For the purposes of this rule, Integrated Pest Management (IPM) means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including:
- (1) understanding the system in which the pest exists,
  - (2) establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control,
  - (3) monitoring pests and natural enemies,
  - (4) when needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression, and
  - (5) systematically evaluating the pest management approaches utilized.
- B. **School.** For the purposes of this rule, School means any public, private or tribally funded:
- (1) elementary school,
  - (2) secondary school,
  - (3) kindergarten or
  - (4) nursery school that is part of an elementary or secondary school.
- C. **School Building.** For the purposes of this rule, School Building means any structure used or occupied by students or staff of any school.

- D. **School Grounds.** For the purposes of this rule, School Grounds means:
- (1) land associated with a school building including playgrounds, athletic fields and agricultural fields used by students or staff of a school, and
  - (2) any other outdoor area used by students or staff including property owned by a municipality or a private entity that is regularly utilized for school activities by students and staff. School grounds do not include land utilized primarily for non-school activities, such as golf courses and museums.
- E. **Integrated Pest Management Coordinator.** An employee of the school system or school who is knowledgeable about integrated pest management and is designated by each school to implement the school pest management policy.
- F. **School Session.** For the purposes of this rule, school is considered to be in session during the school year including weekends. School is not considered to be in session during any vacation of at least one week.

## Section 2. Requirements for All Schools

- A. All public and private schools in the State of Maine shall adopt and implement a written policy for the application of Integrated Pest Management techniques in school buildings and on school grounds.
- B. Each school shall appoint an IPM Coordinator who shall act as the lead person in implementing the school's Integrated Pest Management policy. The IPM Coordinator shall be responsible for coordinating pest monitoring and pesticide applications, and making sure all notice requirements as set forth in this rule are met. In addition, the IPM Coordinator shall:
- (1) complete Board-approved IPM Coordinator overview training within one month of his/her first appointment as an IPM Coordinator and obtain Board documentation thereof;
  - (2) complete Board-approved IPM Coordinator comprehensive training within one year of his/her first appointment as an IPM Coordinator and obtain Board documentation thereof;
  - (3) obtain at least one hour of Board-approved continuing education annually;
  - (4) maintain and make available to parents, guardians and staff upon request:
    - a. the school's IPM Policy,
    - b. a copy of this rule (CMR 01-026 Chapter 27),
    - c. a "Pest Management Activity Log," which must be kept current. Pest management information must be kept for a minimum of two years from date of entry, and must include:



- i. the specific name of the pest and the IPM steps taken, as described under Section 5C of this rule; and
  - ii. a list of pesticide applications conducted on school grounds, including the date, time, location, trade name of the product applied, EPA Registration number, company name (if applicable) and the name and license number of the applicator. If the product has no EPA Registration number, then a copy of the label must be included.
- (5) authorize any pesticide application not exempted under Sections 3A(2), 3A(3), 3B, 3C, or 3D made in school buildings or on school grounds and so indicate by completing and signing an entry on the Pest Management Activity Log prior to, or on the date on which the minimum notification requirements must be implemented; and
- (6) ensure that any applicable notification provisions required under this rule are implemented as specified.
- C. By September 1, every school shall inform the Board of the identity and the contact information for the IPM Coordinator. This requirement can be fulfilled through a Board approved reporting system.

### **Section 3. Exemptions**

- A. The following pesticide uses are exempt from the requirements of Sections 4 and 5 of this rule:
  - (1) application of ready-to-use general use pesticides by hand or with non-powered equipment to control or repel stinging or biting insects when there is an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student, staff member or visitor,
  - (2) application of general use antimicrobial products by hand or with non-powered equipment to interior or exterior surfaces and furnishings during the course of routine cleaning procedures, and
  - (3) application of paints, stains or wood preservatives that are classified as general use pesticides.
- B. The following pesticide uses are exempt from the requirements of Section 4 of this rule:
  - (1) pesticides injected into cracks, crevices or wall voids,
  - (2) bait blocks, gels, pastes, granular and pelletized materials placed in areas inaccessible to students,
  - (3) indoor application of a pesticide with no re-entry or restricted entry interval specified on its label but entry to the treated area is restricted for at least 24 hours.

- C. When the Maine Center for Disease Control has identified arbovirus positive animals (including mosquitoes and ticks) in the area, powered applications for mosquito control are exempt from Section 4B(1) and 5C. Applicators should post the treated area as soon as practical, in a manner consistent with Section 4B(2).
- D. School education facilities utilized for agricultural or horticultural education, and not normally used by the general school population, such as, but not limited to, greenhouses, nursery plots or agricultural fields, are exempt from the application limitations contained in Section 5E and notification provisions contained in Section 4B(1) provided that parents, staff and students are informed about the potential for pesticide applications in such areas. The posting requirements contained in Section 4B(2) must be complied with. In addition, students entering treated areas must be trained as agricultural workers, as defined by the federal Worker Protection Standard.

