

Text of Rule Amendments

Chapter 10—Definitions and Terms

BBB. "Sensitive area" means any of the following, except where the area involved is the intended target of the pesticide application:

- ~~1. Residential buildings, together with any land which is part of the same property and is within 100 feet of such buildings;~~
- ~~2. School buildings, together with any land which is part of the same property and is within 100 feet of such buildings, and also together with any playgrounds, athletic fields or other such facilities designed for use by persons in the vicinity of school buildings;~~
- ~~3. Commercial or other buildings where human use occurs (including without limitation places of business, places of worship, and other commercial and institutional buildings), together with any land which is part of the same property and is within 100 feet of such buildings;~~
- ~~4. Developed recreational areas open to public accommodation, including developed public or commercial campgrounds, developed picnic areas, marked roadside rest areas, marked publicly owned or maintained hiking trails, developed park and recreation facilities, playgrounds, playing fields and other areas developed for organized sports or recreation;~~
15. Apiaries, the location of which is registered with the Department of Agriculture, Food and Rural Resources pursuant to 7 M.R.S.A. §2701;
26. Critical areas designated by the Board pursuant to 22 M.R.S.A. §1471-M(2);
37. Public wells, drinking water springs used by the public, and public water supply intake points, provided the location of the same is known or should reasonably be known to the pesticide applicator;
48. Private sources of drinking water, where the owner or legal user thereof has given prior notice of the location of such source to the landowner or lessee of the area which will be subject to a pesticide application;
59. Water bodies, including streams, brooks, rivers, ponds, lakes, estuaries and marine waters, provided that any such water body contains water at the time of the pesticide application and is known to the spray applicator or is reasonably detectable from visual observation, reasonably available maps or reasonable inquiry. This term shall not include: (a) in the case of forest aerial spray programs, streams and brooks that are neither shown on reasonably available maps nor visible from an aircraft operating at 1000 feet in elevation above ground level; and (b) waters that are confined and retained completely upon the property of the person conducting or contracting for spray services, and that do not drain into or connect with any other water body;
- ~~64.~~ Wetlands of Special Significance.
- ~~74.~~ Cleared areas where livestock are contained or pastured, cultivated land, cropland or gardens.
8. A "Sensitive Area Likely to Be Occupied" is an area where humans are likely to be present and includes the following:
 - i. Residential buildings, together with any associated maintained areas likely to be occupied by humans, such as lawns, gardens, recreational areas and livestock management and housing areas;
 - ii. School buildings, together with any associated maintained areas that are areas likely to be occupied by humans, such as playgrounds, athletic fields or courts;
 - iii. Commercial, institutional, or other buildings likely to be occupied by humans, together with any associated maintained areas such as lawns, gardens, parking and recreational areas;
 - iv. Maintained recreational areas likely to be occupied by humans including campgrounds, picnic areas, marked roadside rest areas, marked hiking trails, park and recreation facilities, athletic fields, and other areas for organized sports or recreation.
 - v. Public roads and other areas where there is evidence or a reasonable likelihood that people will be present when spraying will occur.

Chapter 22—Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition

SECTION 2. STANDARDS OF CONDUCT FOR PESTICIDE APPLICATIONS.

All pesticide applications subject to these regulations shall be undertaken in compliance with the following standards of conduct:

~~A.~~ General Requirements.

~~I.~~ Prior to and during pesticide spray activities, applicators shall determine and monitor the condition of the equipment to be used, weather conditions, the boundaries of the area to be treated, surrounding properties, including any sensitive areas in the vicinity, and other pertinent factors. These monitoring efforts must be sufficient to assure that spray activities are conducted in accordance with these regulations, pesticide label requirements and otherwise in a manner which complies with law.

~~II.~~ In any event, spray activities shall immediately cease if there is significant risk that these regulations or label requirements are not being or cannot be satisfied.

~~AB.~~ Equipment.

~~I.~~ Pesticide spray equipment shall be used in accordance with its manufacturer's recommendations and instructions, and shall be in sound mechanical condition, free of leaks and other defects or malfunctions which might cause pesticides to be deposited off-target.

