

**Maine Revised Statute Title 22, Chapter 258-  
A: BOARD OF PESTICIDES CONTROL**

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## 22 §1471-A. PURPOSE AND POLICY

For the purpose of assuring to the public the benefits to be derived from the safe, scientific and proper use of chemical pesticides while safeguarding the public health, safety and welfare, and for the further purpose of protecting natural resources of the State, it is declared to be the policy of the State of Maine to regulate the sale and application of chemical insecticides, fungicides, herbicides and other chemical pesticides, and to regulate the return and disposal of limited and restricted use pesticide containers. [ 1983 , c. 542, §§ 1, 3 (AMD). ]

### SECTION HISTORY

1975, c. 397, §2 (NEW). 1983, c. 542, §§1,3 (AMD).

## 22 §1471-B. BOARD OF PESTICIDES CONTROL

**1. Board established.** The Board of Pesticides Control is established by Title 5, section 12004-D, subsection 3, within the Department of Agriculture, Food and Rural Resources. Except as provided in this chapter, the board must be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Senate. To provide the knowledge and experience necessary for carrying out the duties of the board, the board must consist of the following members: one person with practical experience and knowledge regarding the agricultural use of chemicals; one person who has practical experience and knowledge regarding the use of chemicals in forest management; one person from the medical community; a scientist from the University of Maine System specializing in agronomy or entomology having practical experience and knowledge of integrated pest management; one commercial applicator; and 2 persons appointed to represent the public. The 2 members appointed to represent the public must have a demonstrated interest in environmental protection and represent different geographic areas of the State. The term must be for 4 years, except that of the initial appointees, 2 shall serve 4-year terms, 2 shall serve 3-year terms, 2 shall serve 2-year terms and one shall serve a one-year term. Any vacancy must be filled by an appointment for the remainder of the unexpired term.

[ 2007, c. 466, Pt. B, §17 (AMD) . ]

**2. Organization of the board.** The board shall elect a chair and any other officers it determines necessary from among the membership. The board shall meet at the call of the chair or at the request of any 3 members. Four members constitute a quorum and, except as otherwise provided in this subsection, any action requires the affirmative vote of the greater of either a majority of those present and voting or at least 2 members. Any action by the board requesting that the Attorney General pursue a court action against an alleged violator of any law or rule requires an affirmative vote by 3 members or a majority of those present and voting, whichever is greater. The chair and any other officers shall serve in those capacities for a period of one year following their elections.

[ 1989, c. 841, §4 (AMD) . ]

**3. Compensation of the board.** Each public member shall be compensated according to the provisions of Title 5, chapter 379.

[ 1983, c. 812, §120 (RPR) . ]

**4. Director.** The commissioner shall appoint a director, with the approval of the board. The director shall be the principal administrative, operational and executive employee of the board. The director shall attend and participate in all meetings of the board, but may not vote. The director, with the approval of the

commissioner and the board, may hire whatever competent professional personnel and other staff he deems necessary. All employees of the board shall be subject to Title 5, Part 2. The director may obtain office space, goods and services as required.

[ 1979, c. 644, §3 (NEW) .]

**5. Staff.** The board must establish standards for the delegation of its authority to the director and staff. Any person aggrieved by a decision of the director and staff has a right to a review of the decision by the board. The Commissioner of Agriculture, Food and Rural Resources shall provide the board with administrative services of the department, including assistance in the preparation of the board's budget. The commissioner may require the board to reimburse the department for these services.

[ 1989, c. 841, §5 (AMD) .]

## **6. Registration of pesticides.**

[ 1981, c. 112, §1 (RP) .]

**7. State contracts.** Notwithstanding any other provisions of law, members of the board are eligible to contract with the State when the contracts are awarded in accordance with normal bidding procedures of the Department of Administrative and Financial Services. Members also are eligible to receive grants when grants are awarded in accordance with normal state procedures. A member may not vote on the award of a contract or grant for which that member has submitted a bid or proposal.

[ 2007, c. 466, Pt. A, §40 (RPR) .]

**8. Meetings.** The board shall periodically meet in various geographic regions of the State. When considering an enforcement action, the board shall attempt to meet in the geographic region where the alleged violation occurred.

[ 1989, c. 841, §6 (NEW) .]

### SECTION HISTORY

1975, c. 397, §2 (NEW). 1975, c. 293, §4 (AMD). 1977, c. 696, §181 (AMD). 1979, c. 731, §19 (AMD). 1979, c. 644, §3 (RPR). 1981, c. 112, §1 (AMD). 1981, c. 470, §A66 (AMD). 1981, c. 632, §§1,2 (AMD). 1983, c. 309, (AMD). 1983, c. 812, §§119,120 (AMD). 1985, c. 779, §60 (AMD). 1985, c. 785, §A95 (AMD). 1987, c. 702, §2 (AMD). 1989, c. 503, §B83 (AMD). 1989, c. 841, §§4-6 (AMD). 1991, c. 376, §45 (AMD). 2007, c. 466, Pt. A, §40 (AMD). 2007, c. 466, Pt. B, §17 (AMD).

## **22 §1471-C. DEFINITIONS**

As used in this chapter, the following words have the following meanings. [1983, c. 819, Pt. A, §40 (NEW).]

**1. Agricultural commodity.** "Agricultural commodity" means any plant, or part thereof, or animal or animal product produced by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons, primarily for sale, consumption, propagation or other use by humans or animals.

[ 1975, c. 397, §2 (NEW) .]

**2. Aircraft.** "Aircraft" means any machine or device used or designed for navigation of, or flight in, the air.

[ 1975, c. 397, §2 (NEW) . ]

**3. Board.** "Board" means the State Board of Pesticides Control as established in section 1471-B.

[ 1975, c. 397, §2 (NEW) . ]

**4. Certified applicator.** "Certified applicator" means any person who is certified pursuant to section 1471-D and authorized to use or supervise the use of any pesticides.

[ 1975, c. 644, §1 (AMD) . ]

**5. Commercial applicator.** "Commercial applicator" means any person, except a government pesticide supervisor, whether or not the person is a private applicator with respect to some uses, who uses or supervises the use of any limited or restricted-use pesticides on any property other than as provided by subsection 22, or who uses general-use pesticides in custom application on such property. "Commercial applicator" also includes individuals who apply any pesticides in connection with their duties as officials or employees of federal, state or local governments.

[ 2007, c. 245, §1 (AMD) . ]

**5-A. Custom application.** "Custom application" means an application of a pesticide :

A. Under contract or for which compensation is received; [ 2007, c. 245, §2 (NEW) . ]

B. To a property open to use by the public; or [ 2007, c. 245, §2 (NEW) . ]

C. In a food establishment licensed under chapter 551 or an eating establishment licensed under chapter 562, except that "custom application" does not include a pesticides application at a licensed food or eating establishment when:

(1) The establishment is ancillary to the production of an agricultural commodity;

(2) The owner or an employee of that establishment is certified as a private applicator under section 1471-D, subsection 2; and

(3) The property is not open to the public. [ 2007, c. 245, §2 (NEW) . ]

[ 2007, c. 245, §2 (AMD) . ]

**6. Defoliant.** The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

[ 1975, c. 397, §2 (NEW) . ]

**7. Desiccant.** The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

[ 1975, c. 397, §2 (NEW) . ]

**8. Distribute.** "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this State.

[ 1975, c. 397, §2 (NEW) . ]

**9. FIFRA.** "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq., PL 92-516.

[ 1975, c. 397, §2 (NEW) . ]

**10. Fungi.** "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants, of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews and molds, except those on or in living man or other animals or those on or in processed food, beverages or pharmaceuticals.

