

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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NOTICE

Pursuant to the provisions of the Rights-of-Way Management Regulation, 333 CMR 11.00, in order to apply herbicides to control vegetation along railroad rights-of-way, a five-year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Massachusetts Department of Agricultural Resources (MDAR). Therefore, notice of receipt of a YOP and procedures for public review are hereby given as required by Section 11.06 (3).

A Yearly Operational Plan has been submitted for: CSX Transportation, Incorporated (CSX).

This plan has been prepared and submitted to the MDAR by: Stephen Herzog of VHB

Municipalities identified in the CSX YOP as locations where the rights-of-way will be treated with herbicides during the 2023 calendar year are:

Auburn Becket Berlin Bolton Brimfield Brookfield Charlton Chester Clinton Dalton East Brookfield Framingham Hinsdale Huntington Lancaster Leicester Leominster Marlborough Middlefield Monson Montgomery Northborough Oxford Palmer Pittsfield Richmond Russell Southborough Spencer Springfield Sterling Warren Washington West Brookfield West Springfield West Stockbridge Westfield Wilbraham Worcester

CSX's vegetation control program for 2023 will be consistent with the VMP and YOP as approved by MDAR and involves an Integrated Pest Management (IPM) approach where possible.

Under the 2023 program, brush control will be limited to mechanical cutting in sensitive areas and sensitive area buffer zones, and mechanical cutting or foliar herbicide applications in non-sensitive areas. Foliar herbicide applications will selectively treat target vegetation and encourage the growth of non-target vegetation.

One selective post-emergent herbicide application will take place in ballasted rights-of-way areas and around other fixtures including but not limited to: switches, signals, signs, and highway grade crossings. This post-emergent application will take place in non-sensitive areas and sensitive area buffer zones and is targeted toward the eradication of woody and herbaceous plant species. Areas that do not have vegetation will not be treated.

Herbicide applications to the roadbed and areas adjacent to the shoulder will be conducted with a spray truck and/or a backpack sprayer according to the guidelines set forth in the VMP and YOP. Sensitive areas as defined by the Rights-of-Way Management Regulations will receive the full protection afforded by those regulations. All herbicide applications will be done by an applicator properly licensed by MDAR Pesticide Bureau and fully trained in herbicide mixing, handling, and application methods.

Applications will commence following approval of the YOP by MDAR. Public notification (by registered mail) will be provided to the chief elected official, Board of Health, and Conservation Commission in each affected municipality at least twenty-one days prior to any herbicide application.

The YOP contains the names and application rates of the herbicides proposed for use along MDAR approved herbicide fact sheets for each product. Additionally, the YOP contains the names of the herbicide applicator and YOP supervisor, and procedures for mixing and handling herbicide concentrates. A description of sensitive area flagging methods is included along with updates of sensitive area maps for each town.

PUBLIC REVIEW

MDAR in particular seeks the verification of sensitive area locations reported in the Yearly Operational Plan (YOP). The Department itself has a limited ability to survey the geography, land use, and the water supplies, in all the communities through which the rights-of-way are located. Municipalities, however, have most of this information readily available, and the particular knowledge with which to better certify the sensitive areas in their communities. Therefore, the Department requests, and urges, the assistance of the affected municipalities, in reviewing the completeness and accuracy of the maps contained in the submitted document. MDAR has established the following procedures for this review.

Copy of the YOP can be viewed at:

<https://www.mass.gov/service-details/rights-of-way-vegetation-management-vmmps-yops-and-notices>

Yearly Operational Plans (YOP) and a copy of this notice will be sent by the applicant to the Conservation Commission, Board of Health (or designated health agent), and to the Head of Government (Mayor, City Manager, Chair of the Board of Selectman) of each municipality where herbicides are to be applied along the Rights-of-Way during the calendar year. Municipal agencies and officials will have (45) forty-five days, following receipt of the Yearly Operational Plan to review the maps contained in the document that indicate the location of "sensitive areas not readily identifiable in the field" for inaccuracies and omissions. "Sensitive Areas" will be defined as in Section 11.01 a-f.

Municipal agencies and officials are requested to forward the YOP to the appropriate official(s) in their municipality qualified to certify the accuracy of sensitive area locations as indicated on the maps. The maps should be "corrected" and returned to the applicant, also a copy of the maps with these corrections indicated should be sent to the Department of Agricultural Resources at the address listed below within the forty-five day review period. If a city or town needs more time to carry out this review, it should send a written request for an extension to the DAR and cite why there is a "good cause" for requesting additional time.

All corrections will be required to be made by the applicant, and corrected maps sent back to the city/town before the YOP can be considered "approved" by the Department for vegetation maintenance in that municipality. Any dispute on the part of the applicant regarding corrections made by the municipal authorities, should be indicated in writing to the Department and to the city/town which requested the disputed changes within (15) fifteen days of receipt of the request. The Department will decide whether or not the YOP should be approved without the requested changes. MDAR will consider the "final approval" of a YOP individually for each municipality.

The YOP may view at MDAR's website at <https://www.mass.gov/service-details/rights-of-way-vegetation-management-vmmps-yops-and-notices>

The final (21) twenty one days of the public review period may serve concurrently to provide public notification as required by section 11.07 of the Rights-of-Way Management regulation, if the applicant has an approved VMP and if all the requisite city/town offices which have received copies of the YOP have completed their review and corrections have been duly made by the applicant and approved by the Department.

A failure by the city/town to respond to the applicant's submission of the YOP within the forty five (45) day public review period will automatically be considered by MDAR to indicate agreement by municipal officials with the sensitive area demarcations as provided by the applicant in their YOP.

The Massachusetts Rights of Way Program now has the Private Well Registry online. Residences can go to www.mass.gov/agr then to the Rights-of-Way page and enter their well information into the Departments database.

Any questions or comments on the information provided in this Notice and the procedures established for the municipal review as outlined above should be addressed to:

Right-of-Way Program

Massachusetts Pesticide Bureau
225 Turnpike Road, 3rd Floor
Southborough, MA 01772

Any additional questions or comments on any information provided as part of the proposed YOP should be addressed in writing to:

Stephen Herzog
VHB
120 Front St., Suite 500
Worcester, MA 01608

A copy should also be sent to the ROW program at the above address.

COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS (5pm), Monday, July 21, 2023