

Basis Statement for Adoption of an Amendment to Chapter 20— Special Provisions

Basis Statement

The Maine Center for Disease Control (CDC) routinely samples mosquitoes as part of its arbovirus surveillance program. Samples collected in southern Maine during August and September of 2012 contained unusually high levels of West Nile Virus for the time of year. Nationally, the mosquito borne illnesses have been unusually high in 2012 as well. The Maine CDC's Arboviral Illness Surveillance Prevention and Response Plan indicates that the CDC will be recommending mosquito spraying in targeted areas if the surveillance data indicates a risk category of "high" or "critical." Most states that implement public health mosquito control programs conduct wide-area programs covering both public and private properties, without attempting to obtain authorization from the land owners. Since Section 6 of Chapter 20 prohibits application of pesticides to any property without the consent of the property owner or occupant, the Board determined that a public health emergency exemption to facilitate public health control programs is both sensible and appropriate.

Findings of Emergency

The Board finds that the unusually high threat of a 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 modify the rulemaking process as specified under 5 M.R.S. §8052 by foregoing the Notice of Agency Rulemaking Proposal, the public hearing and the public comment period.

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.