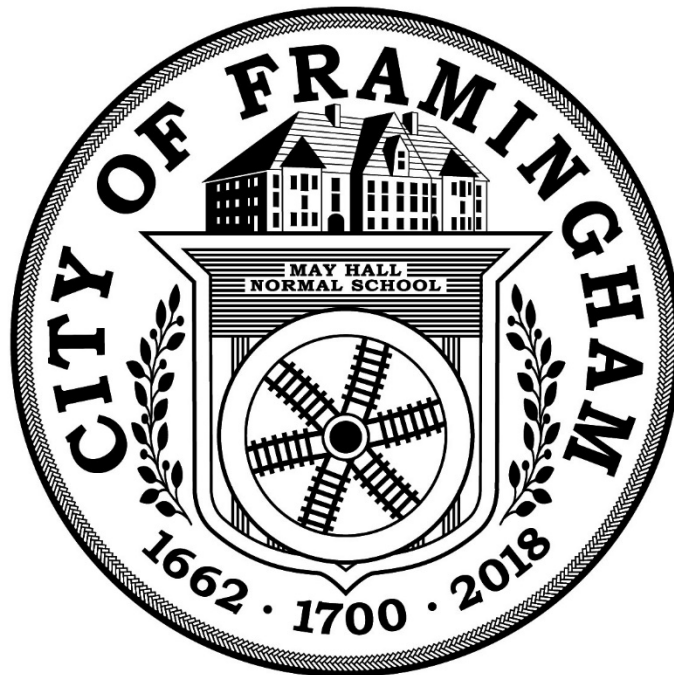


Vegetation Management Plan

City of Framingham

Department of Public Works

2022



Prepared and Submitted by:
Framingham Department of Public Works

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1. INTRODUCTION

The purpose of this Vegetation Management Plan (VMP) is to outline the City of Framingham's (City) five-year plan for managing Rights-of-Way (ROW) vegetation in compliance with 333 CMR 11.00. The Department of Public Works (FDPW) manages approximately 460 miles of roadway and 173 miles of sidewalk within the City and is responsible for the development and implementation of the VMP.

The primary objective of the VMP is to provide the City with a means to ensure safe, unobstructed ROW travel for vehicles and pedestrians. Uncontrolled vegetation may inhibit access for the public, compromise sightlines, impede clearance, and/or negatively affect roadway and drainage infrastructure. While the primary method of vegetation control is street sweeping, the VMP allows for more comprehensive management. Properly maintained vegetation allows for physical and visual access, which is essential for inspection, maintenance, and repairs to the City's infrastructure.

2. GENERAL STATEMENT OF GOALS AND OBJECTIVES OF THE VMP

The goal of the Vegetation Management Plan is to set forth the five-year plan, documenting standards, practices, and procedures designed to control undesirable vegetation on Framingham's roadways and sidewalks, while minimizing the risk of unreasonable adverse effects on human health and the environment. The intention of this document is to provide a basic source of information for state and municipal officials, and any other interested parties. This document is designed to provide overall guidance for the licensed applicator(s) working under the direction of FDPW, in order to appropriately implement the City's vegetation management practices.

The City of Framingham's vegetation management goals and objectives are as follows:

- To utilize a VMP designed to maximize control of undesirable vegetation, while minimizing the use of herbicides through judicious use;
- To ensure that all vegetation management operations are conducted in a safe, effective manner, and in conformity with all applicable state and federal laws, regulations, and permit conditions;
- To maintain roadways and sidewalks to their full width;
- To maintain protective buffers at environmentally sensitive areas;
- To identify all sensitive areas, including public and private drinking water supplies, surface waters, wetlands, inhabited areas, agricultural areas, state-listed species habitats, and any other sensitive areas requiring special consideration;
- To remove undesirable vegetation by methods of hand cutting, mowing, and to sweeping in order to protect environmentally sensitive areas where herbicide use is not permitted;
- To comply with the law in regards to using certified licensed employees and contractors to implement FDPW's VMP;
- To ensure a FDPW representative responds quickly to any questions or concerns from the public and/or governmental agencies related to vegetation management;
- To only use herbicides listed by the Massachusetts Department of Agricultural Resources (MDAR) on the "Sensitive Area Materials List."

