

Summary of Comments—Chapter 28—10/2/09

TESTIMONY GIVEN AT OCTOBER 2, 2009, PUBLIC HEARING	
Person/Affiliation (with corresp. transcript pg. #)	Summary of Testimony
Jon Olson (5–9) Maine Farm Bureau Assoc. (~3,000 member farms)	Concerns: Mandatory requirements, who and how many individuals require notification, the distance should be from the treated area, need for agricultural emergency provision, conflict with distances in Chapter 51 and current Chapter 28.
Heather Spalding (11–21) (70–80) MOFGA (7,000 members in homes and businesses)	Supports: LD 1293, proposed Chapter 28; 1.A.1., 1.B.1., 1.C., 1.C.1.A-E, 1.C.4., 1.D.1., and 1.D.2. Concerns: <ul style="list-style-type: none"> ➤ Proposed Chapter 28 is inconsistent with LD 1293. ➤ 1.C.: intro does not include managers of maintained recreational areas ➤ 1.C.3.: land-manager–derived alternative disclosure plans, 1.C.2. would take care of these issues ➤ 1.C.5.: directly contradicts the statute, Chapter 51 requirements are not as strict as those in proposed Chapter 28 Other notes: Only sections that should be considered are the agricultural and public health exemptions. Suggestions: <ul style="list-style-type: none"> ➤ 1.C.: change disclosure to early notification. ➤ 1.C.1.: 90-day advance notice should be changed to by March 1. ➤ 1.D.1: people on the registry should be able to specify the preferred method of contact. ➤ 1.D.3.A: change 24-hour notice to calendar day. ➤ 1.D.3.E: records of alternative agreements should be maintained on Board forms.
Ed LeBlanc (21–25) Anderson Farms	Concerns: Burden of notification would be significant, farms spreads out for 35 miles, average field size is <15 acres, has one subdivision with 150 houses across the road from one field. Other notes: An exemption for emergencies would be needed for his sweet corn.
Jody Spear (25–26)	Supports: LD 1293 Concerns: Chapter 51 exemption
Harry Ricker (26–29) Ricker Hill Orchards	Concerns: Burden of notification would be significant, farms spreads out in 8 towns, 20 non-contiguous parcels, N. Bridgton, 1 field abuts 400 neighbors, including Bridgton Academy, would have to notify ~1000 people. The operation is 50% organic (35 sprays in 2009) and 50% IPM.
Stan Smith (30–31) Smith’s Red Apple	Concerns: Identifying the boundaries, seasonal campground in the valley Question: How would they notify the campers?

Summary of Comments—Chapter 28—10/2/09

TESTIMONY GIVEN AT OCTOBER 2, 2009, PUBLIC HEARING

<p>Person/Affiliation (with corresp. transcript pg. #)</p>	<p>Summary of Testimony</p>
<p>Vincent Ahlholm (32–35) (58–61) Ahlholm, Inc.</p>	<p>Concerns: Burden of notification would put him out of business; has a coastal farm—would have to notify ~300 to 350 people; the operation is part organic and part conventional.</p>
<p>Paul E. Sweetland, Jr. (35–38) Coastal Blueberry Service</p>	<p>Concerns: Problem with the 90-day disclosure provision, no data to support the 1,320-ft distance. Other Notes: Current notification scheme is working.</p>
<p>Deven Morrill (38–44) Lucas Tree Experts</p>	<p>Concerns: Burden of notification would negatively impact their business which operates in 25 towns, 1,000 clients, 1–4 applications per year; treatments include mosquito and tick control and plant health care including Browntail and Gypsy moths, applications in 1–10 locations per day, mandatory notification section does not address changes in home ownership following notification Supports: The registry. Proposes: Exempt airblast spraying from mandatory notification requirements, one-time annual notification, changing the distance from 1,320 to 500 ft, change timeline from 1–7 days to 1–14 days.</p>
<p>Ellen McAdam (44–48) Maine State Pomological Society/McDougal Orchards</p>	<p>Concerns: Opposes LD 1293; burden of notification would negatively impact apple growers; there are three right-to-know rules, all requiring separate paperwork, that are redundant; specifying airblast equipment unfairly targets apple growers; require a fee to be on the registry. Other Notes: People abutting orchards can be very vocal at 4:00 AM when they find out what’s going on, cites the lack of complaints received by the Board.</p>
<p>Tom Geiger (48–52) (62–63) Fixe Fields Farm</p>	<p>Concerns: 200 acres, 60 in apples, spraying by air more efficient—made IPM decisions doable; if people want to know what we are doing, they should ask.</p>
<p>Judith Dimock (52–56) North Star Orchards</p>	<p>Concerns: LD 1293 and the process by which it was developed; the rule as proposed is ambiguous and contradictory, interferes with IPM; promotion of the registry does not mention talking to the farmer; notification requirements a great burden on farmers. Questions: Why were air and airblast separated out when drift from airblast equals drift from boom spray? Suggestions: Suspend rulemaking until LD 1293 can be revisited by the Legislature</p>
<p>David Bell (63–67) (83–84) Maine Wild Blueberry Commission (750 growers)</p>	<p>Concerns: Notification interferes with IPM, Question: What problem are we trying to solve? Other Notes: Current system works well. Suggestions: System ought be the same for all applications, 250 ft for non-ag, 250 ft for ag, simplify the system</p>