[ 1975, c. 397, §2 (NEW) . ]

**11. Fungicide.** "Fungicide" means any substance or mixture of substances intended for destroying or repelling any fungi or mitigating or preventing damage by any fungi.

[ 1975, c. 397, §2 (NEW) . ]

**11-A. Government pesticide supervisor.** "Government pesticide supervisor" means any federal, state or local government agency, official or employee, whether or not the person is a private applicator with respect to some uses, who, in the course of his duties, responsibilities or employment, supervises the use of any pesticides. For the purposes of this subsection, "supervise" means any and all activity other than the direct application of pesticides.

[ 1981, c. 374, §2 (NEW) . ]

**11-B. General use pesticide.** "General use pesticide" means any pesticide which has been registered by the United States Environmental Protection Agency as evidenced by a registration number on the label and which is not a restricted use or limited use pesticide, as defined in this section. Pesticides restricted by the United States Environmental Protection Agency are so identified on the label. Pesticides restricted or limited by the Board of Pesticides Control are listed by the board.

[ 1987, c. 723, §2 (NEW) . ]

**11-C. General use pesticide dealer.** "General use pesticide dealer" means any person who distributes general use pesticides.

[ 1987, c. 723, §2 (NEW) . ]

**12. Ground equipment.** "Ground equipment" means any machine or device, other than aircraft, for use on land or water, designed for, or adaptable to, use in applying pesticides as sprays, dusts, aerosols, fogs, or in other forms.

[ 1975, c. 397, §2 (NEW) . ]

**13. Herbicides.** "Herbicides" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

[ 1975, c. 397, §2 (NEW) . ]

**13-A. Household use pesticide product.** "Household use pesticide product" means any general use pesticide product which contains no more than 3% active ingredients and which is applied undiluted by homeowners to control pests in and around the family dwelling and associated structures. For the purposes of this definition and section 1471-U, subsection 5, petroleum solvents shall not be considered active ingredients.

[ 1987, c. 723, §3 (NEW) . ]

**14. Insect.** "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees, flies and other allied classes of arthropods whose members are wingless and usually have more than 6 legs, including but not limited to mites, ticks, centipedes and wood lice.

[ 1975, c. 397, §2 (NEW) . ]

**15. Insecticide.** "Insecticide" means any substance or mixture of substances intended for destroying or repelling any insect, or mitigating or preventing damage by any insects.

[ 1975, c. 397, §2 (NEW) . ]

**16. Limited use pesticide.** "Limited use pesticide" means any pesticide or pesticide use classified for limited use by the board.

[ 1975, c. 397, §2 (NEW) . ]

**16-A. Major forest insect aerial spray application.** "Major forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing at least 1,000 acres in the aggregate.

[ 1983, c. 819, Pt. A, §41 (NEW) . ]

**16-B. Minor forest insect aerial spray application.** "Minor forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing less than 1,000 acres in the aggregate.

[ 1983, c. 819, Pt. A, §41 (NEW) . ]

**16-C. Monitor.** "Monitor" means a person working on a public or private forest insect aerial spray application project whose primary responsibilities are to observe and record meteorological conditions during spray operations, observe and record spray deposition, prepare the spray period report and who has the authority to cease spray applications when conditions require it.

[ 1983, c. 819, Pt. A, §41 (NEW) . ]

**17. Person.** "Person" means any individual, partnership, association, fiduciary, corporation, governmental entity or any organized group of persons whether incorporated or not.

[ 1975, c. 397, §2 (NEW) . ]

**18. Pest.** The term "pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism, except viruses, bacteria or other micro-organisms on or in living man or other living animals, which the commissioner declares to be a pest.

[ 1975, c. 397, §2 (NEW) . ]

**19. Pesticide.** The term "pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

[ 1975, c. 397, §2 (NEW) . ]

**20. Pesticide dealer.** "Pesticide dealer" means any person who distributes limited or restricted use pesticides.

[ 1975, c. 397, §2 (NEW) . ]

**21. Plant regulator.** The term "plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and as are not for pest destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

[ 1975, c. 397, §2 (NEW) . ]

**22. Private applicator.** "Private applicator" means any person who uses or supervises the use of any pesticide which is classified for restricted or limited use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

[ 1975, c. 644, §3 (AMD) . ]

**23. Restricted use pesticide.** "Restricted use pesticide" means any pesticide or pesticide use classified for use only by or under the direct supervision of a certified applicator by the Administrator of the United States Environmental Protection Agency or by the Commissioner of Agriculture, Food and Rural Resources.

[ 1979, c. 731, §19 (AMD) . ]

**23-A. Spotter.** "Spotter" means a person working on a public or private forest insect aerial spray application project who is responsible for ordering the cessation of spraying over water bodies and other nontarget areas.

[ 1983, c. 819, Pt. A, §41 (NEW) . ]

**23-B. Spray contracting firm.** "Spray contracting firm" means a person, as defined in this section, employed or contracted to conduct a public or private pesticide application. This term does not include the owner or lessee of land to be sprayed, employees of that landowner or lessee, the Bureau of Forestry, the employees of the Bureau of Forestry or individuals who are certified as commercial applicators.

[ 1985, c. 122, §1 (AMD) . ]

**23-C. Spray period.** "Spray period" means any period of a forest insect aerial spray application project during which pesticides are applied and which is demarcated from another spray period by at least a 2-hour cessation in pesticide application.

[ 1983, c. 819, Pt. A, §41 (NEW) .]

**24. Under the direct supervision of a certified applicator.** "Under the direct supervision of a certified applicator," unless otherwise prescribed by its labeling, means the act or process by which a pesticide is applied by a competent person acting under the instructions and control of a certified applicator who is available, if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied. In the case of an application made by a commercial applicator, the certified applicator must be physically present at the time and on the site of the application.

[ 1987, c. 243, §3 (AMD) .]

**25. Weed.** "Weed" means any plant which grows where not wanted.

[ 1975, c. 397, §2 (NEW) .]

#### SECTION HISTORY

1975, c. 397, §2 (NEW). 1975, c. 644, §§1-3 (AMD). 1977, c. 20, §§1,2 (AMD). 1979, c. 731, §19 (AMD). 1981, c. 374, §§1,2 (AMD). 1983, c. 819, §§A40,A41 (AMD). 1985, c. 122, §1 (AMD). 1987, c. 243, §§1-3 (AMD). 1987, c. 723, §§2,3 (AMD). 2007, c. 245, §§1, 2 (AMD).