~~II.~~ Pesticide spray equipment shall be properly calibrated. Calibration shall occur with sufficient frequency, depending on extent and type of use of equipment and pesticides employed, so to ensure that equipment remains within 5% of reasonably close to calibration the intended application rate specifications when in use. Applicators shall maintain work sheets to show types of nozzles, pressure, boom height and speed of equipment at time of calibration and a brief description of the calibration method records sufficient to demonstrate compliance with this section.

~~III.~~ Pesticide application equipment shall have properly functioning shut-off valves or other mechanisms which enable the operator to prevent direct discharge and minimize drift to non-target areas. Spray equipment designed to draw water must also have a properly functioning antisiphoning device.

~~BC.~~ Weather Conditions.

~~I.~~ Spray applications shall not be undertaken when weather conditions favor pesticide drift onto Sensitive Areas or otherwise prevent proper deposition of pesticides on target.

~~II.~~ Spray applicators shall be familiar with all weather conditions and related factors which affect settling of pesticides on to or off target. Such factors include temperature, inversion, wind speed and direction, potential for drift and volatilization, equipment functioning and pertinent label instructions.

~~III.~~ Pesticide application must cease immediately when visual observation reveals or should reveal that spray is not being deposited on target.

~~III V.~~ Without limitation of the other requirements herein, under no circumstances shall pesticide application occur when wind speed in the area is in excess of 15 miles per hour.

~~CD.~~ Site Map and Identification of Sensitive Areas.

~~I.~~ Prior to spraying a pesticide, the applicator must become familiar with the area to be sprayed and must identify and record the existence, type and location of any Sensitive Area located within 500 feet of the target area. When there are sensitive areas within 500 feet of the target area, Applicators shall prepare be prepared to demonstrate by production of a site map, sketch, field notes, log or other documentation depicting the target area and adjacent Sensitive Areas that this requirement has been met. Site maps shall be updated annually. These records The site map of sensitive areas shall be retained by or on behalf of the applicator for a period of two years following the date of applications and shall be made available to representatives of the Board upon request. This requirement shall not apply to commercial application categories 3B (turf), 3A (ornamental tree and plant) or 7A (structural general pest control applications).

Section 2(C) becomes effective on January 1, 2010.

~~II.~~ Prior to spraying by aerial application, the field or other area to be sprayed shall be clearly identified by means of ground markings or other physical identification characteristics clearly visible from the air.

DE. Presence of Humans, Animals.

Pesticide applications shall be undertaken in a manner which minimizes exposure to humans, livestock and domestic animals.

The applicator shall cease spray activities at once upon finding evidence showing the likely presence of unprotected persons in the target area or in such proximity as to result in unconsented exposure to pesticides.

EF. Other Requirements.

~~These regulations are intended to be minimum standards. Weather and topographical conditions, proximity to areas of particular sensitivity and other factors may require the applicator to take special precautions, beyond those set forth in these regulations, in order to avoid adverse impacts on off-target areas and to protect public health and the environment. Moreover, these regulations are not designed or intended, nor should they be construed, to affect rights of private citizens in civil actions arising out of the negligent use or other misapplication of pesticides.~~

~~These regulations also 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 which 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 3. STANDARDS FOR AERIAL APPLICATION OF PESTICIDES

A. Positive Identification of the Target Site

The person contracting for an aerial pesticide application shall ensure that the application site (i.e., target area) is positively identified prior to application, using a unique and verifiable method, including:

- I. An onboard, geo-referenced electronic mapping and navigation system (e.g., GPS); or
- II. Effective site markings visible to the applicator; or
- III. Other method(s) approved by the Board.

B. Site Plans Required

Prior to spraying by aerial application within 1,000 feet of a Sensitive Area Likely to Be Occupied, the person contracting for the application shall provide to the applicator a site plan that includes:

- I. a site map drawn to scale that:
 - (i) delineates the boundaries of the target area and the property lines;
 - (ii) depicts significant landmarks and flight hazards;
 - (iii) depicts the type and location of any Sensitive Area Likely to Be Occupied within 1,000 feet of the target area; and
 - (iv) depicts other Sensitive Areas within 500 feet of the target area.
- II. If applicable, a school bus schedule shall accompany the site map.
- III. The site plan and site map with identified sensitive areas required under Section 3(B) shall be retained by the applicator for a period of two years following the date of applications and shall be made available to representatives of the Board upon request.
- IV. Compliance with this section satisfies the requirements of Section 2(C).

