

**Testimony in Opposition  
LD1599**

Senator Dill, Representative O'Neil and members of the Joint Standing Committee on Agriculture Conservation and Forestry I am Robert Tardy, a resident of Palmyra. As someone who spent 10 years sitting on your side of the horseshoe (pre-zoom) I would respectfully suggest that bills of this nature be brought forward only after the rule making process has been exhausted. We used to refer to the legislature as the court of last resort. The Administrative Procedures Act or APA was put in place many years ago to deal with issues of a regulatory nature and should be used more frequently. I would also point out that there is a statute on the books regarding general use pesticide dealers---Title 22 sec. 1471-W and what follows is the Pesticides Control Board Chapter 50 that covers record keeping and reporting. I am a registered lobbyist for CropLife America and RISE. These are two trade associations that represent primarily manufacturers. This bill is obviously impactful on applicators and retailers. I would recommend an ONTP report and that the proponents utilize the Administrative Procedures Act as it was intended.

**DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**026 BOARD OF PESTICIDES CONTROL**

**Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS**

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**SUMMARY:** These regulations describe the types of records and reports which commercial applicators, commercial agricultural producers, limited/restricted use pesticide dealers, spray contracting firms and monitors must maintain and submit to the Board.

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**Section 1. Records**

**A. Pesticide Application Records**

- I. Commercial agricultural producers and commercial applicators shall maintain pesticide application records consistent with paragraph II. below for a period of two years from the date of application. Such records shall be kept current by recording all the required information on the same day the application is performed. These records shall be maintained at the primary place of business and available for inspection by representatives of the Board at reasonable times, upon request.
- II. Pesticide application records shall include, at a minimum:
  - a. Site information including town and location, crop or site treated, target organism, customer and customer address\_(where applicable); and
    - i. for broadcast applications, size of treated area (when completed);

- ii. for volumetric applications as described on the label, the volume treated;
  - iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).
- b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).
- c. **Rate information.** For each distinct site, application rate information must be maintained as follows:
  - i. **Restricted Use Pesticides.** For restricted use pesticides, applicators shall record the total amount of pesticide applied (undiluted).
  - ii. **General Use Pesticides.** For general use pesticides, applicators shall record:
    - (1) rate information as described in (i.) above; or
    - (2) the mix ratio and the total mix applied; or
    - (3) the mix ratio and the mix per unit area applied.
- d. For outdoor applications, except those listed below, weather conditions including wind speed and direction, air temperature and sky conditions recorded such as sunny, partly cloudy, overcast, foggy or rainy. No weather condition records need be kept for outdoor applications involving:
  - i. pesticides placed in bait stations;
  - ii. pesticide-impregnated devices placed on animals, such as ear tags; or
  - iii. pesticides injected into trees or utility poles.
- e. For TBT applications to marine vessels, applicators must also record the vessel identification and size, and the disposition of TBT wastes including chips/dust removed prior to application and empty containers.

## B. Limited Use/Restricted Use Pesticide Sales Records

- I. Licensed pesticide dealers shall maintain records of each sale of a restricted/limited use pesticide on their sales slips and the customer's name, and license number must be recorded on every invoice or electronic record involving that individual. Licensed pesticide dealers must also maintain records to verify that sales of restricted/limited use pesticides to unlicensed purchasers are only made where a licensed applicator is employed to supervise the use of the restricted/limited use products. These records must include the name, address, license number, issuing agency, expiration date, and categories of certification (if applicable) of each person to whom the restricted use pesticide was distributed or sold. These records are to be available for inspection by representatives of the Board at reasonable times, upon request, and are to be maintained for two calendar years from the date of sale.
- II. Pesticide dealer records shall also include the signature of purchaser or his/her agent, the product name, the EPA registration number, state special local need registration (SLN) number (if applicable), the quantity and size of containers purchased, and the date of purchase.
- III. Any pesticide dealer who discontinues the sales of restricted/limited use pesticides shall notify the Board in writing and shall provide the Board, upon request, with all required records including a final sales report up to the date of discontinuance.

## Section 2. Reports

- A. **Annual Summary Reports by Commercial Applicators.** Annual summary reports must be submitted for each calendar year by January 31 of the following year. In the event a required report is not received by the due date, the person's license may be temporarily suspended until the proper report is received or until a decision is tendered at a formal hearing as described in 22 M.R.S.A. §1471-D(7). The report filed with the Board by or on behalf of commercial applicators shall contain the following information for each site or crop treated: quantity of each pesticide used, EPA registration number and total area treated (where applicable) for each pesticide.
- B. **Annual Pesticide Sales Reports.** Pesticide dealers licensed to sell limited and restricted use pesticides must provide the Board with a calendar year-end report of total sales of all limited, restricted and general use pesticides before their pesticide dealer license can be renewed. The Board will furnish report forms.
- C. **Spray Incident Reports**
  - I. Commercial agricultural producers, commercial applicators, spray contracting firms and licensed pesticide dealers shall be responsible for telephoning a spray incident report to the Board as soon as practicable after emergency health care has been obtained for injured parties and efforts have been initiated to contain any spills.
  - II. A reportable spray incident is any significant misapplication or accidental discharge of a pesticide. Such incidents shall include: fires involving pesticides; vehicle and aircraft accidents resulting in a spill or human contamination; failure

to turn off spray booms or other spray equipment resulting in application to sensitive areas (such as water bodies, accidentally applying pesticides to the wrong site or places of human habitation) when such application is a violation of label instructions or other law; overfilling of spray equipment resulting in risk of contamination of water; and any other equipment breakage or malfunction or pesticide handling activity which causes a pesticide release which may result in a threat to human health or the environment.

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STATUTORY AUTHORITY: Title 22 M.R.S. Chapter 258-A §1471-G, M and R

EFFECTIVE DATE:

July 6, 1979 - as "Reporting Requirements," filing 79-338

AMENDED:

August 12, 1985 - filing 85-275

REPEALED AND REPLACED:

April 5, 1995 - as "Record Keeping and Reporting Requirements," filing 95-149

AMENDED:

October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

November 11, 2001 - filing 2001-483

March 5, 2003 - filing 2003-61

January 4, 2005 – filing 2004-606 affecting Section 1.A.I.

December 23, 2012 – filing 2012-348 affecting Section 1.B.II.

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

July 23, 2019 – filing 2019-133