

SUMMARY OF COMMENTS—CHAPTERS 20, 22, AND 51—MARCH 2013

TABLE 1 - TESTIMONY GIVEN AT MARCH 1, 2013 PUBLIC HEARING

Person/Affiliation	Summary of Testimony	Board Response
<p>Katy Green (MOFGA) (also submitted written testimony)</p>	<p>Questions the efficacy of spraying mosquitoes to prevent disease.</p> <p>Would like the Board to do more outreach on how people can protect themselves.</p> <p>Any person should be able to opt out for any reason.</p> <p>Government-sponsored spray programs should not be exempted from entire chapter e.g., in Chapter 22: monitoring of wind speeds, positive identification of sites.</p> <p>Hope protection of organic farms will be included in rule; prefer anyone be able to opt out, but if not, then at least organic farms.</p> <p>MOFGA has been working on mapping organic farms; it's unclear how the mapping will be managed and who will maintain the maps .</p> <p>Would like Board policy to be available for review and comment soon.</p> <p>Concerned that Maine does not have enough data about mosquitoes and virus presence and we are putting the spraying ahead of monitoring.</p>	<p>The Board is sensitive to concerns about pesticide use and is not recommending pesticide applications, but it is proposing changes to its rules to make public health related treatments feasible if state public health officials determine it's in the best interest of the state.</p> <p>The Board continues to support education to help people protect themselves from mosquitoes and supports the use of an IPM approach to managing mosquitoes and protecting public health.</p> <p>The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p> <p>The Board reviewed Chapters 22 and 51 and agreed that parts of them should not be exempted. It adjusted the proposed amendments accordingly.</p> <p>The Board will work with MOFGA and other groups to develop plans for mapping exclusion zones.</p> <p>The Board agrees that mosquito surveillance is critical to making informed decisions and is working with the Maine CDC to expand mosquito surveillance.</p>
<p>Jody Spear (also submitted written testimony)</p>	<p>Spray programs are ineffective .</p> <p>Pesticides are dangerous for the environment, especially for pollinators.</p> <p>Organic farmers should be able to opt out of aerial spraying.</p> <p>Maine should not “come into line” with other states, but should lead the way by having a policy that is less damaging</p>	<p>The Board is sensitive to concerns about pesticide use and is not recommending pesticide applications, but it is proposing changes to its rules to make public health related treatments feasible if state public health officials determine it's in the best interest of the state.</p> <p>Data from Massachusetts suggest that bees are not harmed by carefully conducted public health mosquito-control pesticide applications because of product choice</p>

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	<p>to the environment.</p> <p>Granger asked if there is any way to conduct a spray program and protect the pollinators and Spear replied that there is not.</p>	<p>application rates and application timing.</p> <p>The Board supports exclusion zones for organic farms but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p> <p>The Board supports the use of an IPM approach to managing mosquitoes and protecting public health.</p>
<p>Dave Bell (Maine Wild Blueberry Commission) (also submitted written testimony)</p>	<p>Concerned about potential residue on fruit, making it unacceptable to overseas customers.</p> <p>Would like organic farms to be named as sensitive sites to be avoided.</p> <p>Looked at cranberry study done in Massachusetts, but because the samples were taken 3–5 days after spraying, can't be sure there would be no detect the day after spraying. Would like research on the materials most likely to be used.</p> <p>Concerned that the way the rule is currently written it would require only a “reasonable effort” for ground-based spraying. Needs a stronger requirement to avoid application to commercial fruits, especially near suburban interfaces.</p> <p>For aerial spraying the “extent feasible” is not adequate to provide protection. Section should be strengthened.</p> <p>Wild blueberries are only sensitive near harvest. Would like to see research on the timing. If the materials biodegrade in 24 hours then they could postpone harvest for one or two days, but if it takes longer, couldn't postpone for five days, would lose harvest.</p> <p>Shouldn't be exempt from standards in Chapter 22: equipment, weather, identification and recording of sensitive sites; some sections would have to be modified, but most</p>	<p>There are U.S. tolerances for residues of the active ingredients which could be used in a public health mosquito application. Mosquito public health adulticide applications are at much lower rates of active ingredient per acre than are residential or agricultural uses.</p> <p>Blueberry farms are large enough to be easily excluded; and would not generally be part of the target areas for mosquito control which are centered around the interface of vector habitat and population areas.</p> <p>Data from Massachusetts on cranberries suggests that within a few days there will be no residues from the insecticides most likely to be used in a public health mosquito control program.</p> <p>The Board supports the idea of additional research to address crop residue concerns. The BPC toxicologist indicated that some research has already been done on residues and she will study the data and report back.</p> <p>The Board agrees that agricultural sites need not be sprayed and supports mapping those sites as exclusion zones. It also recognizes that very small sites may not be feasible to exclude from an aerial spray program.</p> <p>The Board is sensitive to concerns about the standard</p>