C. Site-Specific Application Checklist

Prior to conducting an aerial pesticide application within 1,000 feet of a Sensitive Area Likely to Be Occupied, the applicator shall complete a Board-approved pre-application checklist for each distinct field or target site. The checklist shall be maintained by the applicator for a period of two years and shall be available for inspection by representatives of the Board at reasonable times, upon request. The checklist shall include, at a minimum, the following elements:

- I. The date, time, description of the target site and name of the applicator;
- II. Confirmation that the notification requirements contained in CMR 01-026 have been carried out;
- III. Confirmation that the target site has been positively identified;
- IV. The location of where weather conditions are measured and a description of the equipment used to measure the wind speed and direction;
- V. Confirmation that conditions are acceptable to treat the proposed target site, considering the location of any Sensitive Area Likely to Be Occupied and current weather conditions;
- VI. Wind speed and direction;
- VII. The measures used to protect all Sensitive Areas;
- VIII. Confirmation that there are no humans visible in or near the target area.

D. Buffer Zones for any Sensitive Area Likely to Be Occupied

An applicator may not conduct an aerial application of pesticides within 200 feet, or two-and-one-half swath widths, whichever is greater, of a Sensitive Area Likely to Be Occupied, unless consent has been granted by the landowner, lessee and occupant (when applicable), consistent with the provisions of Section 4(C) of this rule.

E. Wind Speeds for Aerial Applications

Unless otherwise specified by the product label, an applicator may not conduct an aerial application of pesticides within 1,000 feet of a Sensitive Area Likely to Be Occupied unless the wind speed is between 2 and 10 miles per hour.

SECTION 43. GENERAL STANDARDS FOR OFF-TARGET PESTICIDE DISCHARGE AND RESIDUE.

A. Prohibition of Unconsented, Off-Target Direct Discharge of Pesticides.

Pesticide applications shall be undertaken in a manner which does not result in off-target direct discharge of pesticides, unless prior authorization and consent is obtained from the owner or lessee of the land onto which such discharge may occur in a manner consistent with the pesticide label.

B. Standards for Unconsented, Off-Target Drift

I. General Standard. Pesticide applications shall be undertaken in a manner which minimizes pesticide drift to the maximum extent practicable, having due regard for prevailing weather conditions, toxicity and propensity to drift of the pesticide, presence of Sensitive Areas in the vicinity, type of application equipment and other pertinent factors.

II. ~~Prima Facie Evidence of Violation. Without limiting the generality of subsection I above, the presence of pesticide drift residues in excess of any of the following levels shall constitute prima facie evidence that the applicator did not take reasonable precautions to minimize pesticide drift to the maximum extent practicable Standard of Harm for Off-Target Drift of Pesticides. An applicator may not apply a pesticide in a manner that results in off-target drift and causes harm resulting in:~~

- (i) Pesticide residues detected in or on any off-target Sensitive Area in the vicinity of an application site, ~~which exceed 20% of the residues found, or which with proper application technique would have occurred, within the target area. For purposes of this standard, residue levels, within both a target area and an off-target sensitive area, may be determined by evaluation of one or more ground, foliage or other samples, or by extrapolation or other appropriate techniques.~~
- (ii) Pesticide residues detected in or on any off-target sensitive area in the vicinity of an application site which result in damage to crops, vegetation or other species within the sensitive area crop that violate EPA residue tolerances for that crop, as established under 40 CFR, Part 180.
- (iii) Pesticide residues detected in or on any off-target organic farm or garden in the vicinity of an application site which causes the organic products thereof to fail to meet the tolerance standard for organic agricultural commodities, ~~because residue testing detects prohibited substances that are greater than five percent of the Environmental Protection Agency's tolerance for the residue detected as~~

established under the National Organic Program, 7 CFR, Part 205. This standard shall apply only where, prior to the time the pesticide application occurs, the owner or operator of the organic farm or garden notifies the owner or lessee of the land to be sprayed, with such notice identifying the farm or garden as organic.

