

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2335

6
7 S.P. 860

In Senate, March 21, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint
9 Rule 26.

10 Reference to the Committee on Agriculture is suggested and ordered
printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Wood of York.

11 Cosponsors: Representative Michael of Auburn and Senator Diamond of
Cumberland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Provide for Public
18 Notifications of the Intent to Apply Pesticides
19 and for Monitoring Certain Pesticide
20 Application Projects.
21

22 Be it enacted by the People of the State of Maine as
23 follows:

24 22 MRSA §1471-R is enacted to read:

25 §1471-R. Notification and monitoring

26 1. Purpose. The purpose of this section is to
27 establish reasonable measures to safeguard the public
28 by requiring a system of public notification prior to
29 the commencement of certain pesticide spray projects
30 and to provide for a meaningful degree of monitoring
31 of these projects by the Board of Pesticides Control.

32 2. Scope. The requirements of this section shall
33 apply to the following categories of pesticide use:

1 A. Spray applications on or along public or pri-
2 uate roads and rights-of-way, including, without
3 limitation, utility rights-of-way and railroad
4 rights-of-way;

5 B. Forestry spray applications by aircraft;

6 C. All other spray applications by aircraft;

7 D. Spray applications by ground mist blowers;
8 and

9 E. All other applications of pesticides by any
10 means other than nonpowered, hand-held apparatus.

11 3. Notification. Prior to the commencement of
12 any of the activities described in subsection 2, no-
13 tice shall be given. Definitions for the systems to be
14 used are as follows.

15 A. Notice shall be placed in a newspaper of gen-
16 eral circulation in the area affected. The no-
17 tice shall appear at least 7 days and no more
18 than 30 days prior to the commencement of the ac-
19 tivity for the season. The notice shall describe
20 the proposed spray activity, the area to be
21 sprayed, the pesticides to be used, the date or
22 dates on which the spraying is proposed to take
23 place and the name, address and telephone number
24 of the person responsible for the activity, as
25 well as the following message: "Information on
26 any public precautions which appear on the pesti-
27 cide(s) label is available upon request from the
28 person responsible for the activity; the local
29 extension service agricultural agent, (include
30 name and phone number); the Maine Poison Control
31 Center, 1-800-442-6305; and the Board of Pesti-
32 cides Control, 289-2731."

33 B. Abutter notification. Abutters shall be noti-
34 fied of spraying activities as follows.

35 (1) At least 7 days and no more than 30
36 days prior to the commencement of the spray
37 activities, all abutters of the properties
38 to be sprayed shall be notified by mail,
39 telephone or personal visit. The notifica-

1 tion shall contain all of the information
2 required under paragraph A.

3 (2) At the time of annual abutter notifica-
4 tion as described in subparagraph (1), each
5 abutter shall be asked whether they wish to
6 have proximate notification of the onset of
7 spray activities. If proximate notice is re-
8 quested, it shall be given at least 24 hours
9 prior to the planned onset of spraying with
10 the following exceptions:

11 (a) Conditional Exception - where and
12 when weather conditions create spray
13 timing uncertainties; in this situation
14 the person responsible shall give prior
15 notification of a projected spray
16 schedule during which the spray appli-
17 cations could take place, but the condi-
18 tional spray period shall not be ef-
19 fective for more than 96 hours; and

20 (b) Emergency Exception - when and
21 where uncertain weather conditions or
22 unexpected pest infestations, or both,
23 create emergency conditions making
24 proximate notice impractical, spraying
25 may proceed, but immediately upon com-
26 pletion of that particular spray opera-
27 tion, the abutter and the Board of Pes-
28 ticides Control must be notified of the
29 situation. The Board of Pesticides Con-
30 trol shall then hear all complaints
31 arising out of the emergency spray ap-
32 plication.

33 (3) The Board of Pesticides Control shall
34 be notified of spray activities as follows.