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	<p>should not be exempted.</p>	<p>of care required of the government entity, but could not identify alternative language that would not create an unreasonable impediment to public health control programs.</p> <p>The Board agrees that parts of Chapter 22 should not be exempt and has revised the amendments to address this concern.</p>
<p>May Linda Rapelye (also submitted written testimony)</p>	<p>Would like organic to be able to opt out.</p> <p>Wonders what happens to the pesticide when it kills mosquitoes in the air; do the mosquitoes, along with the pesticide, drop into the water?</p> <p>Thinks treating larvae with Bti is more effective and would like to see it made possible.</p>	<p>The Board is sensitive to concerns about pesticide use and is not recommending pesticide applications, but it is proposing changes to its rules to make public health related treatments feasible if state public health officials determine it's in the best interest of the state.</p> <p>EPA has approved labels for the products with wide-area public health programs for mosquito control. This means they have been through the environmental risk assessment process and EPA has determined that - at labeled rates - the products pose an acceptable risk to aquatic life.</p> <p>The Board supports the use of an IPM approach to managing mosquitoes and protecting public health which would include the use of <i>Bti</i> and other methods. The staff has engaged in a dialog with the Maine DEP about revising the General Permit for Larval Mosquito Control to make larval control more practical.</p>

SUMMARY OF COMMENTS—CHAPTERS 20, 22, AND 51—MARCH 2013

TABLE 2 - WRITTEN COMMENTS RECEIVED BY MARCH 15, 2013

INDIVIDUAL RESPONSES

Person/Affiliation	Summary of Comments	Board Response
<p>Bell, David – Executive Director, Maine Blueberry Commission</p>	<p>Concerned about pesticide residues on blueberries that may not be acceptable to international customers or above international tolerance levels.</p> <p>Concerned about organic growers losing the opportunity to sell their crop as certified organic if a prohibited substance is applied above a field.</p> <p>Wants a stronger opt-out option for ground-based applications in section 6.C.2.of Chapter 20.</p> <p>Wants to make sure that blueberry fields with maturing fruit are considered a sensitive site under section 6.C.3., and to strengthen the language, “takes affirmative steps” to ensure sensitive sites will be protected from residues.</p> <p>Suggests field trials to ensure that control materials used will result in minimal product quality risk.</p> <p>Suggests only exempting public health applications from specific requirements in Chapter 22 and to do a review to see if there may be a need for additional standards for this type of application project.</p> <p>Suggested specific changes to Chapter 22, Section 2.C & D.; Section 3.B,C,D&E and Section 4.B.</p>	<p>There are U.S. tolerances for residues of the active ingredients which could be used in a public health mosquito application. Mosquito public health adulticide applications are at much lower rates of active ingredient per acre than are residential or agricultural uses.</p> <p>Blueberry farms are large enough to be easily excluded; and would not generally be part of the target areas for mosquito control which are centered around the interface of vector habitat and population areas.</p> <p>Data from Massachusetts on cranberries suggests that within a few days there will be no residues from the insecticides most likely to be used in a public health mosquito control program..</p> <p>The Board agrees that agricultural sites need not be sprayed and supports mapping those sites as exclusion zones. It also recognizes that very small sites may not be feasible to exclude from an aerial spray program.</p> <p>The Board is sensitive to concerns about the standard of care required of the government entity, but could not identify alternative language that would not create an unreasonable impediment to public health control programs.</p> <p>The Board supports the idea of additional research to address crop residue concerns. The BPC toxicologist indicated that some research has already been done on residues and she will study the data and report back</p> <p>The Board agrees that parts of Chapter 22 should not be exempt and has revised the amendments to address this concern.</p>

