September 3, 2019

Dennis Howard
Program Manager
Pesticide Regulations
Office of Pest Industries and Pest Management
50 Harry S. Truman Parkway
Annapolis MD 21401

Re: Proposed Action [19-146-P] - The Maryland Department of Agriculture proposes to amend Regulation .17 under COMAR 15.05.01 Use and Sale of Pesticides, Certification of Pesticide Applicators and Pest Control Consultants, and Licensing of Pesticide Businesses

Dear Mr. Howard:

The Maryland State Pest Control Association (MSPCA) the only trade group for structural pest management companies or “pest control” companies in Maryland, appreciates the opportunity to provide comments regarding the proposed action [19-146-P] that mandates applicators certified in Category VIII – Public Health (mosquito control) to comply with prior notification requirements for pesticide sensitive individuals pursuant to COMAR 15.05.01.17. MSPCA member companies manage pests including rodents, ants, cockroaches, bed bugs, mosquitoes, spiders, stinging insects, termites, ticks, and other pests in countless commercial, residential and institutional settings. MSPCA members are committed to providing quality pest management services that protect public health, food and property. MSPCA is opposed to the proposed rule as written because it is burdensome, duplicative, extraneous, and lacks justification—especially amid a proliferation of mosquitoes and mosquito-borne illnesses in Maryland.

Background on Mosquitoes in Maryland

Mosquitoes are the deadliest animal on Earth and kill more than an estimated 725,000 people every year.¹ In Maryland, between 2004 and 2016, there were 1,925 mosquito-borne disease cases, according to CDC data.² While the state ranked high for tick-related diseases, Maryland fares even worse with one of the highest number of mosquito-borne disease cases, placing in the top 20 percent in the United States.³ Since mosquito-borne diseases are on the rise and concerningly high

³ “Here's How Hard Spike in Mosquito-Borne Diseases is Hitting MD.”
in Maryland, it is essential for pest management professionals to operate in a regulatory environment that is not extraneous, unnecessary, and does not hamper their ability to manage dangerous and deadly mosquitoes and protect public health.

Additionally, the changing climate has triggered and will continue to cause a proliferation of mosquitoes and mosquito-borne diseases in the United States according to the *Fourth National Climate Assessment*: “Climate change is expected to alter the geographic range, seasonal distribution, and abundance of disease vectors, exposing more people in North America to ticks that carry Lyme disease or other bacterial and viral agents, and to mosquitoes that transmit West Nile, chikungunya, dengue, and Zika viruses.”

The Northeastern United States is likely one of the worst regions of the country for increases in vector-borne diseases, as the *Fourth National Climate Assessment* projects hundreds more additional cases of West Nile virus:

Similarly, a recent analysis estimates that there would be an additional 490 cases of West Nile neuroinvasive disease per year in the Northeast by 2090 under the higher scenario (RCP8.5) versus 210 additional cases per year under the lower scenario (RCP4.5). The geographic range of suitable habitats for other mosquito vectors such as the northern house mosquito (*Culex pipiens* and *Culex restuans*, which transmit West Nile virus) and the Asian tiger mosquito (*Aedes albopictus*, which can also transmit West Nile virus and other mosquito-borne diseases) is expected to continue shifting northward into New England in the next several decades and through the end of the century as a result of climate change.

Low-income and urban communities are likely to experience even worse impacts of climate change as the *Fourth National Climate Assessment* shows:

The health impacts of climate change are not felt equally, and some populations are at higher risk than others. Low-income communities and some communities of color are often already overburdened with poor environmental conditions and are disproportionately affected by, and less resilient to, the health impacts of climate change.

Furthermore, a prominent study has shown that low-income and urban communities in Maryland have disproportionately affected by mosquitoes and mosquito-borne diseases. The study authored by University of Maryland faculty members Paul T. Leisnham, Dawn Biehler, and Danielle Bodner titled, *Higher mosquito production in low-income neighborhoods of Baltimore and Washington, DC: Understanding ecological drivers and mosquito-borne disease risk in temperate cities*, illuminated that low-income residents may experience greater exposure to potential disease

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vectors including mosquitoes because of the increased breeding sites and lack of adequate mosquito control. The study also showed for example that:

*Culex pipiens*, a primary vector of West Nile virus (WNV), was most abundant in Baltimore. We infer that lower income residents may experience greater exposure to potential disease vectors and Baltimore residents specifically, were at greater risk of exposure to the predominant WNV vector.

