

Concerns and Details to be Addressed with the Aerial/Air Carrier Registry Specified Under LD 1293 (listed by statute section)

1. 1471-Y(2) **Mandatory notification.**
 - a. Technically, the bill becomes effective on September 12, but the regulated community would not be able to comply with the requirements unless they had mailed the mandatory notices on June 12, which seems unlikely.
 - b. This section requires 90 day advance written notification to residents and managers of buildings on abutting property. Residents and managers of buildings may be very burdensome to identify without visiting each one. Notifying the land owner will not satisfy this requirement unless that person is also the resident(s) and manager(s) of any buildings. The statute does not specify that the buildings need to be occupied, they only need to have a manager. Therefore, without clarification, presence of storage buildings and/or vacant buildings anywhere on the property will require the applicator to identify a manager (this may be difficult without a personal visit) and mail a notice to them.
 - c. The mandatory notification requirements will hamper all applications that are not anticipated at least 90 days in advance, for example:
 - i. “Pop-up work” (jobs that arise suddenly such as when the ground is too wet for the tractor to get into the field) would no longer be feasible due to the 90 day written notice requirement.
 - ii. There is no public health emergency exemption to address a potential outbreak of mosquito borne disease.
 - iii. Current application practices using air-carrier sprayers to do commercial tree and mosquito spraying would no longer be feasible unless the work was planned at least 90 days in advance.
 - iv. Wide area aerial spray programs such as gypsy moth, brown tail moth or mosquito control programs may no longer be feasible given they often involve application to dozens of properties that will require 90 day written notice to residents and managers of buildings on abutting property.
 - v. The staff is not sure why 90 days advance written notice is specified in the statute and wonders if a shorter timeframe will serve the intended purpose, and add flexibility for applicators.
 - d. Without clarification of the term “property”, the size of an individual parcel either being treated or abutting the treated area could be very large

which exponentially increases the notification burden, for example:

- i. Some “properties” may be an entire township. If the landowner wishes to make an aerial application on a small portion of that property, they will need to provide the mandatory notification to all abutting property owners, some of which could be as much as six miles away from the application site.
 - ii. Similarly, if the abutting property is a 20,000 acre tract of land that contains 500 condominiums 3 miles from the application site; all those residents and managers would need to be notified.
- e. What does the pesticides application schedule mean in Section 2B mean?
 - f. This section states that the mandatory notice is good for three years unless the information provided under paragraph A, B or C changes. What if the applicator decides to use a new product, or lower risk product? The statute requires a new 90 day notice be given in those situations.
 - g. Some affected residents may seasonal or rental residents. The process of identifying abutting residents or building managers is complicated if no-one is inhabiting the building 90 days in advance of an application.

2. 1471-Y(2) & (3) **Mandatory notification & Obligations to provide information.**

Applicators, land managers and abutters will not find the scientific name of a pesticide very informative, and it will be difficult to accurately transcribe. The common chemical name or the trade name and EPA Registration number are more useful in most situations.

3. 1471-Y(4) **Records maintained.**

The statute does not specify how long records must be maintained and/or whether or not the BPC has authority to review the records.

4. 1471-Y(5) **Means of notification.**

- a. This section allows the applicator to provide the advance notice to registry participants in multiple ways, but it does not provide for the registry participant to state whether or not email is a workable form of advance notice.
- b. Because telephone and automated telephone calls are allowed by this section, should we clarify that the call must be answered by an adult or a

message is left, such as we do in the current “suburban” registry?

5. 1471-Z **Registry of citizens requesting additional information.**

- a. Currently no timeframes are defined for getting onto the registry or for applicators/land managers to check the registry. Without any rulemaking, it appears an individual could submit a request and be placed upon the registry at any time (1 minute before the application) and that the applicator would need to continuously check the registry and provide at least 24 hours advance notice to participants
- b. This section requires registry participants to submit a mailing address, but it does not specify which address. An out-of-state address would not be useful for the advance notice that must be given to registry participants.
- c. The statute requires a description of the property for which notification is requested. The staff believes a physical or 911 address may be more useful. If the registry participant’s property is large, it may be difficult to describe its location, especially if there is no building on the site, or if there are no roads on the site.