

Local Engagement Subcommittee Draft Recommendations

The Local Engagement Subcommittee is sharing this living document of draft recommendations to the Mosquito Control for the 21st Century Task Force. These topics will likely be the subject of recommendations from the subcommittee, for consideration by the full task force. Please note that the recommendation text presented here is still under development by the subcommittee and may not represent the ultimate majority opinion of the subcommittee.

Directive: (ii) promoting public participation in mosquito management decisions

- 1. Online system for requesting property exclusions and property opt-outs**
- 2. Marking methods for property exclusions and property opt-outs**
- 3. Public engagement**

Directive: (iii) providing for local options regarding the use of pesticides.

- 4. Menu-based approach**

Directive: (viii) providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife.

- 5. Pilot evaluation of environmental impacts**
- 6. Increase sharing of pesticide application locations**
- 7. Increased transparency on sensitive habitat/rare species exclusions**

Directive: (ii) promoting public participation in mosquito management decisions

1. Online system for requesting and tracking property exclusions and property opt-outs

Recommendation

The Task Force recommends that the online opt out form be amended to include an option for renewal that eliminates the need to reenter data annually and by town. The amended form should include, at a minimum, the option for landowners to carry over previously submitted information. The system should also allow addition or removal of parcels for users with multiple parcels. If possible, the system should allow temporary waivers of the exclusion or opt-out, such as to allow spraying on neighboring properties that could drift onto an excluded parcel. Funding should be provided for the implementation and ongoing maintenance of the system. The system should be implemented as soon as feasible once funding is secured. The option to submit a paper form should be retained with no changes required.

Recommendation Components Still Under Consideration

[None]

Background and Rationale

Currently the subcommittee agrees there is little direct public engagement in the mosquito control process in MA. While the public can attend District Commission meetings and town meetings where residents vote on joining or withdrawing from an MCD, the public rarely attends the MCD meetings and once a town votes to join a MCD there is little opportunity for the public to participate directly in decisions regarding control.

Homeowners currently have two options for direct participation in mosquito control operations as it pertains to the application of pesticides: requesting the MCD spray their parcel(s) or requesting their parcel(s) not be sprayed. Landowners who want their parcel(s) treated can directly request this service where it is offered by contacting their MCD by phone or email throughout the mosquito season. Individuals who do not want their properties treated are required by regulation to submit their request to be excluded from the wide area use of pesticides, including MCD spraying, to MDAR in accordance with 333 CMR 13.03. A *Request For Exclusion of Wide Area Application of Pesticides* form must be mailed directly to MDAR or applicants may use the online system that requires additional information (e.g., parcel numbers) that may result in landowners not completing the request. While the online system is an improvement over the past, streamlining this service will increase its user friendliness and efficacy as a service for those not wanting their properties treated leading to greater public participation. The online request expires annually at the end of December requiring landowners to reenter data annually. Providing a renewal option on the online system will facilitate greater landowner participation. In particular, this will reduce effort for large landowners, including land trusts and other organizations, which have multiple parcels.

Landowner opt out is the only direct option for public participation, especially for members of the public that feel their voice or concerns have not been fully addressed or met through other channels and do not want their properties treated. This recommendation streamlines the opt out process for individual landowners who do not want their properties treated for mosquito control through a District (MCD) and greater direct participation by the public in mosquito control.

Note: This recommendation is also related to directive (iii) and touches on directive (viii)

Considerations for implementation

The regulations currently allow for exclusion requests on an annual basis, all exclusion requests expire on December 31st of the year in which they were submitted. Any change to this annual requirement would require an amendment to 333 CMR 13.03. This regulation was promulgated by MDAR under its authority set forth in M.G.L. c. 132B. Any regulatory change would require both MDAR and Pesticide Board approval, along with complying with the regulatory amendment process set forth in M.G.L. c. 30A.

Funding is needed in order to change the system that is currently used. Because MDAR is the agency that currently has regulatory authority over exclusion requests under M.G.L. c. 132B, and 333 CMR 13.03, MDAR would need additional funds to update and change the current IT system available for this recommended change. It is unclear if short term or long-term funds will be needed; depends on the system.

Timing on implementation of the changes would be of concern in that it is unknown how long it will take to establish a new system. MDAR would need to go through EEA IT to work to develop and implement any IT system change.