Summary of Comments—Chapter 28—10/2/09

TESTIMONY GIVEN AT OCTOBER 2, 2009, PUBLIC HEARING	
Person/Affiliation (with corresp. transcript pg. #)	Summary of Testimony
Lauchlin Titus (67–69) (82–83) Maine Vegetable & Small Fruit Growers Association/Agricultural Consultant	<p>Concerns: Members want mandatory notification for airblast to go away, 90 days is unrealistic, the logistics of multiple fields in different locations makes notification as described unrealistic.</p> <p>Suggestion: Suspend action on this rule until the Legislature takes further action on LD 1293.</p>
Brian Thomas (80–82) Maine Apple Company	<p>Concerns: Notification interferes with IPM, orchards all over the state make the proposed notification scheme infeasible.</p> <p>Suggestion: Education should be the job of the Board, not the farmer.</p>

Summary of Comments—Chapter 28—10/2/09

WRITTEN COMMENTS RECEIVED BY OCTOBER 16, 2009	
Person/Affiliation (with corresp. printout pg. #)	Summary of Comments
Gerry Mirabile (1) Central Maine Power	Supports: 1.C., 1.D., as proposed; 2.E., no proposed changes to this section.
Allen LeBrun (2) North Chester Orchard	Concerns: Air-carrier equipment part of normal farming practices, increases the burden on small farms, including airblast with aerial assumes the similar risk for off-target movement. Suggestion: Remove airblast equipment from the rule
Glen Koehler (3–4) UMaine Cooperative Extension	Concerns: Little or no differences in drift potential based on target site (forestry vs ag vs ornamental, etc.), no evidence of increased drift potential from airblast vs boom, increased burden on farmers, no mechanism for people to get off the registry, registry with no fee invites abuse. Suggestions: Possible exemption for public health uses, add a mechanism for people to get off the registry, a fee for the registry, unified system for notification requirements.
M. Kay Michhka (5) Lexington TWP	Concerns: Forestry spraying by air. Suggestion: Remove the Chapter 51 exemption.
Ellen McAdam (6–7) Maine State Pomological Society/McDougal Orchards	Concerns: Opposes LD 1293, the rule; burden of notification would negatively impact apple growers; there are three right-to-know rules, all requiring separate paperwork, that are redundant; specifying airblast equipment unfairly targets apple growers; require a \$20 fee to be on the registry; timing of the hearing at the busiest time of the season for apple growers. Other notes: Neighbors can be very vocal at 4:00 AM when they find out what’s going on, cites the lack of complaints received by the Board, state and federal laws already regulate the spraying of commercial crops.
David Whitney (8–9) Whitney’s Blueberries	Concerns: Farm has 14 lots ranging in size from 12 to 80 acres across 10 towns, numerous neighbors which would need to be notified; blueberry farmers have been singled out—forestry spraying, DOT roadside spraying, landscapers and homeowners have been exempted; conflict of IPM and mandatory notification. Other Notes: Current system works, proposed rule is confusing and complicated. Suggestions: Notification burden should be the same—suburban, urban and rural for the same types of application equipment; do not change these rules at this time