#### **Section 4. Notification**

- A. A notice shall be included in the school's policy manual or handbook describing the school's IPM program including that a school integrated pest management policy exists and where it may be reviewed, that pesticides may periodically be applied in school buildings and on school grounds and that applications will be noticed in accordance with Section 4B hereof. This notice shall describe how to contact the IPM Coordinator and shall also state that the school's IPM Policy, a copy of the *Standards for Pesticide Applications and Public Notification in Schools* rule (CMR 01-026 Chapter 27), and the Pest Management Activity Log, are available for review.
- B. When school is in session, schools shall provide notice of pesticide applications in accordance with Sections 4B(1) and 4B(2). When school is not in session, notice shall be accomplished by posting of signs as described in Section 4B(2) of this rule.
  - (1) The school shall provide notification of each application not exempted by Section 3 performed inside a school building or on school grounds to all school staff and parents or guardians of students. Notices given shall state, at a minimum: (a) the trade name and EPA Registration number of the pesticide to be applied; (b) the approximate date and time of the application; (c) the location of the application; (d) the reasons for the application; and (e) the name and phone number of the person to whom further inquiry regarding the application may be made. These notices must be sent at least five days prior to the planned application.
  - (2) In addition to the notice provisions above, whenever pesticide applications not exempted by Section 3 are performed in a school building or on school grounds, a sign shall be posted at each point of access to the treated area and in a common area of the school at least two working days prior to the application and for at least forty-eight hours following the application. Posting of the notification signs as required by this rule satisfies the posting requirements of Chapter 28 of the Board's rules (CMR 01-026 Chapter 28).

- a. The signs shall:
  - i. be light colored (white, beige, yellow or pink) with dark, bold letters (black, blue, red or green).
  - ii. bear the word CAUTION in 72 point type,
  - iii. bear the words PESTICIDE APPLICATION NOTICE in 30 point type or larger,
  - iv. state any reentry precautions from the pesticide labeling in at least 12 point type,
  - v. state the approximate date and time of the application in at least 12 point type, and
  - vi. state the name of the company or licensed applicator making the pesticide application and a contact telephone number in at least 12 point type,
- b. The signs for indoor applications must:
  - i. be at least 8.5 inches wide by 11 inches tall,
  - ii. state the trade name and EPA Registration number(s) of the pesticide(s) to be applied in at least 12 point type,
  - iii. state the location of the application in at least 12 point type, and
  - iv. state the reason(s) for the application in at least 12 point type.
- c. The signs for outdoor applications must:
  - i. be at least 5 inches wide by 4 inches tall,
  - ii. be made of rigid, weather-resistant material that will last at least ninety-six (96) hours when placed outdoors,
  - iii. bear the Board designated symbol (see appendix A), and
  - iv. state a date and/or time to remove the sign.

## **Section 5. Integrated Pest Management Techniques**

- A. All pest management activities shall be undertaken with the recognition that it is the policy of the State to work to find ways to use the minimum amount of pesticides needed to effectively control targeted pests in all areas of application. In all cases, applications should be conducted in a manner to minimize human risk to the maximum extent practicable using currently available technology.

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- B. All pest management activities should be conducted using appropriate elements of integrated pest management as described in the latest Cooperative Extension or Department of Agriculture training manuals for pest management in and/or on school property. Pest management activities should also be conducted in accordance with the Best Management Practices for Athletic Fields & School Grounds, or other applicable Best Management Practices approved by the Board.
- C. Prior to any pesticide application the following steps must be taken and recorded:
- (1) monitor for pest presence or conditions conducive to a pest outbreak,
  - (2) identify the pest specifically,
  - (3) determine that the pest population exceeds acceptable safety, economic or aesthetic threshold levels, and
  - (4) utilize non-pesticide control measures that have been demonstrated to be practicable, effective and affordable.
- D. When a pesticide application is deemed necessary, the applicator must comply with all the requirements of CMR 01-026 Chapter 31–Certification and Licensing Provisions/Commercial Applicator. The applicator must also take into account the toxicity of recommended products and choose lowest risk products based on efficacy, the potential for exposure, the signal word on the pesticide label, the material safety data sheet, other toxicology data and any other label language indicating special problems such as toxicity to wildlife or likelihood of contaminating surface or ground water.
- E. Indoor pesticide use must be limited to placement of baits and wall void or crack and crevice and pool and spa disinfectant treatments unless the pest threatens the health and safety of persons in the buildings as determined by the school's integrated pest management coordinator.
- F. Pesticide applications must not be conducted when people are in the same room to be treated except that applicators may set out bait blocks, pastes or gels when only informed staff members are present. When space, spot, surface or fumigation applications are conducted the ventilation and air conditioning systems in the area must be shut off or the entire building must be evacuated. Applications should be planned to occur on weekends or vacations to allow maximum time for sprays to dry and vapors to dissipate.
- G. Outdoor applications should be scheduled so as to allow the maximum time for sprays to dry and vapors to dissipate and shall not occur when unprotected persons are in the target area or in such proximity as to likely result in unconsenting exposure to pesticides. Applications must also be conducted in accordance with all other applicable Board rules designed for minimizing pesticide drift and posting of treated sites. Spot treatments should be considered in lieu of broadcast applications.

