

**BASIS STATEMENT FOR ADOPTION OF
CMR 01-026 CHAPTER 22—STANDARDS FOR OUTDOOR APPLICATION OF
PESTICIDES BY POWERED EQUIPMENT IN ORDER TO MINIMIZE OFF-TARGET
DEPOSITION**

Basis Statement

Surveillance data from the last decade show that mosquito-borne viruses are on the increase in Maine. The first confirmed human case of West Nile Virus in Maine was documented in 2012. Maine's Arboviral Illness Surveillance, Prevention and Response Plan is based on a national model and is similar to most other states. That plan calls for the Maine Center for Disease Control and Prevention to recommend adult mosquito control programs in targeted areas of the state if the threat of mosquito-borne disease reaches the "high" or "critical" phase. Conducting these programs would not be feasible under current state law. Chapter 22 imposes operational standards that would be impractical for wide-area programs conducted in residential areas.

The amendments to Chapter 22 originally exempted wide-area vector control programs from the entire chapter. Some comments received during the comment period suggested that certain portions of Chapter 22 were appropriate and feasible for public health related mosquito control programs. The Board agreed that there was some value to retaining some of the requirements in Chapter 22 and revised the proposed amendments consistent with the comments. Notably the Equipment standards, Weather Condition standards, and Positive Identification of Target Site were retained. The sections to be exempted include Identifying and Recording Sensitive Areas, Presence of Humans and Animals, and certain specifics of Site Plans, which would not be practical in an emergency situation.

The majority of comments received during the comment period indicate that many people have concerns about wide-area spraying of pesticides for control of mosquitoes. The Board also has concerns, but concluded that its role has never been to determine whether pests should be controlled with pesticides. Rather, the Board's role has always been to ensure that applicators are appropriately trained and to prescribe best practices for the application of pesticides. The Board would like to emphasize that it is not recommending spraying, but is amending its rules to make urgent public health related spraying feasible if Maine's public health officials determine that control of adult mosquitoes is in the best interest of the state.

Findings of Emergency

The Board finds that the potential hazard arising from a mosquito-borne disease outbreak in Maine involving either West Nile Virus or Eastern Equine Encephalitis poses an imminent threat to public health, safety and welfare, thus creating an emergency within the meaning of 5 M.R.S. §8054. Consequently, the Board determined it was appropriate to promulgate an emergency rule under 5 M.R.S. §8052 in case the need for spraying arises during the summer or fall of 2013, since legislative review of the proposed amendments will not occur until the winter of 2014.

Impact on Small Business

In accordance with 5 MRSA §8052, sub-§5-A, a statement of the impact on small business has been prepared. Information is available upon request from the Maine Board of Pesticides Control office, State House Station #28, Augusta, Maine 04333-0028, telephone 207-287-2731.