35 (a) At least 30 days prior to the com-
36 mencement of spray activities, written
37 notice shall be given to the Board of
38 Pesticides Control. This notice shall
39 contain all of the information required
40 under paragraph A, except for the
41 quoted message, of this section and
42 shall also contain a summary of the no-

1 tification system being planned for the
2 upcoming season, as well as any other
3 information the board may require. No-
4 tice shall be on a form such as the
5 board may prescribe.

6 (b) In addition to annual notice, the
7 board may request proximate notifica-
8 tion of any spray activity. This re-
9 quest shall be made in writing and in-
10 clude the amount of time proximate no-
11 tification the board requires.

12 (4) Notice shall be conspicuously posted:

13 (a) At each point of public ingress
14 and egress to the area to be sprayed.
15 This notice shall contain the informa-
16 tion required under paragraph A. Notice
17 shall be posted for at least a 7-day
18 period immediately prior to the com-
19 mencement of spray activities and re-
20 main posted for at least a 7-day period
21 following the completion of spray ac-
22 tivities; and

23 (b) Along public or private roads and
24 rights-of-way at reasonable intervals,
25 but not more than every 1,000 feet. The
26 notice shall contain the information
27 under paragraph A. Notice shall be
28 posted for at least a 7-day period im-
29 mediately prior to the commencement of
30 spray activities and remain posted for
31 at least a 7-day period following the
32 completion of spray activities.

33 4. Specific notification requirements. The fol-
34 lowing specific notification requirements shall ap-
35 ply.

36 A. Spray applications on or along public or pri-
37 vate roads and rights-of-way and railroad rights-
38 of-way shall meet the following notification re-
39 quirements:

40 (1) Annual public notification by newspa-
41 per;

1 (2) A system of public announcements con-
2 taining the same information required in
3 subsection 3, paragraph A, to be broadcast
4 at least 7 days, but not more than 30 days,
5 prior to the commencement of spray activi-
6 ties and to be broadcast on television and
7 radio stations in the areas affected;

8 (3) Each of the announcements in this para-
9 graph shall contain information on any
10 available "No Spray" contracts, what they
11 entail and how to apply for these contracts.
12 If the contracts are not currently availa-
13 ble, some form of "No Spray" boundary agree-
14 ments or property-line buffer zones shall be
15 offered; and

16 (4) Each of the announcements in this para-
17 graph shall contain an offer to call immedi-
18 ate abutters who contact the responsible
19 person and request proximate abutter notifi-
20 cation, as described in subsection 3, para-
21 graph B, subparagraph (1).

22 B. Spray application by aircraft for forest man-
23 agement shall meet the following notification
24 provisions:

25 (1) Annual public notification by newspa-
26 per;

27 (2) A system of public announcements con-
28 taining the same information required in
29 subsection 3, paragraph A, to be broadcast
30 at least 7 days, but not more than 30 days,
31 prior to the commencement of spray activi-
32 ties and to be broadcast on television and
33 radio stations in the areas affected;

34 (3) Each of the announcements in this para-
35 graph shall contain information on any
36 available "No Spray" contracts, what they
37 entail and how to apply for these contracts.
38 If the contracts are not currently availa-
39 ble, some form of "No Spray" boundary agree-
40 ments or property-line buffer zones shall be
41 offered;

1 (4) Each of the announcements in this para-
2 graph shall contain an offer to call immedi-
3 ate abutters who contact the responsible
4 person and request proximate abutter notifi-
5 cation, as described in subsection 3, para-
6 graph B, subparagraph (2); and

7 (5) Notice shall be conspicuously posted at
8 each point of public ingress and egress to
9 the area to be sprayed. This notice shall be
10 posted for at least a 7-day period immedi-
11 ately prior to the commencement of spray ac-
12 tivities and shall remain posted for at
13 least a 7-day period following the comple-
14 tion of spray activities.

15 C. All other spray applications by aircraft
16 shall meet the following notification require-
17 ments:

18 (1) Annual public notification by newspa-
19 per;

20 (2) Annual abutter notification;

21 (3) Proximate abutter notification, if re-
22 quested;

23 (4) Annual notification to the Board of
24 Pesticides Control; and

25 (5) Proximate notification to the Board of
26 Pesticides Control, if requested.