**Section 6. Requirements for Commercial Pesticide Applicators Making Applications in School Buildings or on School Grounds**

- A. Prior to conducting a pesticide application not exempted in Section 3 in a school building or on school grounds, commercial pesticide applicators shall obtain written authorization from the IPM Coordinator. Authorization must be specific to each application and given no more than 10 days prior to the planned application.
  - B. Commercial pesticide applicators shall, within one business day of each pesticide application, provide the IPM Coordinator with a written record of the application including the date, time, location, trade name of the product applied, EPA Registration number and the name of the licensed applicator. If the product has no EPA Registration number then the applicator will provide a copy of the label.
  - C. Commercial pesticide applicators shall inform the IPM Coordinator about any pest monitoring activity and results. If it is acceptable to the IPM Coordinator, this may be achieved by recording them in the Pest Management Activity Log.
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STATUTORY AUTHORITY: 7 M.R.S.A. §§ 601-625 and 22 M.R.S.A. §§ 1471-A-X

EFFECTIVE DATE:

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AMENDED:

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March 4, 2007 – Section 3(C), filing 2007-67

August 29, 2013 – filing 2013-188 (Final adoption, major substantive)

**Appendix A**

**Board Designated Symbol for Posting Outdoor Pesticide Applications to School Grounds**



01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 28: NOTIFICATION PROVISIONS FOR OUTDOOR PESTICIDE APPLICATIONS

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**SUMMARY:** These regulations establish procedures and standards for informing interested members of the public about outdoor pesticide applications in their vicinity. This chapter sets forth the requirements for requesting notification about pesticide applications, for posting property on which certain commercial pesticide applications have occurred and also establishes the *Maine Pesticide Notification Registry* structure and fees.

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### Section 1. Requesting Notification About Outdoor Pesticide Applications

The purpose of the following notification requirement is to enable individuals an opportunity to obtain information regarding outdoor pesticide application activities in their vicinity.

#### A. Requests for Notification; How Made

The owner, lessee or other legal occupant of a sensitive area may make a request to be notified about any outdoor pesticide application(s) which may occur within 500 feet of that sensitive area and any aerial application(s) which may occur within 1,000 feet of the sensitive area.

1. The request may be made in any fashion, so long as it is effective in informing the person receiving the request of the name, address, telephone number, and interest in receiving notification of the person making the request.
2. The request for notification should be made to the person responsible for management of the land on which the pesticide application will take place. If the person making the request for notification is uncertain as to the identity of the person to whom the request should be made, he/she may make the request for notification to the person who owns the land involved, as such ownership is ascertainable from the tax records of the municipality. That landowner shall then be responsible for assuring compliance with provisions of this section.

#### B. Procedure of Notification

Once a request for notification has been made as provided in Section 1(A), the person receiving the request shall cause notification to be given as follows:

1. General notification of intent to apply pesticides out-of-doors shall be given to the person making the request for notification. Such general notification may be given in any fashion, provided that it is effective in informing the person receiving the notice of the following:

- a. the approximate date(s) when pesticide(s) may be applied;
- b. the pesticide(s) which may be applied;
- c. in general terms, the manner of application; and
- d. the name, address and telephone number of a person responsible for the pesticide application from whom additional information may be obtained.
- e. If requested, the person responsible for managing the land shall make reasonable efforts to supply a copy of the MSDS(s) and/or the pesticide label(s). However such requests for additional information will not delay nor prohibit the intended pesticide application.