- (iv) Documented illness in human(s). For the purposes of this section, the Board shall determine what constitutes adequate documentation.
- (v) Damage or injury to any non-target species.
- (iv) ~~The residue standards in this subsection II for off target drift do not apply where the owner or lessee of the off target area receiving pesticide drift have given authorization and consent as prescribed under Subsection C of this section.~~

III. Enforcement Considerations. The Board shall consider the particular circumstances of violations arising from Subsection 4(B)(II) in determining an appropriate response, including, but not limited to:

- (i) The standard of care exercised by the applicator;
- (ii) The degree of harm or potential harm that resulted from or could have resulted from off-target drift from the application;
- (iii) The risk (toxicity and exposure) of adverse effects from the pesticide applied.

~~III. Standards for Particular Pesticides. The Board may by rule provide more restrictive residue standards than those prescribed herein for particular pesticides, where pesticide toxicity, propensity to drift or other circumstances warrant.~~

~~C. Consent; How Given.~~

- I. Consent, How Given. Authorization and consent by the owner or lessee and occupant (when applicable) of land receiving a pesticide discharge or drift in a manner consistent with the pesticide label may be given in any manner, provided that the consent is reasonably informed and is given prior to the onset of the spray activity in question. The burden of proof shall be upon the applicator to demonstrate that requisite authorization and consent has been given. For this reason, applicators are encouraged to obtain such consent in writing and to maintain records thereof.
- II. The residue and harm standards in Section 4(B)(II) for off-target drift do not apply where the owner, lessee and occupant (when applicable) of the off-target area receiving the pesticide drift have given authorization and consent as prescribed in Section 4(C).
- III. Except with the prior written approval of the Board, no authorization or consent may be given with regard to off-target direct discharge or off-target drift of pesticides upon any bodies of water or critical areas as defined in Chapter 10, "Definitions; Sensitive Area."

~~SECTION 4. DRIFT MANAGEMENT PLAN.~~

~~A. Purpose.~~

~~Landowners, lessees and/or spray applicators may develop a drift management plan to cover applications undertaken by or on behalf of them. The purpose of such a plan shall be to minimize the occurrence and adverse effects of pesticide drift. Where a drift management plan is in effect and complied with, management flexibility may be enhanced.~~

~~B. Contents~~

~~A drift management plan must contain measures designed to meaningfully reduce and minimize the incidence and adverse effects of off target drift of pesticides, with a particular view to protecting sensitive areas. Such measures shall consider and include at least some of the following elements:~~

- I. ~~The establishment of no spray buffer zones between spray blocks and sensitive areas to minimize drift;~~
- II. ~~Spraying only when maximum wind speed and/or direction are as prescribed by the plan, with that prescription being less than the maximum allowable wind speed established under section 2C IV;~~
- III. ~~The use of coarse spray droplets created by a combination of special nozzles, pressures and particulating agents;~~
- IV. ~~The use of specialized equipment designed to minimize spray drift;~~
- V. ~~The use of wind shields or breaks to deflect or contain spray drift away from sensitive areas;~~
- VI. ~~The use of closest possible points of spray release to the target in order to minimize drift;~~

- VII. ~~The use of lowest effective rates of application of pesticides;~~
- VIII. ~~The use of integrated pest management techniques, including planting of pest resistant varieties, removal of pest host plants, long range planning to rotate crops and monitor fields, and other measures designed to minimize the use of pesticides over the planting season and/or over several planting seasons;~~
- IX. ~~Posting of the area to be sprayed or other forms of effective public notification, provided that this measure must be accompanied by other measures designed to reduce drift;~~
- X. ~~Other specific measures stated in the plan which are effective in minimizing the incidence and adverse effects of pesticide drift.~~

~~C. Procedure.~~

~~Any person wishing to operate under a drift management plan must prepare the plan in writing, stating with specificity the measures which will be used, and how they will be used, in reducing the incidence of drift and protection of sensitive areas. The plan shall also include a map, aerial photograph or sketch of the area(s) to be sprayed, the crops to be treated, the pesticide(s) and equipment which may be used, the target pest(s), and the monitoring techniques and thresholds which will be used in making a decision to spray a given area. The plan shall be dated and signed by the person(s) responsible for carrying out its provisions, who shall also provide an address and telephone number by which (s)he can be reached.~~