Directive: (ii) *promoting public participation in mosquito management decisions*

2. Marking methods for property exclusions and property opt-outs

Recommendation

The Task Force recommends that the landowner opt out/exclusion process as articulated in 333 CMR 13.03 be amended to remove the physical marking requirement as required under 333 CMR, section 13.03 and make physical marking optional given GPS/GIS technology is used by all MCD and is readily available to private property owners. Funding must be provided for any district that is not currently capable of using GIS/GPS technology to manage pesticide applications. Funding to maintain these systems should be provided on an ongoing basis. Suggested amendments are shown below, with bold italics indicating additions to 333 CMR 13.03 and strikethrough indicating deletion. These changes are intended only to apply to mosquito control operations and should be implemented as such.

“Marking Areas for Exclusion. All areas designated for exclusion from Wide Area Applications of pesticides and mosquito control applications of pesticides approved by the State Reclamation and Mosquito Control Board shall be marked as follows:

(a) Applications by Aircraft. The person requesting exclusion shall ***provide GIS boundary data layer(s) or*** clearly mark boundaries or areas to be excluded using marking methods approved by the Department.

(b) Ground Applications. The person requesting exclusion shall ***provide GIS boundary data layer(s) or*** mark the boundaries or areas to be excluded at least every 50 feet using marking methods approved by the Department which clearly defines the area of exclusion. ***If GIS boundary data layers are provided, the person requesting exclusion may mark the edges of the area to be excluded and post markers at any intersection.*** Approved marking methods shall be listed on the Department's website at www.mass.gov/eea/agencies/agr/pesticides/mosquito. ~~A mosquito control project or district may require a specific method from the approved list, which shall also be made available on its website.”~~

Further, the legislation should be amended to require that applicators follow best practices to avoid pesticide drift onto any excluded properties.

Recommendation Components Still Under Consideration

[None]

Background and Rationale

Currently the subcommittee agrees there is little direct public engagement in the mosquito control process in MA. While the public can attend District Commission meetings and town meetings where residents vote on joining or withdrawing from an MCD, the public rarely attends the MCD meetings and once a town votes to join a MCD there is little opportunity for the public to participate directly in decisions regarding control.

Homeowners currently have two options for direct participation in mosquito control operations as it pertains to the application of pesticides: requesting the MCD apply pesticide to their parcel(s) or requesting their parcel(s) be excluded from pesticide applications. Currently landowners requesting exclusions from MCD pesticide application and opt outs from SRB pesticide application are required to physically mark their property every 50 feet with markers approved by the Department as set forth in 333 CMR 13.03. This requirement is not practical for all but the smallest of parcels and is burdensome for landowners with large acres and many miles of road frontage. Simplifying the marking requirement will facilitate greater landowner participation.

Landowner opt out and exclusion is the only direct option for public participation, especially for members of the public that feel their voice or concerns have not been fully addressed or met through other channels and do not want their properties treated. This recommendation(s) streamlines the opt out process for individual landowners who do not want their properties treated for mosquito control through a District (MCD) and greater direct participation by the public in mosquito control.

Note: This recommendation is also related to directive (iii) and touches on directive (viii)

Considerations for implementation

The regulations currently allow marking methods to be determined by MDAR. Any change to this requirement could be done by MDAR but would need to be considered carefully as 333 CMR 13.03 applies to the wide area application of pesticides by all in the Commonwealth, not just those conducted for mosquito control operations. MDAR would need to update its guidance document for approved marking methods. MDAR may want to propose these changes in draft form to the Pesticide Board under M.G.L. c. 132B.

If the assumption is that MCD's have GIS/GPS capability, then we need to ensure that is the case. If not, funding should be provided to the appropriate oversight agency (currently the SRB) to provide this capability to the MCD's.

Directive: (ii) promoting public participation in mosquito management decisions

3. Public Engagement

Recommendation

Improve outreach to the public and input from the public.