Where feasible, such general notification shall be given within one week after the request for notification is received and at least one day before any pesticide application is to occur. Such notification may cover outdoor pesticide applications which are planned over a period of up to one growing season.

2. If, following receipt of the general notification as provided by Section 1(B)(1) above, the person seeking notification believes there is a need for additional or updated information regarding impending pesticide application activities, he/she may make a further request for additional information from the person identified in the general notification. This request for additional information must specify the type of information needed, including, for example, more specific information regarding the date or dates on which pesticides will be applied when known. The person responsible for the notification shall make reasonable efforts to comply with such request for additional information.
3. If any person is dissatisfied with the efforts made by any other person at complying with these notification provisions, a complaint may be filed with the Board. The Board shall then make efforts to attempt to reach a reasonable and fair resolution between the parties.

## **Section 2. *Maine Pesticide Notification Registry for Non-Agricultural Pesticide Applications***

The Board shall maintain a list of individuals who must be notified of outdoor, non-agricultural pesticide applications in their vicinity. This list shall be referred to as the *Maine Pesticide Notification Registry*.

### **A. *Individuals to be Included on the Registry***

1. Individuals requesting to be listed on the *Maine Pesticide Notification Registry* shall pay all appropriate fees and provide the following information on forms supplied by the Board:



- a. Name;
  - b. Mailing address;
  - c. Listed registry residence, including street or road address and city;
  - d. Daytime and evening telephone number(s), one of which is designated as the primary contact number; and
  - e. The names and addresses of all landowners or lessees within 250 feet of the boundary of the listed registry residence.
2. Individuals may register more than one residence by completing additional forms and paying all appropriate fees.
  3. The effective period of the registry will be from March 1 to February 28 of the following year. Individuals must submit their request for inclusion on the next effective registry by December 31. All submissions received after that date will be included on the following registry. Individuals may notify the Board at any time of changes in their listed registry residence, however, changes will not take effect until the following registry. An individual will not be considered officially included on the *Maine Pesticide Notification Registry* unless their name appears on the current effective registry.
  4. The Board shall mail renewal notices to individuals listed on the *Maine Pesticide Notification Registry* on or before November 1 of each year. An individual must re-apply and pay all appropriate fees annually to remain on the registry for the next twelve month period.

**B. Alerting Neighbors to the Presence of an Individual on the Registry**

1. All individuals on the *Maine Pesticide Notification Registry* shall annually provide a letter to all landowners and lessees within 250 feet of their property boundary from whom they want to receive notification.
2. This letter, approved and supplied by the Board, must inform neighbors of the existence of the *Maine Pesticide Notification Registry*, the individual's request to be notified in the event of an outdoor pesticide application, the distance from the property boundary which shall cause notification to be given for non-agricultural pesticide applications, and the notification requirements of this chapter.
3. The individual on the registry requesting notification bears the burden of proof for demonstrating that this provision has been met.
4. Failure to distribute the letter will not prohibit an individual from being added to or remaining on the registry.

**C. Registry Provided to Commercial Applicators**

The *Maine Pesticide Notification Registry* shall be printed and distributed annually to affected licensed Commercial Master Applicators on or before its effective date of March 1. Newly licensed Commercial Master Applicators will be provided a copy of the current effective registry upon licensing.

**D. Notification to Individuals on the *Maine Pesticide Notification Registry***

1. Commercial applicators shall notify an individual listed on the registry when performing an outdoor, non-agricultural pesticide application that is within 250 feet of the property boundary of the listed registry residence.
2. A person who receives a letter in accordance with Section 2(B) and who performs any outdoor, non-agricultural pesticide application within 250 feet to the property boundary of the listed registry residence shall notify the individual from whom the letter was given or sent.
3. Notification must consist of providing the following information to the individual on the registry:
  - a. The location of the outdoor pesticide application;
  - b. The date and approximate start time of the pesticide application (within a 24 hour time period) and, in the event of inclement weather, an alternative date or dates on which the application may occur;
  - c. The brand name and EPA registration number of the pesticide product(s) which will be used; and
  - d. The name and telephone number of the person or company making the pesticide application.
4. An individual on the registry who receives notification may request a copy of the pesticide product label or Material Safety Data Sheet. The person or company performing the pesticide application shall make reasonable efforts to comply with such request for additional information. However, such requests for additional information will not delay nor prohibit the person or company from performing the pesticide application as scheduled.
5. Notification must be received between 6 hours and 14 days prior to the pesticide application.
6. Notification must be made by telephone, personal contact or mail.
  - a. In cases where personal contact with the individual listed on the registry is not achieved, notification requirements are met via telephone if:

- i. the information is placed on a telephone answering device activated by calling the individual's primary contact telephone number; or
    - ii. the information is given to a member of the household or workplace contacted by dialing the primary contact telephone number.
  - b. If notification cannot be made after at least two telephone contact attempts and personal contact is not feasible, notification may be made by securely affixing the notification information in written form on the principal entry of the listed registry location.
7. The person or company performing the pesticide application bears the burden of proof for demonstrating that they have complied with this section.