3. IDENTIFICATION OF TARGET VEGETATION

Any vegetation that grows in the ROW in such a way that poses a safety hazard, compromises infrastructure, is a public nuisance, or is invasive and may negatively affect the environment will be considered undesirable, and will be subject to control under this VMP.

In order for grasses, herbaceous plants and woody plants to be considered undesirable they must meet at least one of the following criteria:

- Vegetation creates a safety hazard to the general public, whereas a person could be injured as a result of the vegetation's growth (i.e. vegetation limits sightline visibility, obstructs street signage, traffic signals, or impedes vehicular or pedestrian movement;
- Vegetation has the potential to cause a hazard or nuisance to the general public if allowed to continue to grow unrestricted (i.e. Poison Ivy);
- Vegetation causes harm to the environment (i.e. invasive plants may crowd out desired species, disrupting biodiversity, and generally damaging the integrity of the environment;
- Vegetation cause damage to the physical infrastructure and investment of the City of Framingham.

Examples of Undesirable Vegetation:

- a. Roadway: All grasses, weeds, and woody vegetation growing around guardrails, signs and abutments.
- b. Sidewalks: Grass and herbaceous weeds in cracks and on curbs. Vines and woody vegetation encroaching from the sides. Noxious and invasive weeds like oriental bittersweet, multiflora rose, and poison ivy.

4. METHODS OF VEGETATION MANAGEMENT AND RATIONALES FOR USE

Framingham Public Works utilizes four methods of vegetation management on roadways and sidewalks: sweeping, hand cutting, mowing, and chemical treatments. The treatment methods and/or mechanical methods are selected based on target vegetation height and density, site sensitivity, and topography.

Sweeping: Under the National Pollution Discharge Elimination System (NPDES), the City of Framingham meets the Municipal Separate Storm Sewer Systems (MS4) Permit requirements of annual City-wide street sweeping, as well, as targeted, monthly urban sweeping and daily sweeping of the main streets as weather conditions permit. This provides the additional benefit of removing debris and weeds that would otherwise grow in the roadway.

Hand Cutting: Hand cutting consists of the mechanical cutting of target species using pruning shears, loppers, power trimmers, and power saws. Target species are cut as close to the ground as practical. Debris is either swept up or chipped upon completion. Hand cutting is utilized when necessary in order to protect environmentally sensitive sites or target vegetation, greater than twelve (12) feet tall where foliar treatment is prohibited by regulation or easement restriction. Hand cutting may be used at any time of year.

Mowing: Mowing consists of the mechanical cutting of target species. Several types of mowers will be utilized, including boom rotary or flail type equipment, commercial walk behind mowers, push mowers, and line trimmers that are used seasonally.

Chemical Treatments: Herbicides are used to control undesirable vegetation that cannot reasonably or efficiently be removed by other means and are located outside of designated sensitive areas. The primary reason herbicides are used is for their ability to kill the root system of the undesirable plant, and therefore, eliminate its ability to re-sprout. Additionally, herbicides are more cost effective when compared to other control methods.

Types of application equipment or methods:

- a. Low pressure backpack selective foliar: A hand pumped or motorized backpack sprayer with a hand-held gun or wand used to treat individual plants.
- b. Low pressure hydraulic pump utilizing hand gun: A gas or electric powered pump on a vehicle with a hose and gun which the operator uses by hand.

Chemical treatments are utilized within the cleared width of roadways and sidewalks, in compliance with 333 CMR 11.00. Application of foliar treatments is limited to when leaves are fully developed in the spring until early fall, when leaves begin dropping off the trees approximately, This timeframe is generally considered to be June 10 to September 20. All applications are performed in accordance with manufacturer labels and United States Environmental Protection Agency guidelines.