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<p>Simone, Michael, Owner, Mosquito Terminators</p>	<p>Believes the exceptions from Chapters 20, 22 and 51 should be extended to any legitimate licensed mosquito control company operating in areas that have been identified by the Maine CDC.</p>	<p>The Board determined that the scope of the current rulemaking effort is public health mosquito control programs undertaken by governmental entities. Governmental entities will likely contract with commercial pesticide applicators for this type of control work, and therefore these amendments will apply to commercial applicators as well.</p>
<p>McCarron, Patricia, Director, Maine Lobstermen’s Association</p>	<p>Strongly opposed to the amendments to all chapters. Concerned that insecticides sprayed for mosquitoes will harm lobster since both are arthropods and that they will have lethal and sub-lethal effects.</p> <p>Questions the efficacy of mosquito adulticiding and encourage public educational programs to emphasize elimination of breeding sites and resting habitat, encouraging natural predators and personal protection from bites.</p> <p>If education fails, suggest larvicide programs using <i>Bacillus thuringiensis israelensis</i></p> <p>Opposes elimination of a property owner’s right to be excluded from aerial spray programs.</p>	<p>EPA has approved labels for the products with wide-area public health programs for mosquito control. This means they have been through the environmental risk assessment process and EPA has determined that - at labeled rates – the products pose an acceptable risk to aquatic life. There are U.S. tolerances for residues of the active ingredients which could be used in a public health mosquito application. Mosquito public health adulticide applications are at much lower rates of active ingredient per acre than are residential or agricultural uses.</p> <p>The Board is sensitive to concerns about pesticide use and is not recommending pesticide applications, but it is proposing changes to its rules to make public health related treatments feasible if state public health officials determine it’s in the best interest of the state.</p> <p>The Board continues to support education to help people protect themselves from mosquitoes and supports the use of an IPM approach to managing mosquitoes and protecting public health.</p> <p>The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p>

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Spear, Jody, Harborside, Maine	<p>Requests that the opt-out choice be retained in Chapter 20 and does not think the words “reasonable effort” in Section C.2 and “to the extent feasible” in Section C.3 are appropriate.</p> <p>Concerned that the “sensitive sites” referred to in Chapter 20 Section C.3 will go unprotected if Chapter 22 is amended as proposed.</p> <p>Would like more specifics in Chapter 20 B.1 and C.1 including a similar (3 day) advance notice for ground spraying.</p> <p>Doesn’t think Chapter 20 properly replaces the 500 foot notification requirements in Chapter 51.</p> <p>Doesn’t think the words “reasonable effort” in Chapter 22 Section 6.B are appropriate.</p>	<p>The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p> <p>Sensitive sites referred to in Chapter 20 will be excluded from the target area and buffer zones will be implemented.</p> <p>The Board agrees that notifying the public is of paramount importance. It also recognizes an outbreak of EEE may require a very rapid response. Historically, the media has found wide-area spray programs to be extremely newsworthy. Additionally, government entities understand the value of keeping the public informed.</p> <p>The Board is sensitive to concerns about the standard of care required of the government entity, but could not identify alternative language that would not create an unreasonable impediment to public health control programs.</p>
McCammon, Laurie, Scarborough, Maine	<p>Strongly opposed to aerial spraying. Wants to make sure all have the ability to opt out of spraying. Has child with multiple life-threatening allergies.</p>	<p>The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p>
Green, Katy, Organic Transitions Coordinator, Maine Organic Farmers and Gardeners Association	<p>Prefers that the Board educate the public about personal protection from arboviral disease instead of changing the rules to allow for spraying.</p> <p>Would like the rule to allow any citizen, for any reason, to have their property included in the exclusion zones that would be defined in either Board rule or policy for both aerial and ground applications.</p>	<p>The Board is sensitive to concerns about pesticide use and is not recommending pesticide applications, but it is proposing changes to its rules to make public health related treatments feasible if state public health officials determine it’s in the best interest of the state.</p> <p>The Board continues to support education to help people protect themselves from mosquitoes and supports the use</p>