**E. Exceptions**

1. Any person providing written notices to property owners in accordance with Chapter 51, "Notice of Aerial Pesticide Applications," shall be exempt from this section.
2. The following types of pesticide applications do not require notification under this section:
  - a. The application of pesticides indoors;
  - b. Agricultural pesticide applications;
  - c. The outdoor commercial application of pesticides to control vegetation in rights-of-way in certification and licensing category 6A (rights-of-way vegetation management);
  - d. The outdoor commercial application of pesticides in certification and licensing category 7A (structural general pest control) within five (5) feet of a human dwelling, office building, institution such as a school or hospital, store, restaurant or other occupied industrial, commercial or residential structure which is the intended target site;
  - e. The application of general use pesticides by hand or with non-powered equipment to control stinging insects;
  - f. The placement of pesticidal baits;
  - g. The injection of pesticides into trees or utility poles;
  - h. The placement of pesticide-impregnated devices on animals, such as ear tags and flea collars;

- i. The application of pesticidal pet supplies, such as shampoos and dusts;
- j. The application of disinfectants, germicides, bactericides and virucides, such as bleach. The use of disinfectants in the pressure-washing of the exterior of buildings is not exempt under this section;
- k. The application of insect repellents to the human body;
- l. The application of swimming pool products;
- m. The application of general use paints, stains, and wood preservatives and sealants applied with non-powered equipment or by hand or within an enclosure which effectively prevents the escape of spray droplets of the product being applied; and
- n. The injection of pesticides into wall voids.

**F. Exemption from this section**

If an individual on the current effective registry and a person or company performing pesticide applications subject to this rule can reach an agreement on notification provisions acceptable to both parties other than those described herein, then the requirements as described in this section may be waived. For such an exemption to be in effect, the details of the notification agreement must be placed in writing and signed by both parties. Either party may terminate the notification agreement with a 14-day, written notice.

**G. Fee**

The annual application fee for an individual requesting to be on the registry will be \$20.00. The Board may waive the fee for individuals who demonstrate an inability to pay, or where other extenuating circumstances exist which justify granting a waiver. Evidence of an individual's inability to pay shall include, but not be limited to, the individuals participation in any of the following programs:

1. Food Stamps
2. Temporary Assistance for Needy Families (TANF)
3. Supplemental Security Income (SSI)
4. Social Security Disability (SSD)
5. Maine Care (Medicaid)

Requests for a fee waiver must be in writing and be made by the individual at the time of application for listing on the registry. The written request must contain sufficient information for the Board to determine that a basis for granting a fee waiver has been demonstrated in accordance with this rule.

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**Section 3. Public Notice and Posting Requirements for Certain Pesticide Applications****A. Sidewalks and Trails**

Public notice must be provided consistent with Board policy for the outdoor commercial application of pesticides within category 6B to sidewalks and trails.

**B. Posting****1. Categories Requiring Posting**

- a. 3A (outdoor ornamentals)
- b. 3B (turf)
- c. 6B (industrial/commercial/municipal vegetation management), except applications to sidewalks, trails, railroad sidings, and power substations
- d. 7A (general pest control)
- e. 7E (biting fly & other arthropod vectors)

**2. Posting Requirements**

Areas treated under the categories listed in Section 3B(1) shall be posted in a manner and at locations designed to reasonably assure that persons entering such area will see the notice. Such notice shall be posted before application activities commence and shall remain in place at least two days following the completion of the application. The sign shall be sufficient if it meets the following minimum specifications:

- a. The sign must be at least five (5) inches wide and four (4) inches high;
- b. The sign must be made of rigid, weather resistant material that will last at least forty-eight (48) hours when placed outdoors;
- c. The sign must be light colored (white, beige, yellow or pink) with dark, bold letters (black, blue or green);
- d. The sign must bear:
  - i. the word CAUTION in 72 point type;
  - ii. the words PESTICIDE APPLICATION in 30 point type or larger;
  - iii. the Board designated symbol;

- iv. any reentry precautions from the pesticide labeling;
- v. the name of the company making the pesticide application and its telephone number;
- vi. the date and time of the application; and
- vii. a date and/or time to remove the sign.