5. JUSTIFICATION OF HERBICIDE APPLICATIONS

The FDPW emphasizes the justifiable use of selective herbicide to control undesirable vegetation on roadways and sidewalks. This VMP integrates the use of selective herbicide application, mechanical cutting, and street sweeping. The intention is to create the safest, most environmentally sound, and cost effective program specific to the City of Framingham's geography and needs.

The City Framingham will only use herbicides listed on MDAR's Sensitive Area Materials List. The general characteristics of these herbicides are low toxicity to humans and other animal species, short term soil persistence, biodegradation of active ingredients, and low mobility. The specific herbicide formulations and mixtures will be listed in the Yearly Operational Plans (YOPs).

The FDPW's VMP eliminates significant drift from foliar treatments by requiring the use of low drift agents and prohibiting treatments in high wind situations. Treatments are conducted in a manner when pedestrian traffic is minimal, controlled, or not present. Treatments will not be conducted when rain runoff is possible.

When used selectively, herbicides have been demonstrated to be the most ecologically sound vegetation management method. Comparatively, mechanical removal methods, result in a less satisfactory clearing of streets and sidewalks. Additionally, chemical controls are often the preferred method to control plants that pose a health hazard for employees in the field, either directly or due to their location. Poison ivy, for example, is extremely hazardous to handle; biologically resistant to

mechanical removal and can pose a significant threat to anyone who inhales the smoke if it is burned. Likewise, attempting to control curbside plants and weeds by pulling them or trimming them can put an employee in danger from traffic and is ineffective for long term control.

Based on prior experience, a selective herbicide program has yielded more effective and efficient results than a mechanical cutting program alone. Due to budgetary limitations and available resources, FDPW does not possess the necessary resources to adequately provide effective control of undesirable plant growth while maintaining other critical services.

It is important to reemphasize that the use of herbicides is not appropriate or necessary in all cases. Herbicides will not be utilized when the following restrictions exist:

- Sensitive Area restrictions;
- Regulatory or easement restrictions;
- Target species composition;
- Vegetation height restrictions.

For example, herbicide treatments will not be used on target vegetation in standing water or within designated no spray areas around drinking water supplies.

Presently, there is no practical alternative to a properly planned and implemented VMP emphasizing the selective use of herbicides. When used properly, herbicides meet safety standards and are the most cost effective and efficient means to provide the necessary control of target vegetation and will not cause unreasonable adverse effects.

6. SENSITIVE AREA IDENTIFICATION AND VEGETATION CONTROL STRATEGIES

Table 1: Sensitive Area Restriction Guide (333 CMR 11.04)

Sensitive Area	No Spray Zone	Limited Use Zone	Where Identified
Wetlands and Water Over Wetlands	Within 10 feet	10 – 100 feet; 12 months must elapse between applications; Selective low pressure, using foliar techniques or basal or cut-stump applications	YOP Maps and identify on site
Certified Vernal Pool	Within 10 feet	10 feet to the outer boundary of any Certified Vernal Pool Habitat; 12 months must elapse between applications; Selective low pressure, using foliar techniques or basal or cut-stump applications	YOP Maps and identify on site
Public Ground Water Supply	Within 400 feet (Zone I)	Zone II or IWPA (Primary Recharge Area); 24 months must elapse between applications;	YOP Maps