## 22 §1471-D. CERTIFICATION AND LICENSES

**1. Certification required; commercial applicators and spray contracting firms.** Certification is required for commercial applicators and spray contracting firms as follows.

A. No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator; and [1983, c. 819, Pt. A, §42 (NEW) .]

B. No spray contracting firm may use or supervise the use of any pesticide within the State without prior certification from the board. [1985, c. 122, §2 (AMD) .]

[ 1985, c. 122, §2 (AMD) .]

**2. Certification required, private applicators.** No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the board, provided, that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

[ 1975, c. 397, §2 (NEW) .]

**2-A. Certification required; government pesticide supervisor.** No government pesticide supervisor may supervise the use of any pesticide without prior certification from the board, provided that the person who actually uses the pesticide must be certified.

[ 1981, c. 374, §3 (NEW) .]

**2-B. Certification required; spotters and monitors.** No person may:

A. Act as a spotter without prior certification from the board; or [1983, c. 819, Pt. A, §43 (NEW) .]

B. Act as a monitor without prior certification from the board. [1983, c. 819, Pt. A, §43 (NEW) .]

[ 1983, c. 819, Pt. A, §43 (NEW) .]

**2-C. Exemptions or reduced licensing requirements for certain commercial or custom applications.**

The board may by rule provide for exemptions from licensing requirements and for reduced licensing requirements for classes of commercial applicators of general-use pesticides applied by hand or nonpowered equipment if the board finds that applications by those classes do not pose a significant risk to health or the environment and the requirement of licensing does not serve a meaningful public purpose.

Notwithstanding Title 7, section 610, subsection 6, rules adopted pursuant to this section to provide exemptions from licensing or reduced licensing requirements are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2007, c. 245, §3 (NEW) .]

**3. License required, pesticide dealers.** No pesticide dealer shall:

A. Distribute any limited or restricted use pesticide without a distributor's license from the board; or [1975, c. 397, §2 (NEW) .]

B. Distribute limited or restricted use pesticides to any person who is not licensed or certified by the board. [1975, c. 397, §2 (NEW) .]

[ 1975, c. 397, §2 (NEW) .]

**4. Application.** Application for licenses or certification shall be accompanied by such a reasonable fee as the board may establish by regulation. The applicant shall provide such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by the board. Commercial applicators and spray contracting firms shall be required by the board to provide proof of financial responsibility in custom application as to such amounts as the board may, by regulation, designate; private applicators may also be required to provide such proof. All applicants to the board for certification or licensing shall be required to comply with such standards of competency as are established by the board concerning adequate knowledge of pesticide distribution or use and the related dangers and necessary precautions; provided that, in the case of applicants for commercial certification and pesticide dealers' licenses, such compliance shall be demonstrated by written examination in addition to such other criteria, including performance testing, as the board may establish.

[ 1983, c. 819, Pt. A, §44 (AMD) .]

**5. Issuance.** No license or certification may be issued by the board, unless the board determines that the standards for licensing and certification have been met as to those categories for which the applicant has applied and qualified. In the case of the spotter and monitor, the board shall set minimal proficiency requirements with the understanding that the board may choose to change these standards from time to time. The enforcement personnel of the Board of Pesticides Control shall be certified to meet at least the minimal proficiency requirements required of spotters and monitors. If a license or certification is not issued as applied for, the board shall provide written notice to the applicant of the reasons therefor. The license or certificate may be issued upon such terms and conditions as the board deems necessary for the protection of the public health, safety and welfare, and for enforcement and administration of this chapter and the rules promulgated pursuant to this chapter.

[ 1983, c. 819, Pt. A, §45 (AMD) .]

**6. Renewal.** Licenses for commercial applicators, government pesticide supervisors, spotters, monitors, spray contracting firms, pesticide dealers and private applicators are valid for such period as prescribed by the board by rule. Application for renewal must be accompanied by such reasonable fee as the board may by rule require. The board may, by rule, require that such renewal application include reexamination or other procedures designed to assure a continuing level of competence to distribute, use or supervise the use of pesticides safely and properly.

If the board fails to renew a license upon application of the licensee or certificate holder, it shall afford the licensee or certificate holder an opportunity for a hearing in conformity with Title 5, chapter 375, subchapter IV.

[ 1997, c. 454, §8 (AMD) . ]

**7. Suspension.**

A. If the board determines that there may be grounds for revocation of a license or certificate, it may temporarily suspend said license or certificate pending inquiry and opportunity for hearing, provided that such suspension shall not extend for a period longer than 45 days. [1975, c. 397, §2 (NEW) . ]

B. The board shall notify the licensee or certificate holder of the temporary suspension, indicating the basis therefor and informing the licensee or certificate holder of the right to request a public hearing. [1983, c. 819, Pt. A, §47 (AMD) . ]

C. If the licensee or certificate holder fails to request a hearing within 20 days of the date of suspension, such right shall be deemed waived. If the licensee or certificate holder requests such a hearing, notice shall be given at least 20 days prior to the hearing to the licensee or certificate holder and to appropriate federal and state agencies. In addition, public notice shall be given by publication in a newspaper of general circulation in the State and such other publications as the board deems appropriate. [1983, c. 819, Pt. A, §48 (AMD) . ]

D. This subsection is not governed by the provisions of Title 4, chapter 5 or Title 5, chapter 375. [1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF) . ]

[ 1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF) . ]

**8. Revocation.** The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

A. Is no longer qualified; [1975, c. 397, §2 (NEW) . ]

B. Has engaged in fraudulent business practices in the application or distribution of pesticides; [1975, c. 397, §2 (NEW) . ]

C. Used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [1975, c. 397, §2 (NEW) . ]

D. Has stored, transported or otherwise distributed pesticides in a careless, faulty or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety or welfare; [1975, c. 397, §2 (NEW) . ]

E. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [1975, c. 397, §2 (NEW) . ]

F. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [1975, c. 397, §2 (NEW) . ]

G. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [1981, c. 470, Pt. A, §67 (AMD) . ]

H. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [1981, c. 470, Pt. A, §67 (AMD).]

I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [1977, c. 694, §341 (NEW).]

[ 1983, c. 819, Pt. A, §49 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

**9. State, federal and local government employees.** Individuals who apply pesticides in connection with their duties as officials or employees of federal, state or local governments are subject to the provisions of this chapter concerning licenses and certification, but are exempt from the payment of any fee.

[ 1975, c. 397, §2 (NEW) .]

**10. Nonresident licenses.** The board may issue a license or certificate without examination to nonresidents who are licensed or certified by another state or the Federal Government substantially in accordance with the provisions of this chapter. Licenses or certificates issued pursuant to this subsection may be suspended or revoked in the same manner and on the same grounds as other licenses or certificates issued pursuant to this chapter. Licenses and certificates issued pursuant to this subsection may be suspended or revoked pursuant to subsection 8, paragraph I.

[ 1977, c. 694, §342 (AMD) .]