Outreach activities will include, at a minimum:

- The Department of Public Health will create and maintain public engagement resources for use by municipal government entities, mosquito control projects/districts, individuals, and nongovernmental organizations regarding mosquito control activities in Massachusetts. These materials are to include:
 - Curriculum materials
 - Public education on source reduction and personal protection
 - Outreach plans for MCDs and municipalities.
 - Information explaining Integrated Pest Management (IPM). IPM is defined in statute and materials explaining IPM have been developed by other agencies. DPH should utilize these existing materials to avoid duplication of effort and to avoid creating any conflicting information.
- Surveying municipal governments and the public to understand municipal and public understanding of and desires for the mosquito control process. The survey should be designed and distributed to capture a range of opinions.
- Information from mosquito control agencies:
 - Updates on planned mosquito control activities
 - Summaries of control efforts and the effectiveness of these activities. Details of what information is to be provided, including how to consider effectiveness of mosquito management and outreach, should be included in mosquito management or mosquito-borne disease management plans. This information should be provided as soon as possible; at the latest, this information should be provided within two years of the date the activities were conducted. Alternatively, this data may be provided through technology solutions (such as a “data dashboard”) instead of periodic reports. Any technology solutions must be supported with funding and technical assistance.

Public input activities will include, at a minimum:

- Providing opportunities for public comment during mosquito management or mosquito-borne disease management plan development.

Recommendation Components Still Under Consideration

- [None]

Background and Rationale

The public is not very engaged in mosquito management decisions and creative strategies are required to improve public engagement.

Provide a process for meaningful public input into a mosquito-borne disease management plan and regular updates. Under the current structure, input would be provided to the SRB during updates to the *Massachusetts Emergency Operations Response Plan for Mosquito-Borne Illness* and to DPH on updates to the *Massachusetts Arbovirus Surveillance and Response Plan*. The Local Engagement subcommittee recognizes that the structure of mosquito control in the Commonwealth may change as a result of other recommendations from this task force. In that case, public input should be

provided to any agency developing a mosquito or mosquito-borne disease management plan. It is expected that these plans will be updated periodically and public input should be considered during any update process.

Public input is one of many sources of information to be considered by decision makers. The plan must be based in science, but public input can contribute additional information and perspectives for consideration.

Considerations for implementation

Implementation of any aspects of this recommendation shall necessitate appropriate funding and provision of other resources.

Directive: (iii) *providing for local options regarding the use of pesticides.*

4. Menu-based Approach

Recommendation

Funding and resources shall be provided by the Commonwealth to perform surveillance and education in all municipalities. This funding will be given to MCD/MCPs and municipalities, as appropriate, to conduct these services. For municipalities that are members of MCDs, surveillance will be conducted by the MCD. If the municipality is not a member of an MCD, surveillance will be conducted by DPH. Results must be shared with municipal governments. Prior to each mosquito control season, funding and staffing will be assessed and must be provided to DPH and MCDs as needed. DPH will provide the results of its surveillance activities to the municipalities where the surveillance occurred. DPH will also create and maintain a repository of educational and outreach materials for municipalities' use. DPH will develop education and outreach materials; education and outreach will be conducted by a municipal agency or by an MCD on behalf of the municipality.

Municipalities may opt in to additional services including larviciding and adulticiding. Under the Commonwealth's current mosquito control structure, these services will continue to be provided by MCDs. These services will be funded by municipalities receiving those services.

Another subcommittee under this task force recommends revisions to 252 and district enabling legislations. That recommendation will allow novel funding approaches for MCD funding. Assuming that recommendation is implemented, it is further recommended to allow a "menu-based approach" for municipalities joining districts. This approach will allow municipalities to pick and choose which mosquito control services they will receive (in addition to the standard surveillance, education, and source reduction). Municipalities will only pay for services received. Municipalities must select services at least one year in advance. The following issues will require further consideration:

- Consider whether this approach can be open to all municipalities, or only those that have not yet joined an MCD.
- Consider whether there are baseline services or a baseline fee for joining an MCD. For example, can a town receive truck-based adulticiding without receiving MCD surveillance? How are costs for fixed expenses (e.g., facilities) determined?

- Are any activities that may have high upfront costs but result in decreased need for pesticides and costs in future years, such as habitat management or other projects, incentivized in this structure?
- How is IPM mandated or incentivized in this structure? Are any services required to ensure IPM is followed?
- What will the funding mechanism be?
 - Mosquito control districts require a certain level of funding and of year-to-year consistency to operate effectively. This presents a risk if many towns choose not to opt in, to opt in at a low level of services, or to change services from one year to the next. Consider methods to stabilize funding.
 - The experience of the Pioneer Valley district shows that even a small contribution for basic services may be beyond municipalities' willingness to pay.
- Are opt-in decisions one time when joining a district, annual choices, or choices that may be reviewed and changed periodically?
- How will surveillance locations be determined? Will every municipality have at least one trap regardless of mosquito habitat?
- Do any of these changes impact how private contractors should be regulated?
- What level of control will municipalities have over these operations? For example, do municipalities opt in to all adulticiding, or can they specify triggers or areas allowed to be sprayed?
 - Are municipalities equipped to make these decisions, which are currently made by mosquito control districts that have more information and experience in mosquito management?