Sensitive Area	No Spray Zone	Limited Use Zone	Where Identified
		Selective low pressure, using foliar techniques or basal or cut-stump applications	
Public Surface Water Supply	Within 100 feet of any Class A public surface water source	100 feet to the outer boundary of the Zone A; 24 months must elapse between applications; Selective low pressure, using foliar techniques or basal or cut-stump applications	YOP Maps
	Within 10 feet of any tributary or associated surface water body located outside of the Zone A	10 feet to the outer boundary of the Zone A; 24 months must elapse between applications; Selective low pressure, using foliar techniques or basal or cut-stump applications	
	Within 100 feet of any tributary or associated surface water body located within the Zone A of a Class A public surface water source		
	Within a lateral distance of 100 feet for 400 feet upstream of any Class B Drinking Water Intake	Within a lateral distance of between 100 - 200 feet for 400 feet upstream of intake; 24 months must elapse between applications; Selective low pressure, using foliar techniques or basal or cut-stump applications	
Surface Waters	Within 10 feet from mean annual high-water line	10 feet from the mean annual high water line and the outer boundary of the Riverfront Area; 12 months must elapse between applications; Selective low pressure, using foliar techniques or basal or cut-stump applications	YOP Maps and identify on site
Agricultural and Inhabited Areas	N/A	0 – 100 feet 12 months must elapse between application; Selective low pressure, using foliar techniques or basal or cut-stump applications.	Identify on site

Sensitive Area	No Spray Zone	Limited Use Zone	Where Identified
State-listed Species Habitat	No application within habitat area except in accordance with a Yearly Operational Plan (YOP) approved in writing by the Division of Fisheries and Wildlife		YOP Maps

Framingham Public Works will use only herbicides and application methods recommended for use in sensitive areas as per 333 CMR 11.4 (d).

Personnel from the Framingham Conservation Department will assist in the delineation of sensitive areas to determine their precise locations. Additionally, list of sensitive locations and maps are utilized for reference.

Boundaries of all sensitive areas will be placed on all YOP maps. All sensitive areas will be stenciled or flagged "No Spray Zones" on the sidewalk, curb, or street, with pink spray paint.

Reference Materials and Sources of Information

Reference materials and sources used to identify sensitive areas include, but are not limited to the following:

- U.S. Geological Survey Topographic maps
- MDAR staff and data resource
- Massachusetts Dept. of Environmental Protection Water Supply maps
- Wetlands Conservation maps
- Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program (NHESP)
- Municipal maps or records, including information provided in response to the required municipal notification letters
- Framingham Board of Health: list of private water wells
- Framingham Conservation Personnel
- Massachusetts Geographic Information System (GIS) and the City of Framingham GIS

These materials and sources shall be compiled and referenced when available, prior to the commencement of the ROW application. Framingham Public Works will solicit information from sources, as required in the regulation, for information on sensitive areas not readily identifiable in the field.

Control Strategies

Applicable control strategies to be utilized within and adjacent to Sensitive Areas are detailed on YOP maps. In areas where herbicides are prohibited, as identified on the map, hand cut and/or mowing methods are used.

7. MASSACHUSETTS ENDANGERED SPECIES ACT

The Massachusetts Endangered Species Act, M.G.L. c. 131A and regulations promulgated under 321 CMR 10.00, set forth procedures for the listing of endangered, threatened and special concern species native to Massachusetts, the designation of significant habitats for such species, and established rules and prohibitions regarding the activities which take species or alter their significant habitats.

Provisions of 321 CMR 10.00, Part 11, allow NHESP to designate significant habitat on any land in the Commonwealth. The FDPW would be notified as an owner of interest in any significant habitats that incorporates the ROW. No such designations have been made to date. Vegetation management activities within significant habitats require an alteration permit from the Director of the Division of Fisheries and Wildlife, 321 CMR 10.00, Part 111. Framingham Public Works will, if it becomes necessary, seek such a permit under the coordinated permit review process of the Regulation, Section 10.38.

8. OPERATIONAL GUIDELINES FOR APPLICATORS RELATIVE TO HERBICIDE USE

The Public Works Department is responsible for maintaining the ROW in Framingham, which includes vegetation management and therefore the development and management of the City's VMP and YOP. Application of the herbicides is contracted to a qualified licensed applicator, supervised by Public Works staff.