MSPCA is concerned that the extraneous nature of proposed action [19-146-P] will disproportionately impact areas such as Baltimore. Our customers are very concerned about mosquitoes and mosquito-borne diseases and rely on our services to protect themselves and their families. Unfortunately, mosquitoes and mosquito-borne diseases are increasing, and our residential mosquito services are going to be relied upon more than ever.

**Background on the Structural Pest Management Industry & Residential Mosquito Treatments**

MSPCA member companies with applicators licensed in Category VIII – Public Health perform services that are vital for protecting people from dangerous and deadly mosquito-borne diseases. These services are typically referred to as “backyard mosquito” or “residential mosquito” treatments. Traditional mosquito district programs and large-scale treatments are only individual parts of an effective control plan for *Aedes aegypti, Aedes albopictus*, and other dangerous and deadly mosquito species that are known to transmit Chikungunya, Dengue, Easter Equine Encephalitis, West Nile, Zika, and others. The *Aedes* species, known to best transmit Zika specifically, are well adapted to urban settings and are frequently found in and around structures in densely populated cities and neighborhoods.

Effectively combating and disrupting these mosquitoes’ life cycle requires conducting integrated mosquito management (IMM). MSPCA members typically DO NOT engage in municipal vector control, aerial control, and other wide-area control where pesticides are sprayed into the air to treat large swaths of land or water (NOTE: Large-area mosquito control programs such as MDA's mosquito control program and the county-wide mosquito control programs in Baltimore, Calvert, Caroline, and Wicomico counties are all EXEMPT from proposed action [19-146-P] that requires notifying individuals on the pesticide notification registry). Compared to these large wide-area mosquito control programs, MSPCA public health applicators typically apply a relatively small amount of residual insecticides using an outdoor backpack or hand-held sprayer to target areas, surfaces, and vegetation around the customer’s structure and yard (e.g. mosquito harborage and resting sites).

Additionally, MSPCA members take a number of steps that do not include applying pesticides to protect their customers and families from mosquitoes, such as conducting mosquito surveillance, identifying and eliminating oviposition sites and larval habitats, removing standing water, follow-up and monitoring, educating the customer, and other important actions. There are many professional pest management companies operating in Maryland with licensed public health

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7 Higher mosquito production in low-income neighborhoods of Baltimore
8 Higher mosquito production in low-income neighborhoods of Baltimore
pesticide applicators that are trained to identify and treat for mosquitoes in residential backyards, subdivisions, commercial properties, and other public and private settings, performing all aspects of IMM. The pest management industry in Maryland is a built-in pest defense network to manage dangerous and deadly mosquitoes and prefers to operate in a regulatory environment where it is not burdened by proposed action [19-146-P].

Concerns with Proposed Action [19-146-P] – Notifying Individuals on the Pesticide Sensitive Registry for Residential Mosquito Control

[19-146-P] is Duplicative: Maryland law currently prohibits unwanted applications of pesticides to the property of a person on the pesticide sensitive registry list and all unwanted pesticide applications to a person’s property pursuant to COMAR 15.05.01.02:

“B. Pesticide Use or Recommendation. When using or recommending pesticides, a person shall:
(1) Use or recommend only those pesticides which are registered with the Department;
(2) Use or recommend pesticides in strict accordance with:
   (a) The Maryland Pesticide Applicators Law;
   (b) The Maryland Pesticide Registration and Labeling Law; and
   (c) Except as otherwise provided by State and federal law, the manufacturer's labeling directions;
(3) Observe all precautions in the handling, use, storage, and disposal of pesticides and their containers so that:
   (a) Pesticides do not move from the intended site of application;
   (b) Nontarget areas or organisms, including humans, do not suffer injury; and
   (c) Unreasonable adverse effects on the environment do not occur or are minimized;”

Targeted pesticide applications to mosquito breeding and resting sites on a customer’s property will stay on the customer’s property. If these pesticide applications land on another customer’s property, this particular scenario is in strict violation of COMAR 15.05.01.02. Currently, Maryland regulations already address what proposed action [19-146-P] intends to address, therefore it is duplicative. All applicators of pesticides must ensure that non-target areas, organisms, and humans do not suffer injury and pesticides cannot move from the intended site of the application.