**C. Exemption from this section**

- 1. The placement of marked bait stations in outdoor settings shall be exempt from this section.
  - 2. Any person providing notice in accordance with Chapter 51 - Notice of Aerial Pesticide Applications, Section III. - Ornamental Plant Applications, shall be exempt from this section.
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STATUTORY AUTHORITY: 22 M.R.S.A. §1471-M(2)D

EFFECTIVE DATE:

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AMENDED:

April 27, 1999

June 26, 2000

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CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

May 24, 2015 – filing 2015-076 (Final adoption, major substantive)

**01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**026 BOARD OF PESTICIDES CONTROL**

**Chapter 51: NOTICE OF AERIAL PESTICIDE APPLICATIONS**

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**SUMMARY:** These regulations describe the notification requirements for persons contracting aerial pesticide applications to control forest, ornamental plant, right-of-way, biting fly and public health pests.

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**Section I. Content of All Newspaper Articles/Advertisements, Written Notices to Property Owners and Posters**

- A. All newspaper articles/advertisements and written notices to property owners required by this chapter shall contain the following:
1. Description of the target area sufficient to inform people who may be in the vicinity.
  2. Name of the person who contracts for the application or her/his representative or the applicator and the address and telephone number to contact for more specific information about the intended application.
  3. Intended purpose of the pesticide application.
  4. Pesticide(s) to be used.
  5. Date or reasonable range of dates on which application(s) are proposed to take place.
  6. Telephone number of the Maine Board of Pesticides Control.
  7. Telephone number of the Maine Poison Control Center.
  8. Public precautions which appear on the pesticide label.
- B. All newspaper articles/advertisements must be printed in a minimum of 10 point types and at least 2 inches wide.
- C. All posters required by this chapter shall contain the following:
1. Name of the person who contracts for the application or her/his representative or the applicator and the address and telephone number to contact for more specific information about the intended application.
  2. Intended purpose of the pesticide application.
  3. Pesticide(s) to be used.

4. Telephone number of the Maine Board of Pesticides Control
5. Telephone number of the Maine Poison Control Center.
6. Public precautions which appear on the pesticide label.

## **Section II. Forest Insect Applications**

### **A. Responsible Parties**

1. In the event of a forest insect spray program administered pursuant to Title 12, Chapter 801, the Maine Department of Conservation, Bureau of Forestry, is responsible for notices.
2. In the case of any other forest insect aerial spray activity, responsibility for notices lies with the landowner, her/his representative or the lessee if the land is leased.

### **B. Newspaper Articles/Advertisements and Written Notices to Property Owners**

1. An article about/advertisement of a major forest insect aerial spray application shall be published in a newspaper of general circulation in the affected area at least 14 days but not more than 30 days prior to commencement of planned spray activity.
2. An article about/advertisement of a minor forest insect aerial spray application shall be published in a newspaper of general circulation in the affected area at least 4 days but not more than 10 days prior to commencement of planned spray activity.
3. An addition of spray areas not specified in the original newspaper article/advertisement and any change from the insecticides specified in the original article/advertisement shall be published in the same newspaper at least 24 hours before the change is effected.
4. A written notice of all forest insect aerial pesticide applications shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.



C. **Posting of Areas Subject to Major and Minor Forest Insect Aerial Spray Applications**

1. A poster shall be posed conspicuously just prior to the planned spray activity and shall not be removed by the landowner or landowner's agent for at least 2 days (48 hours) after spray activity ceases. Areas that shall be posed include each major point of ingress and egress of the public into the area to be sprayed. Major points of ingress and egress include federal, state, municipal and private roads open to the public and known to be used by the public that lead into the area to be sprayed; utility crossings of these roads; known boat launching sites on rivers leading through spray areas and within the boundaries of the land owned by the person authorizing the spray activity; and marked points of access to foot trails known to be used by the public.
2. Posters shall be constructed of brightly colored, weather resistant stock and shall be at least 11 x 14 inches in size. They shall contain the information required in Section I(C). The information shall be printed in both English and French.