Safety: The City will comply with all appropriate state and federal safety laws and regulations. This includes applicable sections of the Occupational Safety and Health Act (OSHA) and all worker safety related statements and instructions on the herbicide manufacturer label.

Weather: Herbicide application will be restricted during certain adverse weather conditions, such as rain or wind.

- Rain: Herbicide application will not be made during periods of moderate or heavy rainfall. Foliar applications are effective in light mist situations, however, any measurable rainfall that creates leaf runoff will wash the herbicide from the target. If foliar applications are interrupted by unexpected rainfall, the treatment will not resume until the rain ends and active leaf runoff has ceased.
- Wind: Excessive wind can create drift during foliar applications. Significant herbicide drift can cause damage to desirable vegetation on or off the street. To prevent any significant off-target drift of herbicides, the applicator will comply with the following restrictions:
 - a. During periods of wind, which are strong enough to bend the top of the main stems of tree species located in the ROW, the FDPW supervisor will closely observe the applications of the foliar treatment to assure that there is no significant movement of the herbicide solution off target. If the supervisor observes significant movement of the herbicide, target applications will immediately stop until the wind has subsided enough to continue further applications.
 - b. Applications are generally performed at night when wind conditions are usually calmer. Applicators generally hold spray nozzles 6-12 inches off the ground, reducing the risk of drift.

- c. All herbicide solutions to be used for a foliar application will contain low-drift agents. Low-drift agents will be added to the foliar herbicide solution as per the low-drift agent label. In moderate wind conditions, as per label recommendations, low drift may be added at the discretion of the contractor supervisor to control significant drift.

Roadway Vegetation Management Width: Framingham's VMP should be applied to remove or control all undesirable vegetation within the roadways and sidewalks.

Identification of No Spray Areas: Environmentally sensitive areas shall be buffered and treated according to procedures and specifications set forth in Table 1. A qualified Public Works employee will be deployed in advance of the treatment crew to identify no spray areas and to delineate the appropriate buffers. This employee will stay far enough in advance of the treatment crew so that adequate time is allowed to identify these boundaries with 28" traffic cones before the treatment crew reaches the area.

Contractor Duties and Responsibilities: Vegetation management operations shall be conducted according to this management plan and written instruction of the FDPW. Failure to do so is grounds for removal of the crew from the treatment site and/or termination of the contract at the sole discretion of Framingham Public Works.

The contractor is responsible for providing the following:

- Experienced and/or trained workers, who are appropriately licensed and certified. Workers must conduct themselves professionally at all times;
- Appropriately licensed and certified supervisors who are knowledgeable with regard to all aspects of the contracted treatment and who are responsive to the guidance of FDPW personnel. Supervisors must be able to effectively communicate with the public and effectively supervise applicators in order to ensure the satisfactory completion of the treatment operation and compliance with all appropriate standards and regulations;
- Compliance with all applicable federal and state laws and regulations;
- Equipment, including backup equipment, which is sufficient to maintain the highest practical level of efficiency and effectiveness. Equipment shall be maintained in good working order;
- Herbicides, adjuvants, carriers, and additives (hereafter collectively referred to as "materials"). Materials and mixture rates will be specified by Framingham Public Works. The specifications will not be deviated from without the approval of Framingham Public Works. The contractor is responsible for the proper disposal of all excess materials and solutions in accordance with all applicable federal and state laws, regulations and guidelines;
- PPE and spill remediation equipment. Emergency contact list will be provided by Framingham Public Works.

Street Specifications: The Director of Highway and Sanitation will instruct the contractor which roadways will be treated, the range of dates of treatment, application methods, materials, and mixing rate to be used. The FDPW will supply appropriate maps displaying no spray areas and written instructions outlining any special treatment considerations.

No work will be done until the Public Works employees and/or contractors have the appropriate maps, directives, and mixing rate instructions. All treatment crews must carry copies of this VMP and a current YOP.