[19-146-P] Lacks Justification: MSPCA is not aware that a problem exists regarding residential mosquito control applications that would warrant proposed action [19-146-P]. Because we have not been consulted, and are unaware of an existing problem, we believe proposed action [19-146-P] is unnecessary and unjustified. Moreover, the purpose statement of proposed action [19-146-P] is in our interpretation, arbitrary and extraneous, as it reads,
The purpose of this action is to require licensees or permittees in the public health pest control category to provide a certain notice under certain circumstances to persons registered with the Department as pesticide sensitive individuals. This would include a pesticide application to control for mosquitoes.9

The purpose statement provided by MDA does not address why this proposed action is necessary. MSPCA stands ready to assist MDA to help address issues that pertain to the structural pest management industry and want to serve as a resource. However, at this time, there are multiple questions that remain unanswered regarding the need for this rule change. For example:

- Why is [19-146-P] being proposed?
- How will proposed action [19-146-P] benefit individuals on the pesticide sensitive registry if backyard mosquito treatments do not expose people on other properties to pesticides?
- Is there evidence that an industry-wide problem exists regarding residential mosquito control pesticide applications that prompted proposed action [19-146-P]?
- Does MDA have evidence of targeted applications to mosquito harborage and resting sites are drifting to other properties? If so, have individuals documented and reported this to MDA? Has MDA issued an abnormally large amount of disciplinary actions that would prompt [19-146-P]?
- How did MDA conclude that proposed action [19-146-P] has a minimal or no economic impact on small businesses?

[19-146-P] is Burdensome and Extraneous: The proposed rule as written would require applicators to give prior notification to individuals on the pesticide sensitive registry in the following manner pursuant to COMAR 15.05.01.17.:

“C. Requirements of Licensee or Permittee. Before making a pesticide application to a property contiguous or adjacent to the property of a registered individual, a licensee or permittee shall notify the person registered with the Department:

(1) By telephone the day before, or the morning of, a planned pesticide application; or

(2) In person, or by a written notice delivered to the residence of the registered individual, before the pesticide is applied to a contiguous or adjacent property.”

Proposed action [19-146-P] deviates from current federal law, as the statement provided by MDA regarding the comparison to “Federal Standards” reads: “There is no corresponding federal standard to this proposed action.”10 Currently, most if not all label language for residual insecticides used by MSPCA members for residential mosquito treatments do not require prior notification, as the label is the law. During the pesticide registration process EPA determined that prior notification requirements on product labels used by MSPCA members for residential mosquito treatments was not necessary. Registration assures that pesticides will be properly

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10 Division of State Documents.
labeled and that, if used in accordance with specifications, they will not cause unreasonable harm to human health and the environment.

Lastly, actual compliance with proposed action [19-146-P] is burdensome because there are hundreds of properties visited each month by technicians, multiple technicians completing multiple jobs on multiple routes, each visit would need to be cross-referenced with the list, and proposed action [19-146-P] requires constant review of the pesticide registry notification list due to names that are constantly added, and it is mailed in hard copy form by MDA. It would be incredibly difficult for our industry to implement this into our practices. Pest management professionals should only be required to inform their customers about the services they are performing because the pesticides they are applying are intended to stay on that customer’s property. As mentioned before COMAR 15.05.01.02 already prohibits pesticides from contacting another property, therefore proposed action [19-146-P] is unnecessary.

Conclusion

MDA has been a fair regulator of the structural pest control industry and we appreciate the opportunity to provide comments on this proposed rule. The MSPCA would welcome the opportunity to meet to discuss these comments and answer questions about how the pest control industry performs mosquito management services

Sincerely,

Brian Schoonmaker
Maryland State Pest Control Association