Summary of Comments—Chapter 28—10/2/09

WRITTEN COMMENTS RECEIVED BY OCTOBER 16, 2009	
Person/Affiliation (with corresp. printout pg. #)	Summary of Comments
Heather Spalding (10–13) MOFGA (7,000 members in homes and businesses)	<p>Supports: LD 1293, proposed Chapter 28; 1.A.1., 1.B.1., 1.C., 1.C.1.A-E, 1.C.4., 1.D.1., and 1.D.2.</p> <p>Concerns:</p> <ul style="list-style-type: none"> ➤ Proposed Chapter 28 is inconsistent with LD 1293. ➤ 1.C.: intro does not include managers of maintained recreational areas. ➤ 1.C.3.: land-manager–derived alternative disclosure plans, 1.C.2. would take care of these issues. ➤ 1.C.5.: directly contradicts the statute, Chapter 51 requirements are not as strict as those in proposed Chapter 28. <p>Other notes: Only sections that should be considered are the agricultural and public health exemptions.</p> <p>Suggestions:</p> <ul style="list-style-type: none"> ➤ 1.C.: change disclosure to early notification. ➤ 1.C.1.: 90-day advance notice should be changed to by March 1. ➤ 1.D.1: people on the registry should be able to specify the preferred method of contact. ➤ 1.D.3.A: change 24-hour notice to calendar day. ➤ 1.D.3.E: records of alternative agreements should be maintained on Board forms.
Ivan Hanscomb (14) Machias	<p>Suggestion: Require notice in two local papers every spring.</p>
Brien Davis (15) Hope Orchards	<p>Concerns: The proposed rule is confusing, IPM/notification conflict, giving people too much technical information that might worry them.</p> <p>Suggestion: Reconsider the rule</p>
Marilyn Sprague (16) Rocky Ridge Orchard	<p>Concerns: The proposed rule is confusing.</p> <p>Suggestion: Defer the rule.</p>
Kenneth Sullivan (17) Sullivan’s Orchard	<p><i>[He indicated support of Ellen McAdam/Pomological Society comments, above.]</i></p>
Andy Williamson IV (18–19) Country Fair Farm	<p>Concerns: LD 1293, conflict of IPM and mandatory notification, timing of 24-hour notification unreasonable, burden of notification, including airblast in the rule.</p> <p>Other Notes: Hopeful Legislature will revisit LD 1293.</p> <p>Suggestions: Keep it simple and don’t increase the burden on farmers.</p>

Summary of Comments—Chapter 28—10/2/09

WRITTEN COMMENTS RECEIVED BY OCTOBER 16, 2009	
Person/Affiliation (with corresp. printout pg. #)	Summary of Comments
Lee Edwards (20) Portland	Concerns: Exemptions Suggestions: No exemptions or exceptions for non-ag applications should be made.
JoAnn Myers (21) Waldoboro	Concerns: Organic farmer abutting a conventional farmer. Suggestions: <ul style="list-style-type: none"> ➤ 1.C. intro: managers of maintained recreational areas should be notified without exception. ➤ 1.C.3.: confusing if alternative disclosure plans were accepted. ➤ 1.C.5.: no exemptions for non-ag aerial and air-carrier, waivers for public health emergencies. Other Notes: People on the registry should specify how they wish to be notified; notification should be required on specific date(s) of each year.
Alan Michhka (22) Lexington	Concerns: Forestry spraying by air. Suggestion: Remove the Chapter 51 exemption.
Greg Sweetser (23–24) Debbie Freeman Sweetser Farm & Orchard	Concerns: Opposes the rule—it poses an unreasonable burden on farmers. Other Notes: If they subdivide the farm, ag applications will be replaced by lawn care; sees no public benefit
Jody Spear (25–26) Harborside	Concerns: 1.C. exception for maintained recreational areas, 1.C.5 does not belong in this rule, variances. Supports: Notification, registry. Other Notes: Exemption for Chapter 51 applications should not be allowed; cites Beyond Pesticides Factsheet, “The Truth about Mosquitoes, Pesticides, and West Nile Virus,” claiming spraying for West Nile Virus infected mosquitoes is not effective. Said Board members were placating growers at October 2 hearing by assuring them that “variances give them a way out,” and they joked about “creative ways of breaking the rules” (during the discussion of Chapter 29, when it was pointed out that no interval is specified for treatment), and indicated this is improper exercise of authority and that the Board is supposed to be implementing a law passed by the Legislature. Suggestions: Accommodate all abutters, regardless of distance, as well as all “occupants of SALOs,” so that they will not be involuntarily exposed to pesticides.