**11. Arborists.** In the case of persons licensed under Title 7, chapter 404, subchapter II, the board may waive the application fee and may consider the arborist license as prima facie evidence of qualification to use pesticides in the categories of use provided by Title 7, chapter 404.

[ 1999, c. 84, §4 (AMD) .]

#### SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 20, §3 (AMD). 1977, c. 694, §§338-342 (AMD). 1981, c. 374, §§3-7 (AMD). 1981, c. 470, §A67 (AMD). 1983, c. 819, §§A42-A49 (AMD). 1985, c. 122, §2 (AMD). 1997, c. 454, §8 (AMD). 1999, c. 84, §4 (AMD). 1999, c. 547, §§B39,78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 245, §3 (AMD).

## 22 §1471-E. AQUATIC APPLICATION, PERMIT REQUIRED

No person shall apply or cause to be applied a pesticide to the waters of the State without obtaining a waste discharge license from the Department of Environmental Protection pursuant to Title 38, chapter 3, subchapter I, Article 2. [1979, c. 281, §1 (RPR).]

#### SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 20, §4 (AMD). 1979, c. 281, §1 (RPR).

## 22 §1471-F. CRITICAL AREAS

No person shall apply pesticides to any area of the State which the board has determined to be a critical area, except to the extent such application is within the limits prescribed by the board in establishing the area. [1975, c. 397, §2 (NEW).]

#### SECTION HISTORY

1975, c. 397, §2 (NEW).

## 22 §1471-G. REPORTS

**1. Pesticide dealers to maintain certain records.** All pesticide dealers shall maintain records of pesticide distribution for a period of at least 2 years and shall provide such reports and information as the board may, by regulation, require.

[ 1975, c. 397, §2 (NEW) .]

**2. Applicators and firms to maintain certain records.** All commercial applicators and spray contracting firms shall maintain, for a period of at least 2 years, records indicating the type and amount of pesticide used, the area of use and such other information as the board may require. Said applicators and firms shall provide such information, notification and reports as the board, by regulation, may require.

[ 1983, c. 819, Pt. A, §50 (AMD) .]

### SECTION HISTORY

1975, c. 397, §2 (NEW). 1983, c. 819, §A50 (AMD).

## 22 §1471-H. INSPECTION

Upon presentation of appropriate credentials, the chair or any member of the board or any authorized employee or consultant of the board may enter upon any public or private premises at reasonable times for the purpose of inspecting any equipment, device or apparatus used in applying pesticides; inspecting storage and disposal areas; inspecting or investigating complaints of injury to persons or land from pesticides; observing the use and application of pesticides; sampling pesticides in use or storage; and sampling pesticide residues on crops, foliage, soil, water or elsewhere in the environment. Upon denial of access to the board or its agents, the board or its agents may seek an appropriate search warrant in a court of competent jurisdiction. Notwithstanding other provisions of this section, a board member or any authorized employee or consultant of the board may enter public or private premises without notification if an emergency exists. The need to take a residue sample in a timely manner constitutes an emergency under this section. [1989, c. 841, §7 (AMD) .]

### SECTION HISTORY

1975, c. 397, §2 (NEW). 1989, c. 841, §7 (AMD).

## 22 §1471-I. ENFORCEMENT

*(REPEALED)*

### SECTION HISTORY

1975, c. 397, §2 (NEW). 1979, c. 644, §4 (RP).

## 22 §1471-J. PENALTIES

A person who violates any provision of this chapter or any order, rule, decision, certificate or license issued by the board or commits any act constituting a ground for revocation, except acts punishable under section 1471-D, subsection 8, paragraphs A and H, commits a civil violation subject to the penalties established in Title 7, section 616-A. [1989, c. 841, §8 (AMD) .]

### SECTION HISTORY

1975, c. 397, §2 (NEW). 1975, c. 623, §26A (AMD). 1975, c. 770, §§91,92 (RPR). 1989, c. 841, §8 (AMD).

## 22 §1471-K. APPEAL

Any person aggrieved by any action of the board may obtain a review thereof by filing in the Superior Court, within 30 days of notice of the action, a written petition praying that the action of the board be set aside. A copy of such petition shall forthwith be delivered to the board, and within 30 days thereafter the board shall certify and file in the court a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the action of the board, except that the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive. [1975, c. 397, §2 (NEW).]

### SECTION HISTORY

1975, c. 397, §2 (NEW).

## 22 §1471-L. SUBPOENAS

The board may issue subpoenas to compel the attendance of witnesses and production of such books, documents and records anywhere in the State in any hearing affecting the authority or privilege granted by a license or permit issued under this chapter, as may be relevant to proceedings of the board. If any person refuses to obey a subpoena issued by the board under this section, the board may apply to any Justice of the Superior Court for an order compelling such person to comply with the requirements of the subpoena. Such justice may issue such order and may punish failure to obey the same as a contempt thereof. [1975, c. 397, §2 (NEW).]

### SECTION HISTORY

1975, c. 397, §2 (NEW).

## 22 §1471-M. POWERS OF BOARD

**1. Establishment of categories and standards.** The board shall, by regulation promulgated in conformity with Title 5, chapter 375, subchapter II:

A. Establish categories, and where applicable subcategories, of commercial pesticide applicators and government pesticide supervisors depending upon the nature and extent of the pesticide use, the type of pesticide equipment, the degree of knowledge or skill required in their application and such other factors as the board deems relevant, provided that such categories shall be consistent with, but not limited to, the categories established by the United States Environmental Protection Agency; [1981, c. 374, §8 (AMD).]

B. Establish competency standards for the established categories for the certification and renewal of certification of commercial applicators. Such standards shall require, as a minimum, that the applicant demonstrate, by written examination and, as appropriate, performance testing, knowledge of pests, formulation and labelling of pesticides, equipment and application techniques, safety precautions, potential harmful effects on the environment, and applicable federal and state laws and regulations. [1975, c. 397, §2 (NEW).]

C. Establish standards for the certification and renewal of certification of private applicators. Such standards shall require that the private applicator indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label, to apply pesticides in accordance with label instructions and warnings, to recognize local environmental situations that must be considered to avoid contamination, to recognize poisoning symptoms and corrective procedures, and to understand applicable federal and state laws and regulations. [1975, c. 397, §2 (NEW).]

D. Establish the standards for issuance and renewal of licenses of pesticide dealers. These standards shall include, but not be limited to, requirements concerning transportation of pesticides, the applicant's knowledge of applicable federal and state statutes and regulations, and the applicant's understanding of the dangers involved and the precautions necessary for the safe storage and distribution of pesticides; [1983, c. 819, Pt. A, §51 (AMD).]

E. Establish guidelines and requirements for reporting of information by commercial applicators, pesticide dealers, spray contracting firms and monitors to the board; [1983, c. 819, Pt. A, §52 (AMD).]

F. Establish standards for the certification and renewal of certification of government pesticide supervisors. These standards may require that the applicant demonstrate, by written examination and, as appropriate, performance testing, knowledge of pests, formulation and labeling of pesticides, equipment and application techniques, safety precautions, potential harmful effects on the environment and applicable federal and state laws and regulations. [1981, c. 374, §9 (NEW).]