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	<p>Sees no reason to exempt government sponsored spray programs from Chapter 22 or Section VI of Chapter 51.</p> <p>Wants to make sure the Board provides resources to ensure that no organic farm mapped by MOFGA is accidentally treated. Would like the Board to draft a policy regarding the system that will be used to identify exclusion zones and the process to be followed to make sure applicators get the maps that identify those exclusion zones.</p> <p>The Board should also direct resources to mosquito surveillance so that any spray program will be based on robust data.</p>	<p>of an IPM approach to managing mosquitoes and protecting public health.</p> <p>The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p> <p>The Board reviewed Chapters 22 and 51 and agreed that parts of them should not be exempted. It adjusted the proposed amendments accordingly.</p> <p>The Board will work with MOFGA and other groups to develop plans for mapping exclusion zones.</p> <p>The Board agrees that mosquito surveillance is critical to making informed decisions and is working with the Maine CDC to expand mosquito surveillance.</p>

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GROUP RESPONSES

Person/Affiliation	Summary of Comments	Board Response
Beekeepers		
Thurlow-Kimball, Karen, Browns Bee Farm	Identified themselves as Beekeepers	
Gideon, Victor, Raymond, Maine	Opposed to the changes in all three rules and concerned about off-target deposition and effects on their hives.	Data from Massachusetts suggest that bees are not harmed by carefully conducted public health mosquito-control pesticide applications because of product choice application rates and application timing.
Weymouth, Jason, Brunswick, Maine	Believe everyone has the right to know about applications.	The proposed amendments do not eliminate advance notification, they only modify the requirements for property owner authorization in the event of mosquito-borne disease public health threat.
Geer, Ron, Essential Valuation LLC	Believe everyone should have the right to opt-out of applications. Some call for at least a 5 miles no-spray radius around hives.	
Poppema, Louise, Cumberland, Maine		The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.
Crowell, Sandra, Raymond, Maine		
Sullivan, Louise, Cape Elizabeth, Maine		
McCloskey, Susan		
Leavitt, Pete, Beekeeper		
Gilbert, William, Eliot, Maine		
Burks, Bernadette, Kennebunk, Maine		
Allen, Tracey, Scarborough, Maine		
Shoe, Randy, Berwick, Maine		

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Riney, Monika, Wildermirth Farm, Winthrop, Maine		
Peiffer, Lawrence, MSBA Vice President, Master Beekeeper		
Organic Farmers		
Bouchard, Jennifer	<p>Identified themselves as organic farmers.</p> <p>Oppose the changes in Chapter 20 that allow application without landowner/occupant consent. All should be able to opt out of spray programs.</p>	<p>Requiring individual property owner authorization is not feasible and would prevent most wide-area public-health spray programs.</p> <p>The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p>
Wotton, Angela, Hammond, Maine		
Berry, Eli		
Faull, Sara, Mandala Farm, Gouldsboro, Maine		
Theriacult, Sonya, Summit Springs Farm, Poland, Maine		
Forsythe, Alexander, Richmond, Maine		
Marquis, Wayne, Van Buren, Maine		
Pike, Jordan, Two Toad Farm, Lebanon, Maine		
Bolduc, Karen, South Auburn Organic Farm, Auburn, Maine		