~~D. Filing; Review by Board.~~

~~The drift management plan need not be filed with the Board but must be retained by the person having responsibility for pesticide application. Notification to the Board of the existence of the plan shall be submitted on forms to be prepared by the Board. The Board may from time to time review any plan for adequacy in providing for minimum drift and protection of sensitive areas. If the Board requests a copy of the complete plan, it shall be promptly submitted. If the Board at any time determines that a plan is not adequate, or is not sufficiently detailed to allow for an evaluation of its adequacy, it shall notify the person responsible for the plan and provide an opportunity for that person to amend the plan in order to make it adequate. The Board may notify that person of amendments or conditions which would make the plan acceptable. Any plan determined by the Board to be inadequate shall be declared invalid by the Board.~~

~~E. Period of Effectiveness.~~

~~A drift management plan shall be effective for a period of two years, after which it must be updated by the person responsible for its preparation. The Board shall be notified in writing of the updated plan.~~

~~F. Legal Effect of Plan.~~

~~Operating under a drift management plan does not allow an applicator to avoid compliance with the requirements of Section 2 and 3A of these regulations. Departure from the standards of Sections 2 and 3A requires a variance permit under Section 5.~~

~~G. Enforcement.~~

~~In the event of an incident involving alleged pesticide drift or other misapplication where a drift management plan was in effect, the Board shall examine the adequacy of the plan and may declare the same inadequate or recommend further amendments or conditions. The Board shall take into consideration the existence of and good faith compliance with a plan in determining whether further enforcement action by the Board is necessary.~~

SECTION 5. VARIANCES FROM STANDARDS

A. Variance Permit Application.

An applicator may vary from any of the standards imposed under this chapter by obtaining a permit to do so from the Board. Permit applications shall be made on such forms as the Board provides and shall include at least the following information:

- I. The name, address, and telephone number of the applicant;
- II. The area(s) where pesticides will be applied;
- III. The type(s) of pesticides to be applied;
- IV. The purpose for which the pesticide application(s) will be made;
- V. The approximate date(s) of anticipated spray activities;
- VI. The type(s) of spray equipment to be employed;
- VII. The particular standards from which the applicant seeks a variance;
- VIII. The particular reasons why the applicant seeks a variance from such standards, including a detailed description of the techniques to be employed to assure a reasonably equivalent degree of protection and of the monitoring efforts to be made to assure such protection;
- IX. The names and addresses of all owners or lessees of land within 500 feet of the proposed spray activity, and evidence that such persons have been notified of the application. The Board may waive this requirement where compliance would be unduly burdensome and the applicant attempts to notify affected persons in the community by another means which the Board finds reasonable.

- B. Board Review; Legal Effect of Permit, Delegation of Authority to Staff.
 - I. Within 60 days after a complete application is submitted, the Board shall issue a permit if it finds that the applicant will achieve a substantially equivalent degree of protection as adherence to the requirements of this chapter would provide and will conduct his activities in a manner which protects human health and the environment. Such permit shall authorize a variance only from those particular standards for which variance is expressly requested in the application and is expressly granted in the permit. The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as conditioned in the permit, the applicant shall undertake spray activities in accordance with all of the procedures described in his application and all other applicable legal standards. Permits issued by the Board under this section shall not be transferable or assignable except with further written approval of the Board and shall be valid only for the period specified in the permit.
 - II. The Board may delegate authority to review applications and issue permits to the staff as it feels appropriate. All conditions and limitations as described in Section 5(B)I shall remain in effect for permits issued by the staff. If the staff does not grant the variance permit, the applicator may petition the Board for exemption following the requirements set forth in 22 MRSA §1471-T, "Exemptions."