G. Establish standards for the certification and renewal of certification of spotters and monitors; and [1983, c. 819, Pt. A, §53 (NEW).]

H. Establish standards for the certification and renewal of certification of spray contracting firms. [1983, c. 819, Pt. A, §53 (NEW).]

[ 1983, c. 819, Pt. A, §§51-53 (AMD) .]

**2. Designation of critical areas; cooperation; promulgation of rules and regulations.** The board may:

A. [1987, c. 702, §3 (RP).]

B. Cooperate with any other agency of this State or its subdivisions, or with any agency of any other state or the Federal Government for the purpose of administering this chapter and of securing uniformity of regulations; [1975, c. 397, §2 (NEW).]

C. On its own or in cooperation with other agencies or persons, publish such information as it deems appropriate, including information concerning injury which might result from improper application or handling of pesticides, and methods and precautions designed to prevent the injury; and [1987, c. 702, §4 (AMD).]

D. Promulgate such other rules and regulations and take such other actions as it deems appropriate to control the use and distribution of pesticides within the State and to otherwise provide that the purposes and policies of this chapter are insured. [1975, c. 397, §2 (NEW).]

[ 1987, c. 702, §§3, 4 (AMD) .]

**3. Hazard communication and community right to know.** The board shall assist the Director of the Bureau of Labor Standards in providing education and training to aid agricultural employers in complying with the federal Occupational Safety and Health Administration requirements for hazard communication and shall assist the responsible state agencies in providing education and training to aid agricultural employers in complying with the federal requirements for emergency and hazardous chemical inventory forms and community right-to-know reporting.

[ 1999, c. 57, Pt. B, §2 (RPR) .]

**4. Designation of critical areas.** The board may designate critical areas which shall include, but not be limited to, areas where pesticide use would jeopardize endangered species or critical wildlife habitat, present an unreasonable threat to quality of the water supply, be contrary to a master plan for the area where such area is held or managed by an agency of the State or Federal Government, or would otherwise result in unreasonable adverse effects on the public health, welfare or the environment of the area. The designation of a critical area may prohibit pesticide use or may include such limitations on such use as the board deems appropriate. The proceedings to designate a critical area under this section shall conform to Title 5, chapter 375, subchapter II.

The board, by rule, shall establish criteria for designation of critical areas by March 1, 1989.

In addition to the provisions of the Maine Administrative Procedure Act, Title 5, section 8001, any municipality and, for the purpose of representing unorganized territory, any county may petition the board for establishment of a critical area within their boundaries. If the board designates a critical area, the board shall develop a pesticide management plan for that area after receiving comments from the municipality or, for unorganized territory, the county; the volunteer medical advisory panel as established through the board; local applicators; owners of land within the critical area; and other interested parties and agencies.

[ 1989, c. 502, Pt. A, §67 (AMD) .]

**5. Disclosure of rights.** When issuing a license, the board shall provide to each licensee a written statement outlining the enforcement process and the process of negotiating agreements in lieu of court action that may occur in the event enforcement action is pursued. The Department of the Attorney General and the Department of Agriculture, Food and Rural Resources shall assist the board in developing an appropriate written statement. The board shall make this information available to all existing licensees within 30 days of the effective date of this section.

[ 1989, c. 841, §9 (NEW) .]

**6. Notification.** Whenever the board or its staff investigates a complaint alleging a violation of rules adopted pursuant to Title 7, section 606, subsection 2, paragraph G, the staff shall make all reasonable efforts to notify the alleged violator, if identity is known, prior to collecting samples.

[ 1989, c. 841, §9 (NEW) .]

**7. Data collection; report.** The board shall implement a system of record keeping, reporting, data collection and analysis that provides information on the quantity of product and brand names of pesticides sold. The board, in cooperation with the University of Maine Cooperative Extension Service, shall study ways to improve pesticide information data bases and to optimize the useful analysis of reported information.

Before April 1, 2002, the board shall submit a report on pesticide activities during the previous calendar year to the joint standing committee of the Legislature having jurisdiction over pesticide control matters. The report must contain sales information on quantities of pesticides sold listed by the common name of the active ingredient.

The board shall also include in the report aggregate data on pesticide use based on reports submitted to the board by commercial applicators and other persons required to submit reports under this chapter and rules adopted pursuant to this chapter. The board shall provide the data by sector of use whenever possible. The board shall provide the data by category of pesticide, including data for herbicides, insecticides, fungicides and other major categories. In addition, the board shall include in the report a summary of survey results or other information published by the University of Maine Cooperative Extension Service or the United States Department of Agriculture relating to pesticides use in the State.

The board shall develop a measure to estimate sales and types of pesticides commonly used by homeowners and track trends in the quantities and types of pesticides used by homeowners.

The board shall provide historical information on pesticide use and sales in the report when the information available is appropriate for comparison.

[ 2001, c. 355, §1 (AMD) .]

#### SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 694, §§343,344 (AMD). 1981, c. 374, §§8,9 (AMD). 1981, c. 470, §§A68,A69 (AMD). 1983, c. 568, §2 (AMD). 1983, c. 819, §§A51-A53 (AMD). 1987, c. 660, §1 (AMD). 1987, c. 702, §§3-5 (AMD). 1989, c. 502, §A67 (AMD). 1989, c. 841, §9 (AMD). 1997, c. 389, §1 (AMD). 1999, c. 57, §B2 (AMD). 1999, c. 724, §1 (AMD). 2001, c. 355, §1 (AMD).

## **22 §1471-N. CHEMICAL CONTROL OF VERTEBRATE ANIMALS** *(REPEALED)*

### SECTION HISTORY

1977, c. 65, (NEW). 1979, c. 187, (AMD). 2009, c. 393, §8 (RP).

## **22 §1471-O. EXERCISE OF POWERS BY BOARD OF PESTICIDES CONTROL**

The powers established under the Maine Pesticide Control Act of 1975, Title 7, chapter 103, subchapter II-A, shall be exercised by the Board of Pesticides Control established by section 1471-B. [1981, c. 112, §2 (NEW).]

### SECTION HISTORY

1981, c. 112, §2 (NEW).

## **22 §1471-P. STORAGE OF ILLEGAL AND OBSOLETE PESTICIDES**

**1. Board to accept illegal and obsolete pesticides.** Within the limits of resources made available to it for the storage or disposal of illegal and obsolete pesticides purchased for use in Maine, the board shall accept, store and dispose of pesticides from persons who purchased them with the intent of applying them.

[ 1981, c. 705, Pt. S, §1 (NEW) .]

**2. Board may adopt rules and fees.** The board may adopt any rules necessary to implement this section, including rules limiting the quantity and nature of pesticides it accepts for storage or disposal. The board may adopt and charge fees for storage or disposal of pesticides presented to it where the amount of pesticides, or special treatments necessary for safe storage or disposal, will require a substantial cost to the board; provided, that the fees charged are close to the actual cost incurred by the board.

[ 1981, c. 705, Pt. S, §1 (NEW) .]