Recommendation Components Still Under Consideration

- The subcommittee has not reached consensus on this recommendation. This recommendation may undergo revisions to attempt to reach consensus, or dissenting subcommittee members may advance a minority opinion.

Background and Rationale

Some municipalities do not want to receive or pay for all services offered by their local MCD. It is expected that most municipalities would like to access education, surveillance, and habitat management services. However, it is understood that not all municipalities want to receive pesticide applications, or do not want to receive the full extent of pesticide applications engaged in by their local MCD. A menu-based approach that shifts some responsibilities from districts to state-wide agencies will allow more resource sharing, including expertise and equipment, throughout the Commonwealth, improving efficiency of mosquito control operations.

This subcommittee is not proposing to extend the municipal opt-out process because it will be rendered irrelevant under this “opt-in” menu-based approach.

Directive: (viii) providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife.

5. Pilot evaluation of environmental impacts

Recommendation

Establish a program to conduct research to evaluate mosquito control. This program will provide funding [and government/MCD support?] to independent organizations, such as universities, conservation organizations, and others, to study impacts of mosquito control and innovative mosquito control techniques in Massachusetts. This effort could take the form of a competitive grant process, with state agency input. Leveraging of existing partnerships should be explored. Specific research topics should include, but are not limited to, non-target impacts of pesticide applications and the effectiveness of currently practiced and innovative mosquito control techniques.

Recommendation Components Still Under Consideration

This recommendation is still under discussion by the subcommittee.

- What organization is responsible for implementing this recommendation?
- Should the studies be limited to non-target impacts of chemical control, or more broad? Should the research cover the full suite of mosquito control services?

Background and Rationale

In progress

Considerations for implementation

Implementation of any aspects of this recommendation shall necessitate appropriate funding and provision of other resources.

Directive: (viii) providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife.

6. Increased sharing of pesticide application locations

Recommendation

Prior to [the end of each calendar year], require mosquito control districts to share map files of each pesticide application from the prior season with the [Department of Agricultural Resources (MDAR)] and require this information to be presented by MDAR to the public through MassGIS along with maps of the Commonwealth's pesticide spray events.

The data should include what areas were treated and how many times each area was treated.

Recommendation Components Still Under Consideration

- Does this include only spraying, or other applications (such as hand treatments of catch basins) as well?
- It would be burdensome for districts to map all treated catch basins. Are data on catch basin locations available that could be shared with districts? Could statistics on hand applications instead be shared at a summary level?

Background and Rationale

Currently, landowners/tenants and municipalities may not know whether their properties are actually subject to pesticide applications by their MCD. MCDs track truck-based spray activities using GIS/GPS systems. Providing information on areas treated is not expected to be a large burden to MCDs, provided that data are only required to be provided as one map after the season's end.

This recommendation is intended to improve transparency of the program, allowing the public to know if their properties or other areas of interest were sprayed. This may also help the public and municipal decision makers assess whether they want to opt out of spraying.

Considerations for implementation

Implementation of any aspects of this recommendation shall necessitate appropriate funding and provision of other resources.

Directive: (viii) *providing for comprehensive annual evaluations of each season's mosquito control process, including the effectiveness of the process in controlling arbovirus and any effects of spraying on the environment, agriculture and wildlife.*

7. Increased transparency on sensitive habitat/rare species exclusions

Recommendation

The subcommittee is considering a process to increase transparency regarding areas that are excluded from mosquito control pesticide applications due to the presence of rare species.

Recommendation Components Still Under Consideration

- This recommendation is still under discussion by the subcommittee.

Background and Rationale

Landowners such as conservation organizations may have rare species, rare species habitat, or habitat undergoing restoration efforts to attract rare species, on their land. These restoration efforts may benefit from knowing whether these areas are excluded from spray activities. This recommendation is targeted at emergency spraying, when landowner opt-out/exclusion requests may be waived.

Considerations for implementation

Implementation of any aspects of this recommendation shall necessitate appropriate funding and provision of other resources.