Summary of Comments—Chapter 28—10/2/09

WRITTEN COMMENTS RECEIVED BY OCTOBER 16, 2009	
Person/Affiliation (with corresp. printout pg. #)	Summary of Comments
David Bell (27–32) Wild Blueberry Commission	<p>Concerns:</p> <ul style="list-style-type: none"> ➤ Proposed rule goes beyond LD 1293, legislative revisions are in the pipeline. ➤ 1.A. and 1.B.: air and airblast applications should be removed from these sections because they are covered by mandatory notification in 1.C. ➤ 1.A.1.a.: definition of land manager is different from LD 1293. ➤ 1.A.2, 1.B.2: put “where feasible” back in. ➤ 1.C. “: occupant” is defined in 1.A.1. and its use in 1.C. expands the universe of individuals to be notified. ➤ 1.C.5.: exemption for non-ag air and airblast applications is not allowed in LD 1293. <p>Supports: Single statewide registry with GIS capabilities.</p> <p>Suggestions: Suspend rulemaking until legislative revisions occur, streamline notification with the single statewide registry.</p>
Rob Boothby (33)	<p>Concerns:</p> <ul style="list-style-type: none"> ➤ Entire rule. ➤ 90-day disclosure flies in the face of IPM. ➤ notification will increase neighbors’ anxiety. <p>Suggestions: Strike it from the books.</p>
Board Staff (34)	<p>Concerns: Need a public health emergency exemption, applicability of the registry.</p> <p>Suggestions:</p> <ul style="list-style-type: none"> ➤ Require a press release to be issued to major news outlets whenever the public health exemption is invoked ➤ The registry set forth in LD 1293 does not focus solely on building occupants: notification is required for any registry participant who owns, leases or occupies property within 1,320 feet of the pesticide application site. The language contained under 1.D.3.c. should therefore be changed from, “...registry participants <i>occupying</i> property...” to “...registry participants <i>who own, lease or occupy</i> property...”.
Darrin Hammond (35–36) Jasper Wyman and Son	<p>Concerns: Unnecessary burden, conflict of notification with IPM, notification rules should be uniform for all users of the same types of equipment.</p> <p>Suggestions: Simplify notification, same requirements for all users.</p>

Summary of Comments—Chapter 28—10/2/09

WRITTEN COMMENTS RECEIVED BY OCTOBER 16, 2009	
Person/Affiliation (with corresp. printout pg. #)	Summary of Comments
Brian McCleary (37–38) Certified Crop Advisor	<p>Concerns: 1,320 ft is excessive, conflict of IPM and notification, unwarranted hysteria on the part of the public who do not understand the EPA pesticide registration process</p> <p>Supports: the registry</p> <p>Suggestions: more people use the Board’s website</p>
Todd Merrill (39–41) Merrill Blueberry Farms	<p>Concerns:</p> <ul style="list-style-type: none"> ➤ Has 1,000 acres in 2 counties. ➤ Mandatory notification system. ➤ 1,320-ft notification requirements. ➤ Another set of varying rules for specific application techniques. ➤ LD 1293 is confusing law as is the rule. ➤ Burdensome because of trailer park within ¼ mile of the border of one of his fields which houses over 200 residents. ➤ 1,320 ft does not agree with urban and non-ag requirements for the same application equipment ➤ Notification distance should be based on target area not entire property. ➤ Current system works. ➤ IPM and notification conflict. <p>Other Notes: Wants copy of all information available regarding the previous 5 years (calendar years 2004–2008) of recorded complaints to the Board of Pesticide Control where aerial applications of pesticides have been involved.</p> <p>Suggestions: Create a single website for all outdoor powered applications for the entire state, no mandatory notifications, advertising by BPC and land managers, distance from target site should be 250 feet for all types of airblast applications</p>
Cary Nash (42-43) Nash Farms	<p>Concerns: 57 fields in 15 towns and 3 counties, notification as proposed is burdensome, doesn’t know specific type of equipment to be used until the field monitoring is done, rule is confusing, rule needs to be consistent for forestry, ornamental, etc.</p> <p>Supports: A single all-inclusive registry</p>
Brian Powers (44) Hart’s Clary Hill Farm	<p>Concerns: Lack of cost-benefit analysis and scientific basis for rules.</p>

Summary of Comments—Chapter 28—10/2/09

WRITTEN COMMENTS RECEIVED BY OCTOBER 16, 2009	
Person/Affiliation (with corresp. printout pg. #)	Summary of Comments
Paul Sweetland (45–47) Coastal Blueberries	<p>Concerns: 400 acres can be sprayed per day by air, 50 acres per day by airblast, 25 acres per day by boom (average field is <10 acres); IPM for mummyberry requires timing flexibility of helicopters; lack of science behind LD 1293; questions exemptions for non-ag air and airblast applications.</p> <p>Suggestions: Rely on EPA for their scientific evaluations.</p> <p>Other Notes: National Organic Program provides guidance for organic farmers to buffer their crops on their land, drift is a fact of life and people who view farms as high risk neighbors should move elsewhere.</p>
Richard and Constance Sweetser (48) Sweetser Orchards	<p>Concerns: Burden of notification.</p>