D. **Written Notice to the Board and the Maine Poison Control Center**

1. A written notice shall be given to the Board and to the Maine Poison Control Center according to the following schedule:
  - a. Written notice of major forest insect aerial spray applications shall be given to the Board and the Maine Poison Control Center at least 15 days but not more than 30 days prior to the commencement of planned spray activity.
  - b. Written notice of minor forest insect spray application shall be given to the Board and the Maine Poison Control Center at least 5 days prior to the commencement of planned spray activity.
  - c. Any addition of spray blocks not specified in the original notice to the Board and any change in pesticide assignments to particular blocks shall be given to the Board as soon as practicable, and in any case every reasonable effort shall be made to give notice of change to the Board prior to initiation of pesticide application. Notice under this subsection may be accomplished by telephone communication with the Board's office.
2. **Notice to the Board.** These notices shall be prepared on forms provided by the Board and shall consist of:
  - a. A description of the proposed spray activity including detailed spray application maps showing sensitive areas and major public routes of ingress and egress. Use of *The Maine Atlas and Gazetteer*, by DeLorme Mapping Company or some other similar atlas is the suggested format for the base map.
  - b. The date or dates on which spraying is proposed to take place.

- c. The name, address, telephone number and license number of the spray contracting firm which will carry out the spray activity.
  - d. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.
  - e. A listing of precautions taken to insure notice to the public, including copies of the newspaper notice and the poster to be used.
  - f. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Board promptly upon request.
3. **Notice to the Maine Poison Control Center.** These notices shall be prepared on forms provided by the Board and shall consist of:
- a. A description of the general area the proposed application activity will take place.
  - b. The date or dates on which spraying is proposed to take place.
  - c. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.
  - d. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Maine Poison Control Center promptly upon request.

### **Section III. Ornamental Plant Applications**

#### **A. Responsible Parties**

The licensed applicator must provide the person contracting for services with the proper materials to provide notification according to the provisions described in this chapter. The licensed applicator must not commence spray activities until the person contracting for the services provides written proof that the notification procedures contained Section III(B) and (C) have been completed. The person who provides the notification and certifies that the requirements have been fulfilled is responsible for that notification.

#### **B. Newspaper Articles/Advertisements and Written Notices to Property Owners**

1. An article about/advertisement of ornamental plant aerial pesticide applications shall be published in a paper of general circulation in the affected area at least 3 days but not more than 60 days prior to the commencement of the intended spray activity. The article/ advertisement shall contain the information required in section I(A) and (B) and shall not be limited to a legal notice.

2. A written notice of ornamental plant aerial pesticide applications shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.

**C. Written Notice to the Board and the Maine Poison Control Center**

Written notices to the Board and the Maine Poison Control Center must be given according to Section VI of this rule (Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications).

**Section IV. Rights-Of-Way, Forest Vegetation Management and Other Forest Pest Applications**

**A. Responsible Parties**

The licensed applicator must provide the person contracting for services with the proper materials to provide notification according to the provisions described in this chapter. The licensed applicator must not commence spray activities until the person contracting for the services provides written proof that the notification procedures contained Section IV(B) and (C) have been completed. The person who provides the notification and certifies that the requirements have been fulfilled is responsible for that notification.

**B. Newspaper Articles/Advertisements or Written Notices to Property Owners**

1. An article about/advertisement of rights-of-way, forest vegetation management or other forest pest aerial pesticide applications shall be published in a paper of general circulation in the affected area at least 3 days but not more than 60 days prior to the commencement of the intended spray activity. The article/advertisement shall contain the information required in Section I(A) and (B) and shall not be limited to a legal notice or;
2. In areas where there is no regular newspaper circulation, the person contracting for services may substitute individual notice to all landowners within 500 feet of the target site. This individual notice shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.

**C. Posting Requirements for Rights-of-Way, Forest Vegetation Management and Other Forest Pest Aerial Applications**

1. A poster shall be posed conspicuously just prior to the planned spray activity and shall not be removed by the landowner or landowner's agent for at least 2 days (48 hours) after spray activity ceases. The poster shall contain the information required in Section I(C). Areas that shall be posed include each major point of ingress and egress of the public into the area to be sprayed. Major points of ingress and egress include federal, state, municipal and private roads open to the public and known to be used by the public that lead into the area to be sprayed; utility crossings of these roads and any place a maintained public trail enters the application site.
2. Poster shall be constructed of brightly colored, weather resistant stock and shall be at least 11 x 14 inches in size. The information shall be printed in both English and French.

**D. Written Notice to the Board and the Maine Poison Control Center**

Written notices to the Board and the Maine Poison Control Center must be given according to Section VI of this rule (Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications).

**Section V. Biting Fly and Public Health Pest Applications**

**A. Responsible Parties**

The licensed applicator must provide the person contracting for services with the proper materials to provide notification according to the provisions described in this chapter. The licensed applicator must not commence spray activities until the person contracting for the services provides written proof that the notification procedures contained Section V(B) and (C) have been completed. The person who provides the notification and certifies that the requirements have been fulfilled is responsible for that notification.