SECTION 6. EMERGENCIES

In the event that severe pest or weather conditions threaten to cause a public health emergency as determined by the Commissioner of the Maine Department of Health and Human Services, or a threat of significant natural resource and/or economic loss, as determined by either the Commissioner of the Maine Department of Conservation or the Commissioner of the Maine Department of Agriculture, Food and Rural Resources, the specified requirements of Section 3 of this Chapter shall be waived, subject to the following conditions:

- A. The severe pest and/or weather conditions must necessitate immediate wide-scale aerial application of pesticides.
- B. The immediate need for aerial pesticide application does not provide sufficient time to complete the requirements of Section 3 of this Chapter.
- C. Prior to any aerial application, the Commissioner shall issue a press release notifying residents of affected regions about the emergency, the likelihood of aerial application in the affected regions and the approximate dates that the emergency may continue.
- D. The Commissioner, in consultation with the Board's staff, shall specify the requirements in Section 3 that will be waived.
- E. Land managers and aerial applicators shall make good faith efforts to comply with the intent of Section 3 and minimize off-target drift to Sensitive Areas.

Chapter 28--Notification Provisions for Outdoor Pesticide Applications

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 information or notification about pesticide applications, for notifying adjacent residents about aerial applications, for posting property on which certain commercial pesticide applications have occurred and also establishes the Maine Pesticide Notification Registry structure and fees.

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.~~

- 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 1. Obtaining Information or Notification About Outdoor Pesticide Applications

The purpose of this section is to allow neighbors an opportunity to obtain information or notification about outdoor pesticide applications that may occur in their vicinity and establishes the responsibilities of landowners and managers to provide that information or notification. Subsection A allows neighbors to request general information about pesticide applications that may occur within one calendar year. Subsection B allows neighbors to request advance notice about specific applications. Finally, Subsection C requires anyone contracting for an aerial application of pesticides to determine whether neighbors wish to receive advance notification.

A. Requests for General Information About Pesticide Applications

1. The owner, lessee or legal occupant of a Sensitive Area (hereinafter called the "neighbor") may request general information about future outdoor pesticide applications which may occur within 500 feet of the Sensitive Area for ground applications and within 1,500 feet of the Sensitive Area for aerial applications.
 - a. The request for information should be made to the person responsible for management of the land on which pesticides will be applied (hereinafter called the "manager"). If the neighbor does not know how to contact the manager he/she may make the request to the landowner. The landowner shall then be responsible for assuring compliance with provisions of this section.
 - b. The request for general information may be made in any fashion, so long as it is effective in informing the manager or landowner of the neighbor's relevant contact information (name, address, telephone numbers, e-mail address, etc.).

2. Once a request for general information has been made, as provided in Section 1(A)(1), the person receiving the request shall provide the information to the neighbor within one week after the request for information is received and at least 24 hours prior to any planned application time. Such information may cover outdoor pesticide applications which are planned over a period of one growing season or year and may be given in any fashion, provided that it effectively informs the neighbor of the following:
 - a. the approximate date(s) when pesticides may be applied;
 - b. in general terms, the manner of application and the pesticides that may be applied; and
 - c. the contact information for the manager.

B. Requests for Advance Notice of Specific Pesticide Applications

1. A neighbor may request to be notified about specific outdoor pesticide applications which may occur within 500 feet of that Sensitive Area for ground applications and within 1,500 feet of the Sensitive Area for aerial applications.
 - a. The request for notification should be made to the manager. If the neighbor does not know how to contact the manager, he/she may make the request for notification to the landowner. That landowner shall then be responsible for assuring compliance with the provisions of this section.
 - b. The request for notification may be made in any fashion, so long as it is effective in informing the manager or landowner of the neighbor's relevant contact information (name, address, telephone numbers, e-mail, etc.).
 - c. The request for notification shall be valid until such time as the neighbor declines future notice or until the neighbor no longer owns, leases or occupies the Sensitive Area.
2. Once a request for notification has been made as provided in Section 1(B)(1), the person receiving the request shall notify the neighbor at least 24 hours, but not more than 7 days, prior to the planned application time. Such notification may be given in any fashion, provided that it effectively informs the neighbor of the following:
 - a. the date and approximate start time for when pesticides may be applied;
 - b. in the event of inclement weather, an alternate date and start time for when pesticides may be applied;
 - c. the brand name and EPA registration number of the pesticide(s) to be applied;
 - d. in general terms, the manner of application; and
 - e. the contact information for the manager.
3. The neighbor may also request a copy of the Material Safety Data Sheet(s) (MSDS) and/or pesticide label(s) for the pesticides which may be applied. However, such requests for additional information will not delay nor prohibit any intended pesticide application(s).
4. The neighbor and the manager may agree to modify the terms of the notification procedures set forth in Section 1(B). Either party may terminate said agreement by providing a 30-day written notice.