### SECTION HISTORY

1981, c. 705, §S1 (NEW).

## **22 §1471-Q. RETURN AND DISPOSAL OF LIMITED AND RESTRICTED USE PESTICIDE CONTAINERS**

**1. Purpose.** The purpose of this section is to insure the triple rinsing or equivalent of limited and restricted use pesticide containers in accord with the board's regulations, and provide an incentive through a deposit system for the return of triple rinsed pesticide containers. All limited and restricted use pesticide containers shall have a sticker supplied by the board. That sticker shall be used to identify those limited and restricted use pesticide containers for which a deposit is required.

[ 1983, c. 542, §§2, 3 (NEW) .]

**2. Scope.** This section applies to all limited and restricted use pesticide containers, excluding those packaged in a cardboard, fiberboard or paper container, which are sold, bartered or traded within the State, or which, though purchased out-of-state, are held for use or used within the State.

[ 1985, c. 54, §1 (AMD) .]

**3. Deposit established.** The board shall by rule establish a deposit for restricted and limited use pesticide containers within the scope of this section which are sold, bartered or traded within the State, or which, though purchased out-of-state, are held for use or used within the State. The deposit amount should be sufficient to promote the return of the limited and restricted use pesticide containers.

These regulations adopted by the board in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall thereafter be in effect until 90 days after the date of adjournment of the next regular session of the Legislature, unless the next regular session shall adopt by legislative enactment that regulation.

[ 1985, c. 54, §1 (AMD) . ]

**4. Deposits collected.** For pesticide containers within the scope of this section and purchased within the State, pesticide dealers shall, at the time of purchase, collect the deposit established by the board for each such pesticide container. For pesticide containers within the scope of this section which, though purchased out-of-state, are held for use or used within the State, deposits established by the board shall be collected and held by the board or its agent, as provided by the board in its rules.

[ 1985, c. 54, §1 (AMD) . ]

**5. Stickers required.** Upon the sale, trade or barter of any pesticide container subject to this section and purchased in the State, the pesticide dealer shall affix a sticker supplied by the board to identify those containers. For pesticide containers subject to this section which, though purchased out-of-state, are held for use or used within the State, the person who has ownership or control of the container within the State shall obtain and affix a sticker supplied by the board or its agent and shall pay a deposit to the board or its agent in accordance with procedures prescribed by the board by rule. The sticker shall indicate that the deposit has been paid and shall be designed in accord with the board's rules.

The board may charge a reasonable fee, in addition to the required deposit, to pay for the cost of producing and distributing stickers.

After April 1, 1985, it shall be unlawful for any person to possess a limited or restricted use pesticide container subject to this section without a properly approved and affixed sticker, except pesticide dealers and distributors may hold containers if they are for sale and not for personal use.

[ 1985, c. 54, §1 (AMD) . ]

**6. Deposits refunded.** Deposits will be refunded by pesticide dealers on all pesticide containers bearing the board's stickers at the place of business of the pesticide dealer who sold, bartered or traded the restricted or limited use pesticide, or if purchased out-of-state, by the board or its agent, or at a place otherwise established by regulation, provided that the containers have been triple rinsed or the equivalent in accord with the board's regulations prior to return.

[ 1985, c. 54, §1 (AMD) . ]

**7. Authority to adopt rules.** The board may promulgate rules and take such other actions as it deems necessary to carry out the provisions of this section.

[ 1983, c. 542, §§2, 3 (NEW) . ]

#### SECTION HISTORY

1983, c. 542, §§2,3 (NEW). 1985, c. 54, §1 (AMD).

## 22 §1471-R. NOTIFICATION AND MONITORING

**1. Purpose.** The purpose of this section is to protect the public health and safety by requiring a system of notification to the public and to the board for forest insect aerial spray projects and by improving the monitoring of these projects.

[ 1983, c. 819, Pt. A, §54 (NEW) . ]

**2. Scope.** The requirements of this section apply to public and private forest insect aerial spray pesticide applications.

[ 1983, c. 819, Pt. A, §54 (NEW) . ]

**3. Notification to the public.** Prior to the commencement of a forest insect aerial spray application, notice shall be given to the public as follows.

A. If the project is a major forest insect aerial spray application, as defined in section 1471-C, the notification shall be as follows.

(1) At least 14 days, but not more than 30 days, prior to spray application, notice shall be published in a newspaper of general circulation in the area affected. The notice shall describe the proposed spray activity, the area to be sprayed, the pesticide to be used, the date or dates on which the spraying is proposed to take place, any public precautions which appear on the pesticide label and the name, address and telephone number of persons responsible for the activity from whom more specific information regarding spray areas and times may be obtained.

(2) Any additions of spray blocks or changes in the choice of insecticides from the notification required pursuant to subparagraph (1) shall be published in a newspaper of general circulation in the area affected at least 24 hours before the change is effected.

(3) Notice shall be conspicuously posted at each point of major ingress and egress of the public into the area to be sprayed, including, without limitation, marked foot trails known to be used by the public and roads accessible to 4-wheeled vehicles and open to the public. The notice shall contain the information described in subparagraph (1). The board shall determine the time period the notice shall be posted prior to the commencement and following the completion of the spray project.

[1983, c. 819, Pt. A, §54 (NEW) . ]

B. If the project is a minor forest insect aerial spray application, as defined in section 1471-C, the notification shall be as follows: Notice in a newspaper of general circulation in the areas affected at least 4 days, but not more than 10 days, before the commencement of spray application. The notice shall contain the information required in paragraph A, subparagraph (1). [1983, c. 819, Pt. A, §54 (NEW) . ]

C. Notice shall otherwise be provided, as required by rule or order of the board, when that board determines additional notification procedures to be necessary to reach the affected public. [1983, c. 819, Pt. A, §54 (NEW) . ]

**4. Notification to the board.** Written notice shall be given to the board:

A. At least 15 days, but not more than 30 days, prior to the commencement of a major forest insect aerial spray application; or [1983, c. 819, Pt. A, §54 (NEW) . ]

B. At least 5 days prior to the commencement of a minor forest insect aerial spray application. [1983, c. 819, Pt. A, §54 (NEW) . ]

The notice shall contain the information required under subsection 3, paragraph A, subparagraph (1), and shall also include any other information which is required by the board. The notice shall be on such form as the board may prescribe.

[ 1983, c. 819, Pt. A, §54 (NEW) . ]

**5. Reports.** The following reports shall be prepared.

A. Following the completion of each spray period, a written spray period report prepared by the monitor, as defined in section 1471-C, shall be made available to the board within a reasonable time period established by the board.

The report shall describe the spray activity, shall certify the area actually sprayed and the pesticide used, weather conditions at the time, a map showing where spray booms were turned on and off and any nontarget areas that were sprayed, and the date and time on which spraying took place. The report shall be on such form and filed in accordance with such procedure as the board may prescribe. [1983, c. 819, Pt. A, §54 (NEW).]