9. IDENTIFICATION AND QUALIFICATION OF INDIVIDUAL DEVELOPING AND SUBMITTING THIS PLAN

The City of Framingham feels strongly that it is necessary to have qualified professionals to develop, implement, and supervise all phases of vegetation management operations. Vegetation management, especially herbicide application operations, requires an elevated level of technical expertise and experience in order to adhere to and integrated management approach and to adequately prescribe the proper treatments to control undesirable vegetation while minimizing site impacts.

The professional responsible for submitting this plan is:

Kathryn Ronconi
Director of Highway and Sanitation
City of Framingham
Department of Public Works
100 Western Avenue
Framingham, MA 01702

Ms. Ronconi is a Massachusetts Certified Arborist, who has worked closely with the previous Director, Daniel Nau for over 10 years to gain an understanding of the development and implementation of the City's VMP and YOP. Mr. Nau began implementing a VMP and YPO for the City in 2002. Ms. Ronconi is now responsible for the system-wide design, planning, coordination, and supervision of all street vegetation management operations. This includes, but is not limited to, preparing and implementing this VMP, scheduling work, estimating budgets, working with qualified applicators to determine treatments, obtaining necessary permits, preparing required notification, selecting contractors, spot checking treatment crews, ensuring qualified individuals are capable of providing technical expertise, and acting as the liaison between the contractors, employees and landowners.

10. DESCRIPTION OF THE CITY'S INTEGRATED PEST MANAGEMENT PROGRAM

The City's VMP was developed to meet the goals set forth by 333 CMR 11:00 and Integrated Pest Management (IPM) or Integrated Vegetation Management (IVM) practices. The U.S. Environmental Protection Agency (EPA) utilizes IVM to manage vegetation and the environment by balancing the benefits of cost, control, environmental quality, public health, and regulatory compliance.

333 CMR 11:01 Purpose: The purpose of 333 CMR 11:00 is to establish a statewide and uniform regulatory process which will minimize the uses of, and potential impacts from herbicides in rights-of-way on human health and the environment while allowing for the benefits to public safety provided by the selective use of herbicides.

The VMP focuses on the following components:

- Reducing reliance on chemical herbicides;
- Using selective herbicides and application techniques;
- Timing applications appropriately and avoiding fixed or rigid schedules;
- Protecting non-target organisms;
- Protecting environmentally sensitive areas.

The City of Framingham strives to reduce its reliance on chemical pesticides. This reduction has been demonstrated by observing herbicide use through the history of the City's VMP. Over the last twenty years the City has been able to maintain control of weed growth. At the inception of this program, weed growth was much more prevalent, obstructing clear pathways and sightlines. As the program has progressed, there is much less initial growth early in the year and there has been a visual decline of weeds in general. The program has been reduced from seven or eight nights to two or three. Data recorded in recent years shows that roughly 200-250 gallons are used per night on the initial application. This data will continue to be collected, recorded and monitored throughout this VMP to ensure the goal of reduced herbicide usage is being met.

The City is using highly selective application procedures. The key factor within the program that minimizes herbicide use and provides selective results is the utilization of the very selective application methods. Therefore, even nonselective herbicides, such as glyphosate formulations, can result in very selective results.

The timing of applications is important to maximize control while minimizing pesticide use. The City schedules herbicide applications during a timeframe in which the particular herbicide or application method is most efficient and effective in order to minimize herbicide use and ensure maximum control. Optimum treatment conditions for street target vegetation are generally when growth reaches an average height of six to ten inches. This requires the City and contracted company to remain flexible and avoid fixed application schedules.

The program focuses on protecting non-target organisms by utilizing very selective treatment methods with restrictions placed on those methods to further control applications. This is accomplished by selecting herbicides that are low in toxicity. Those herbicides are applied at the lowest effective rate, therefore, the risk of unreasonable adverse impacts through herbicide mobility or persistence is expected to be virtually eliminated.