C. Notification About Aerial Pesticide Applications

1. Prior to contracting for an aerial application of pesticides within 1,000 feet of a Sensitive Area Likely to Be Occupied by humans, the person contracting for the application shall determine whether the occupant(s) of any Sensitive Area Likely to Be Occupied within 1,000 feet of the target area wish to be notified prior to any aerial application of pesticides. Said determination may be accomplished by any means, including written correspondence, personal contact or through use of an up-to-date notification list, as long as it is effective in conveying and carrying out the intent of this section. This determination must be updated annually. The burden of proof for demonstrating compliance with this section lies with the person contracting for the application.

2. The person contracting for an aerial application of pesticides within 1,000 feet of a Sensitive Area Likely to Be Occupied shall notify individuals as identified in Section 1(C)(1) as follows:
 - a. Notice of aerial pesticide applications shall be given to the occupant of a Sensitive Area Likely to Be Occupied at least 24 hours, but not more than 7 days, prior to the planned application time. Such notification may be given in any fashion, provided that it is effective in informing the occupant of the following:
 - i. the approximate date and start time for when pesticides may be applied;
 - ii. in the event of inclement weather, an alternative date and start time for when pesticides may be applied;
 - iii. the brand name and EPA registration number of the products to be applied; and
 - iv. the contact information for the person contracting for the pesticide application from whom additional information may be obtained.
 - b. The Sensitive Area Likely to Be Occupied occupant may also request a copy of the Material Safety Data Sheet(s) (MSDS) and/or pesticide label(s) for the pesticides which may be applied. However, such requests for additional information will not delay nor prohibit any intended pesticide application(s).
 - c. When a Sensitive Area Likely to Be Occupied is only sporadically occupied, e.g., picnic areas, parks, etc., and there is no readily identifiable contact person for the Sensitive Area Likely to Be Occupied, the person contracting for the aerial pesticide application must post a Board-approved sign or signs (see Appendix A) at least 24 hours, but not more than two days, prior to the application. The signs required under CMR 01-026 Chapter 51 Sections II(C) and IV(C) may also be used. The Sensitive Area Likely to Be Occupied shall be posted in a manner, and at locations, designed to reasonably assure that persons entering such area will see the notice. The minimum specification for the signs required by this Section are as follows:
 - i. at least 8½ inches by 11 inches;
 - ii. made of rigid, weather-resistant material that will last at least 48 hours when placed outdoors; and
 - iii. light-colored (white, beige, yellow or pink) with dark, bold letters (black, blue or green).
 - d. The occupant of the Sensitive Area Likely to Be Occupied and the person contracting for the aerial application may agree to modify the terms of the notification procedures set forth in this section. Either party may terminate said agreement by providing a 30-day written notice.

D. Emergencies

1. In the event that severe pest or weather conditions threaten to cause a public health emergency as determined by the Commissioner of the Maine Department of Health and Human Services, or a threat of significant natural resource and/or economic loss, as determined by either the Commissioner of the Maine Department of Conservation or the Commissioner of the Maine Department of Agriculture, Food and Rural Resources, the specified requirements of Section 1(C) of this Chapter shall be waived, subject to the following conditions:
2. The severe pest and/or weather conditions must necessitate immediate wide-scale aerial application of pesticides.
3. The immediate need for aerial pesticide application does not provide sufficient time to complete the requirements of Section 1(C) of this Chapter.
4. Prior to any aerial application, the Commissioner shall issue a press release notifying residents of affected regions about the emergency, the likelihood of aerial application in the affected regions and the approximate dates that the emergency may continue.
5. The Commissioner, in consultation with the Board's staff, shall specify the requirements in Section 1(C) that will be waived.
6. Land managers and aerial applicators shall make good faith efforts to comply with the intent of Section 1(C).