B. In the event that a reportable spray incident occurs, a spray incident report shall be telephoned to the board immediately following the completion of each spray period. A reportable spray incident is a misapplication which may result in a potential threat to public health or the environment, including, without limitation: Failure to turn off spray booms over sensitive areas such as water bodies or human habitation; aircraft accidents involving chemical spills; and accidental discharge of insecticide, causing risk to human health. The report shall be on such form and filed in accordance with such procedure as the board may prescribe.

The spray contracting firm or applicator shall be responsible for complying with the requirements of this section. [1983, c. 819, Pt. A, §54 (NEW).]

C. A project report as described in the board's regulations shall be filed in accordance with such procedure as the board may prescribe. [1983, c. 819, Pt. A, §54 (NEW).]

**6. Responsibility.** The following parties shall be responsible for complying with the requirements of this section, unless otherwise noted:

A. In the case of a forest insect aerial spray program administered pursuant to Title 12, chapter 803, the Bureau of Forestry; and [1983, c. 819, Pt. A, §54 (NEW).]

B. In the case of any other forest insect aerial spray activities, the landowner or the landowner's representative, or, if the land is leased, the lessee. [1983, c. 819, Pt. A, §54 (NEW).]

## SECTION HISTORY

1983, c. 819, §A54 (NEW).

**22 §1471-S. REQUIREMENT FOR SPOTTERS AND MONITORS**

Major public and private forest insect aerial spray projects shall employ spotters and monitors, as defined in section 1471-C. These personnel shall be certified pursuant to section 1471-D, subsection 2-B. At least one spotter and one monitor shall be with each spray aircraft or spray aircraft team during all spray application activities. A spotter or monitor shall not serve as the pilot of any aircraft involved in the spray project. [1983, c. 819, Pt. A, §54 (NEW).]

## SECTION HISTORY

1983, c. 819, §A54 (NEW).

**22 §1471-T. EXEMPTION**

The board may exempt a person from compliance with one or more of the requirements of sections 1471-R and 1471-S, if the board finds that the exemption will not result in any unreasonable risk to the public's health, safety or general welfare and is otherwise in the public interest. Any request for exemption shall be made in writing to the board and shall state the reasons for the request. The board shall not grant any exemption, except following notice to the public and opportunity for hearing. Notice and opportunity for

hearing shall be in a manner as the board may prescribe and may be at variance with the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, to the extent that the board deems necessary under the circumstances. [1983, c. 819, Pt. A, §54 (NEW).]

SECTION HISTORY

1983, c. 819, §A54 (NEW).

## 22 §1471-U. MUNICIPAL ORDINANCES

**1. Centralized listing.** The Board of Pesticides Control shall maintain for informational purposes, for the entire State, a centralized listing of municipal ordinances that specifically apply to pesticide storage, distribution or use.

[ 1989, c. 93, §1 (RPR) .]

**2. Existing ordinances.** The clerk of any municipality which, on the effective date of this section, has an ordinance to be listed under subsection 1 shall file a copy of that ordinance with the board by December 31, 1988.

[ 1989, c. 93, §1 (RPR) .]

**3. New ordinances.** The clerk of the municipality shall provide the board with notice and a copy of any ordinance to be listed under subsection 1 at least 7 days prior to the meeting of the legislative body or the public hearing at which adoption of the ordinance will be considered. The clerk shall notify the board within 30 days after adoption of the ordinance.

[ 1989, c. 93, §1 (RPR) .]

**4. Intent.** It is the intent of this section to provide information on municipal ordinances. This section shall not affect municipal authority to enact ordinances.

[ 1989, c. 93, §1 (RPR) .]

**5. Failure to file.** For any ordinance which is not filed with the board, with notice given to the board in accordance with this section, which is otherwise valid under the laws of this State, any provision that specifically applies to storage, distribution or use of pesticides shall be considered void and of no effect after the deadline for filing and until the board is given proper notice and the ordinance is filed with the board.

[ 1989, c. 93, §1 (RPR) .]

SECTION HISTORY

1987, c. 702, §6 (NEW). 1987, c. 723, §§4,6 (NEW). 1989, c. 93, §1 (RPR).

## 22 §1471-V. LOCAL PARTICIPATION

**1. Representation.** When the board, under section 1471-M, considers the designation of a critical area or the establishment of a pesticide management plan for a critical area, the municipal officers of any affected municipality, or county commissioners in the case of unorganized territories, shall be given the opportunity to select a local representative to serve as an additional board member. For a given action, there shall be only one local representative who shall represent the affected municipality or unorganized territory.

[ 1987, c. 702, §6 (NEW) .]

**2. Participation and voting procedure.** A local representative appointed under this section may participate officially and vote in deliberations on the designation of a critical area or on the establishment of a pesticide management plan only for a critical area which is in the municipality or unorganized territory represented. A local representative may participate on the board until final designation of the critical area or final establishment of the pesticide management plan, including any administrative or judicial appeals. When the board considers a proposed critical area or pesticide management plan that affects more than one municipality, the board shall take separate action on the portion in each municipality.

[ 1987, c. 702, §6 (NEW) .]

**3. Compensation.** Local representatives shall be reimbursed only for expenses as regular board members during the period of their service, to be paid by the board.

[ 1987, c. 702, §6 (NEW) .]

#### SECTION HISTORY

1987, c. 702, §6 (NEW) .

## 22 §1471-W. GENERAL USE PESTICIDE DEALERS

**1. License required.** Unless exempted under subsection 5, no person may distribute general use pesticides without a license.

[ 1989, c. 93, §2 (NEW) .]

**2. Issuance of license.** The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of \$20 for a calendar year or any part of a calendar year. The Board of Pesticide Control may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. Any person licensed to distribute restricted use pesticides is considered licensed to distribute general use pesticides without any additional fee. All fees collected under this section are deposited in the Board of Pesticides Control Special Fund.

[ 1997, c. 454, §9 (AMD) .]

**3. Records; reporting.** Any person who distributes general use pesticides to licensed general use pesticide dealers in the State shall keep and maintain records of these sales for annual reporting purposes. These annual reports must include the names of all licensed general use pesticide dealers to whom general use pesticides were distributed, the names of the pesticides, the United States Environmental Protection Agency registration number and the quantity sold. These records must be kept for 2 years after the end of the calendar year. For the purposes of this subsection, "distributes" means sells, ships or delivers general use pesticides to a licensed general use pesticide dealer engaged in retail sales. The board may adopt rules to further clarify who is responsible for reporting under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[ 1997, c. 139, §1 (RPR) .]

#### **4. Violations; penalty.**

[ 1989, c. 93, §2 (NEW); 1989, c. 841, §10 (RP) .]