27 D. Spray application by ground mist blowers:

28 (1) Annual public notification by newspa-
29 per;

30 (2) Annual abutter notification;

31 (3) Proximate abutter notification, if re-
32 quested;

33 (4) Annual notification to the Board of
34 Pesticides Control; and

1 (5) Proximate notification to the Board of
2 Pesticides Control, if requested.

3 E. All other applications of pesticides by any
4 means other than nonpowered, hand-held apparatus
5 shall meet the following notification require-
6 ments:

7 (1) Annual notification of abutters; and

8 (2) Proximate notification of abutters, if
9 requested.

10 5. Additional notification requirements. The
11 Board of Pesticides Control shall develop a set of
12 guidelines to use in determining if any additional
13 notification requirements are necessary to insure
14 that individual spray operations are conducted as
15 safely as possible. Considerations of a need for ad-
16 ditional public notification and for the necessity of
17 performing a spray monitoring program shall be based
18 in part on the scope of the spray operation, the lo-
19 cation of the spray operation, the performance
20 records of applicators and land owners involved and
21 the toxicity of the pesticides being used. These ad-
22 ditional requirements may include, but are not lim-
23 ited to:

24 A. Radio and television announcement programs;

25 B. Posting of public points of ingress and
26 egress;

27 C. Posting of roadsides;

28 D. The Board of Pesticides Control may require a
29 written report to be filed within 15 days of the
30 completion of specified spray activities, includ-
31 ing emergency spray applications. The report
32 shall describe the spray activity and shall cer-
33 tify the area and acreage actually sprayed, the
34 pesticide or pesticides used and the date or
35 dates on which spraying activities actually took
36 place. The report will be completed on forms pre-
37 scribed by the board. The board shall notify the
38 responsible person in writing that a report is
39 required; and

1 E. If the Board of Pesticides Control requires a
2 report, the board may also require a fee which
3 shall accompany the report filed under paragraph
4 D. The amounts so collected shall be placed in a
5 nonlapsing special account to be expended by the
6 board for the purposes of administering a program
7 of monitoring and enforcement of spraying activi-
8 ties. The board may assess a fee of up to 10¢ per
9 acre based upon the acreage actually sprayed, as
10 certified under paragraph D. The board shall noti-
11 fy the person responsible in writing that a fee
12 is required and the amount of the fee.

13 6. Responsibility. The following parties shall
14 be responsible for complying with the requirements of
15 this section:

16 A. In the case of the forest spray program ad-
17 ministered under Title 12, chapter 803, subchap-
18 ter IV-A: The Maine Bureau of Forestry;

19 B. In the case of pesticide spray activities
20 along a public road or right-of-way: The public
21 entity which owns the road or right-of-way;

22 C. In the case of a pesticide spray operation
23 along a private road or right-of-way, including
24 without limitation, a utility or railroad right-
25 of-way, the owner of the road or right-of-way;
26 and

27 D. In all other cases of spray operation in-
28 cluded in this subsection: The landowner, or with
29 his written designation, the land manager, or, if
30 the land is leased, the lessee.

31 STATEMENT OF FACT

32 The purpose of this bill is to promote public
33 safety by establishing a system of public notifica-
34 tion provisions prior to the application of pesticide
35 and herbicide spray and by providing for monitoring
36 procedures to be used by the Pesticides Control Board
37 in the review of spray application projects. The
38 bill stipulates the specific notification require-
39 ments for the following categories of pesticide spray
40 applications:

- 1 1. Spray applications on or along public or pri-
2 vate roads and rights-of-way, including without limi-
3 tation, utility rights-of-way and railroad rights-
4 of-way;
- 5 2. Forestry spray applications by aircraft;
- 6 3. All other spray applications by aircraft;
- 7 4. Spray applications by ground mist blowers;
8 and
- 9 5. All other applications of pesticides by any
10 means other than nonpowered, hand-held apparatus.

11

5068030784