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Lassen, Hugh, Intervale Blueberry Farm, Cherryfield, Maine		
Oliver, Sarah, Even Keel Farm, Pemaquid, Maine		
Unspecified		
Scully, David, President, Prouts Neck Audubon Society	Requests no-spray zone over Stratton and Bluff Islands because 32 priority bird species use the area during migration and more than 240 species including endangered Roseate Terns use the island.	Endangered and threatened species habitat are commonly excluded from public health related mosquito control programs.
Kress, Stephen, Director, Seabird Restoration Program, National Audubon Society		
Eddy, Terry, Scarborough, Maine	Against the changes in Chapter 20 that allow application without landowner/occupant consent. All should be able to opt out of spray programs.	<p>Requiring individual property owner authorization is not feasible and would prevent most wide-area public-health spray programs.</p> <p>The Board supports opt-out provision for ground spraying and an exclusion provision for aerial spraying, but recognizes that some parcels may be too small to be practically excluded from aerial applications.</p>
Pepin, Kimberly		
Wilder, Sara, Norridgewock, Maine	<p>Oppose the changes to the rules.</p> <p>Against mosquito spraying.</p> <p>Prefer public education about personal protection.</p> <p>Efficacy of aerial applications negligible.</p> <p>Do not take away the requirement for consent before spraying.</p>	<p>The Board is sensitive to concerns about pesticide use and is not recommending pesticide applications, but it is proposing changes to its rules to make public health related treatments feasible if state public health officials determine it's in the best interest of the state.</p> <p>The Board continues to support education to help people protect themselves from mosquitoes and supports the use of an IPM approach to managing mosquitoes and</p>
Tomash, Adam, West Gardiner, Maine		
Maier, James, M.D., Scarborough, Maine		
MacMahon, James, M.D., Scarborough, Maine		

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Foley-Ferguson, Suzanne, Scarborough, Maine		protecting public health. Requiring individual property owner authorization is not feasible and would prevent most wide-area public-health spray programs.
Davis, Derek, Scarborough, Maine		
Bottesch, Marla, Norridgewock, Maine		
Balgooyen, Helen, Norridgewock, Maine		
Zando, Marla, Scarborough, Maine		
Woodin, Eddie, S. Portland, Maine		
Tanner, Nanette, Scarborough, Maine		
Sweet-Demetriou, Marcella, Winham, Maine		
Sweet, Arlene		
Sweet, William		
Robbins, Sandy		
Nomani, Louise, Norridgewock, Maine		
Michka, Kay, Lexington, Maine		
D'Andrea, Karen, Scarborough, Maine		

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Cutter, Jane, Scarborough, Maine		
Malis, Suzanne		
Stoesser, Cora, Bowdoin, Maine		
scooterweeks@yahoo.com		
Lamb, Scott, Appleton, Maine		
Hathaway, Nancy, Blue Hill, Maine and Surry Conservation Commission		
Christie, Jeanne		
Bedard, Deb		
Avila, Lelania, NE Harbor, Maine		
Ward, Dayle, Appleton, Maine		
McBride, Chris, Stephanie and Cooper		
Ludders, Jessica, Charleston, Maine		
Gleeson, Karen, Northport, Maine		
Christen, Renata, Waldo County		

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Bailey, Roberta, Fedco Seeds, Vassalboro, Maine		
Twidwell, Karen, Greene, Maine		
Rapelye, Mary Linda, Lyric Meadow Farm, Boothbay, Maine		
Elliott, Alice, Richmond, Maine		
Domenichelli, Angela, Belfast, Maine		
Burke, Amy, York, Maine		
Ciarrocca, Joe		
Pierce, Julia and Benjamin, Vassalboro, Maine		
Patrick, Eileen		
Brown, Deborah, Jefferson, Maine		
Comstock, Lauren		
Lodata, Bob, Charleston, Maine		
Livingston, Laura		
Drake, Cynthia, Dover-Foxcroft, Maine		
Moger, Bonnie, Westbrook, Maine		

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Higgins, Lois, Kittery, Maine		
Thompson, Laurie, Dayton, Maine		