**B. Newspaper Articles/Advertisements and Written Notice to Property Owners**

1. An article about/advertisement of biting fly and public health pest aerial pesticide applications shall be published in a paper of general circulation in the affected area at least 3 days but not more than 60 days prior to the commencement of the intended spray activity. The article/advertisement shall contain the information required in Section I(A) and (B) and shall not be limited to a legal notice.
2. A written notice shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are

difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.

C. **Written Notice to the Board and the Maine Poison Control Center**

Written notices to the Board and the Maine Poison Control Center must be given according to Section VI of this rule (Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications).

**Section VI. Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications**

A. A written notice shall be given to the Board and the Maine Poison Control Center at least 7 days but not more than 30 days prior to the commencement of planned spray activity.

B. These notices shall be prepared on forms provided by the Board and shall consist of:

1. **Written notice to the Board**

- a. A description of the proposed spray activity including detailed spray application maps showing sensitive areas and major public routes of ingress and egress. Use of *The Maine Atlas and Gazetteer*, by DeLorme Mapping Company or some other similar atlas is the suggested format for the base map.
- b. The date or dates on which spraying is proposed to take place.
- c. A description of the delivery mechanism which shall include the name, address, telephone number and license number of the spray contracting firm which will carry out the spray activity.
- d. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.
- e. A listing of precautions taken to insure notice to the public, including copies of the newspaper notice or the notice given to person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site.
- f. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Board promptly upon request.

2. **Written notice to the Maine Poison Control Center**

- a. A description of the general area the proposed application activity will take place.

- b. The date or dates on which spraying is proposed to take place.
  - c. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.
  - d. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Maine Poison Control Center promptly upon request.
- C. Any addition of spray blocks not specified in the original notice to the Board and any change in pesticide assignments to particular blocks shall be given to the Board as soon as practicable, and in any case every reasonable effort shall be made to give notice of change to the Board prior to initiation of pesticide application. Notice under this subsection may be accomplished by telephone communication with the Board's staff.

## **Section VII. Emergencies**

### **A. Disease Vectors**

When the Maine Center for Disease Control and Prevention (CDC) recommends control of disease vectors, government sponsored vector control programs are exempt from this chapter provided that the responsible governmental entity submits the written notice to Board and the written notice to the Maine Poison Control Center as described in this chapter.

### **B. Other Emergencies**

The Board's staff may grant an emergency variance from the notice requirements set forth in Sections III, IV, V and VI of this chapter if the notice requirements prevent efficacious application of pesticide(s) and the staff determines that an emergency situation exists.

- 1. An emergency situation:
  - a. Involves the introduction or dissemination of a pest new to or not theretofore known to be widely prevalent or distributed within or throughout the United States and its territories; or
  - b. Will present significant risks to human health; or
  - c. Will present significant risks to threatened or endangered species, beneficial organisms, unique ecosystems or the environment; or
  - d. Will cause significant economic loss due to:
    - i. an outbreak or an expected outbreak of a pest; or

- ii. a change in plant growth or development caused by unusual environmental conditions where such change can be rectified by the use of a pesticide(s).
  2. Any emergency variance granted by the staff under this section shall include provisions demonstrating the applicant will furnish substantially equivalent notification as provided by this chapter and shall include:
    - a. Documented notification of person(s) owning property or using commercial or institutional buildings within 500 feet of the intended target site prior to the pesticide application and where appropriate;
    - b. Radio or television announcements or,
    - c. Prominently positioned poster.
  3. No variance may be granted if the emergency situation is the result of an unjustifiable delay created by the person seeking the variance or the person requesting the pesticide application.
  4. If the staff does not grant the variance, the applicator or the person requesting the pesticide application may petition the Board for exemption following the requirements set forth in 22 M.R.S.A. §1471-T, "Exemption".
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STATUTORY AUTHORITY: 22 M.R.S.A. §1471-G, M, R and T

EFFECTIVE DATE:

August 12, 1985

AMENDED:

May 19, 1991  
April 8, 1992  
April 19, 1994  
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

April 14, 1998 - inserted “residential rental,” in II(B)(4), III(B)(2), IV(B)(2), V(B)(2), VI(B)(1)(e); conversion to MS Word 2.0.  
March 5, 2003 - VI(A), filing 2003-62  
July 11, 2012 - spelling correction in Section II(B)(3)  
February 14, 2013 - spelling correction in Sections II(C)(1) and IV(C)(1)  
June 12, 2013 – filing 2013-136 (Emergency major substantive)

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

September 11, 2014 – Section VII, filing 2014-165