**5. Exemptions.** The following situations are exempt from the provisions of this section.

A. Any person may distribute the following products without a general use pesticide dealer license:

- (1) Household use pesticide products with no more than 3% active ingredients;
- (2) The following products, which have limited percentages of active ingredients:
  - (a) Dichlorovos (DDVP) impregnated strips with concentrations not more than 25% in resin strips and pet collars;
- (3) The following products with unlimited percentages of active ingredients:
  - (a) Pet supplies such as shampoos, tick and flea collars and dusts;
  - (b) Disinfectants, germicides, bactericides and virucides;
  - (c) Insect repellents;
  - (d) Indoor and outdoor animal repellents;
  - (e) Moth flakes, crystals, cakes and nuggets;
  - (f) Indoor aquarium supplies;
  - (g) Swimming pool supplies;
  - (h) Pediculocides and mange cure on man;
  - (i) Aerosol products; and
  - (j) General use paints, stains, and wood preservatives and sealants. [1989, c. 93, §2 (NEW).]

B. The board may promulgate rules to exempt the sale of additional general use pesticide products from the dealer licensing provisions of this section. [1989, c. 93, §2 (NEW).]

[1989, c. 93, §2 (NEW).]

#### SECTION HISTORY

1989, c. 93, §2 (NEW). 1989, c. 841, §10 (AMD). 1997, c. 139, §1 (AMD). 1997, c. 454, §9 (AMD).

## **22 §1471-X. STATE POLICY; PUBLIC AND PRIVATE INITIATIVES TO MINIMIZE RELIANCE ON PESTICIDES**

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. The agencies of the State involved in the regulation or use of pesticides shall promote the principles and the implementation of integrated pest management and other science-based technology to minimize reliance on pesticides while recognizing that outbreaks of disease, insects and other pests will necessitate fluctuations in pesticide use. These agencies, in cooperation with private interest groups, shall work to educate pesticide users and the general public in the proper use of pesticides and to determine other actions needed to accomplish the state policy. [1997, c. 389, §2 (NEW).]

#### SECTION HISTORY

1997, c. 389, §2 (NEW).

## **22 §1471-Y. NOTIFICATION OF OUTDOOR PESTICIDES APPLICATION USING AIRCRAFT OR AIR-CARRIER EQUIPMENT**

A land manager may not apply pesticides using aircraft or air-carrier equipment unless the notification requirements of this section are met. [2009, c. 378, §1 (NEW).]

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Air-carrier equipment" means any application equipment that uses a mechanically generated airstream to propel spray droplets. "Air-carrier equipment" does not include air-assisted application equipment in which the airstream is directed downward into the target canopy. [2009, c. 378, §1 (NEW).]

B. "Land manager" means the owner of the land, a person leasing the land, or a person, firm, company or other legal entity designated by the owner to manage the land, vegetation on the land or pests occurring on the land. [2009, c. 378, §1 (NEW).]

C. "Neighbor" means an owner, lessee or occupant of a property that abuts or lies within 1,320 feet of an area. [2009, c. 378, §1 (NEW).]

[ 2009, c. 378, §1 (NEW) .]

**2. Mandatory notification.** A land manager intending to conduct application of pesticides using aircraft or air-carrier equipment shall provide written notification to residents and managers of buildings on abutting property at least 90 days prior to the first date of pesticides application. The notification must be provided in accordance with subsection 5 and include:

A. A general description of the method of application that is likely to occur; [2009, c. 378, §1 (NEW).]

B. The pesticides application schedule and circumstances under which the application is likely to take place; [2009, c. 378, §1 (NEW).]

C. The commercial and scientific names of pesticides likely to be applied; and [2009, c. 378, §1 (NEW).]

D. Reference to the registry of citizens developed and maintained by the board under section 1471-Z and a description of how to be placed on the registry. [2009, c. 378, §1 (NEW).]

Notification in compliance with this subsection fulfils the notification requirement for 3 years unless the information provided under paragraph A, B or C changes.

[ 2009, c. 378, §1 (NEW) .]

**3. Obligations to provide information.** A land manager intending to conduct an outdoor application of pesticides using aircraft or air-carrier equipment shall access the registry of citizens under section 1471-Z to determine any neighbors on the registry of citizens and shall provide those neighbors with notification in accordance with subsection 5 and at least 24 hours but not more than 7 days in advance of the application of:

A. The date and approximate time of application; [2009, c. 378, §1 (NEW).]

B. The type of equipment to be used and the manner in which the pesticides will be applied; [2009, c. 378, §1 (NEW).]

C. The commercial and scientific names and the United States Environmental Protection Agency's registration numbers for the pesticides to be used and, upon request, the material safety data sheets for the pesticides or copies of pesticides labels; and [2009, c. 378, §1 (NEW).]

D. Contact information for the land manager. [2009, c. 378, §1 (NEW).]

[ 2009, c. 378, §1 (NEW) .]

**4. Records maintained.** A land manager shall maintain records of communications with neighbors regarding an outdoor application of pesticides using aircraft or air-carrier equipment and the dates and means by which the notification required under subsection 2 was provided. The board shall supply forms

for recording this information and the land manager shall use these forms. A land manager shall maintain a list of people receiving notification under subsection 2 or information under subsection 3 who ask not to be contacted in the future. A land manager may refrain from sending future notifications to these individuals.

[ 2009, c. 378, §1 (NEW) .]

**5. Means of notification.** A land manager conducting or contracting for a pesticides application using aircraft or air-carrier equipment shall make a good faith effort to convey the information required in subsections 2 and 3. Acceptable means of notification include:

A. Personal delivery of notification forms; [2009, c. 378, §1 (NEW).]

B. Mailing notification forms through the United States Postal Service; or [2009, c. 378, §1 (NEW) .]

C. Electronic mailing of notification forms. [2009, c. 378, §1 (NEW) .]

Telephone calls, either personal or automated, are an acceptable means of notification under subsection 3.

[ 2009, c. 378, §1 (NEW) .]

#### SECTION HISTORY

2009, c. 378, §1 (NEW).

## 22 §1471-Z. REGISTRY OF CITIZENS REQUESTING ADDITIONAL INFORMATION

The board shall develop and maintain a registry of residents and property owners in the State who request to be placed on a registry for the purpose of receiving information on the outdoor application of pesticides using aircraft or air-carrier equipment in addition to the information required under section 1471-Y. [2009, c. 378, §2 (NEW) .]

**1. Development of a registry of citizens.** The board shall solicit participation in a registry of citizens through newspaper articles, public notices distributed to municipal offices and a notice posted on the board's publicly accessible website. To be placed on the registry, a person must submit to the board, using a form provided on the board's publicly accessible website or a paper copy provided by the board upon request, the following information:

A. The person's full name; [2009, c. 378, §2 (NEW) .]

B. The person's telephone number; [2009, c. 378, §2 (NEW) .]

C. The location of the property owned, leased or occupied by the person registering. The location must be described in sufficient detail to be located on a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail; [2009, c. 378, §2 (NEW) .]

D. The person's mailing address; and [2009, c. 378, §2 (NEW) .]

E. The person's e-mail address. [2009, c. 378, §2 (NEW) .]

Any resident, owner or lessee of property in the State is entitled to be placed on the registry of citizens. A fee may not be charged to register. Persons remain on the registry until they notify the board in writing that they want to be removed from the registry or until the board staff determines that the contact is no longer valid.

[ 2009, c. 378, §2 (NEW) .]

#### SECTION HISTORY

2009, c. 378, §2 (NEW).

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