Environmentally sensitive areas are protected by limiting herbicide treatments on and near these areas. This includes the use of non-herbicide mechanical treatment methods where appropriate. To protect these sites, sensitive area setbacks are established and treatments are restricted. The prescription of these treatments are based on the regulations, which consider the degree of sensitivity of each site and the requirements to minimize any unreasonable adverse impacts to that area.

Annually, the Director of Highway and Sanitation, Highway Operations Manager, and Tree Warden will review the City's VMP and YOP to ensure that they reflect the most current and practical industry standards. References and resources to be used for this review include but are not limited to: operational experience, industry publications, new research, and comments from municipal departments, state agencies, private contractors, and regulatory changes. Amendments will be made to this VMP according to 333 CMR 11.05 if Public Works determines changes are appropriate.

Prior to the start of the herbicide application season, the detailed VMP for the calendar year consistent with the terms of the long term VMP will be described in the Yearly Operational Plan (YOP). The YOP will be made available for a forty-five day municipal agency review and comment period, and newspaper notification will be provided 48 hours in advance of the commencement of the spray activity (in accordance with 333 CMR 11.06 & 11.07 and Chapter 85 of the Acts of 2000). The YOP will contain maps locating the ROW and No Spray Areas not readily identifiable in the field, information on the herbicides proposed for use, and applicator contact information.

11. ALTERNATIVE LAND USE

Every effort will be given for alternative land use options. However, specific criteria shall be met for adoption of alternative land use options. Firstly, the alternative land use option must control the undesirable vegetation in a similar manner, ecologically and efficaciously as allowed in this VMP. For example, a common practice of roadway abutters is to mow and maintain road shoulders. In this instance, the monitoring program would reveal that the area does not warrant vegetation control. A written agreement with landowners for alternative vegetation control methods will be obtained. This agreement would clearly specify that the City of Framingham will not treat vegetation in these areas and outline the landowner's responsibilities for vegetation control.

12. REMEDIAL PLAN TO ADDRESS SPILLS AND RELATED ACCIDENTS

The City retains licensed employees and contractors to accomplish all aspects of the herbicide applications including the containment, cleanup, and reporting of an herbicide spill or related accidents. Per the terms of the contract, employees are required to comply with all applicable laws, regulations, and rules including conformance with the following minimum standards:

Equipment: Applicator crews must have the following equipment with them at all times: a shovel, broom, heavy duty plastic bags, or other leak proof containers, spill booms and adsorptive clay.

Control and Cleanup of Major and Minor Spills: As soon as any spill is observed, immediate action shall be taken in order to contain the spill and protect the area. The cause of the spill shall be identified and secured. Spill containment may be accomplished by covering the spill with adsorptive clay or other adsorptive material. For large spills, building clay or soil dikes may be used to impede spill progress. The spill area should be protected by placing barriers, flagging, or crew members at strategic locations. If a fire is involved, care must be taken to avoid breathing fumes from any burning chemical.

1. **Minor Spills:** Cleanup of minor spills may be accomplished by soaking up the spill with adsorptive clay or other adsorptive material and placing it in leak proof containers for proper disposal. Dry herbicides, such as granular, may be swept or shoveled up directly and placed in leak proof containers for proper disposal. All contaminated soil should be placed in leak proof containers, removed from the site, and disposed of properly. Activated charcoal should be incorporated into the soil at the spill location at a rate of seven pounds per thousand square feet to deactivate any residual herbicide. Any minor spill will be reported to the Pesticide Bureau within 24 hours.

Non-reportable spills must be thoroughly absorbed, shoveled, swept up, and put into a leak proof container for disposal in a legal manner. Crews should spread activated charcoal, or suitable material, over the affected area to inactive any residual material.

2. Major Spills: Major spills are defined by the Massachusetts Department of Environmental Protection as reportable quantities of a hazardous material that are managed by 333 CMR. Any major spills should be evaluated under the reporting requirements of Massachusetts Contingency Plan (MCP) 310 CRM 40.000. Major spills should be handled in the same fashion as minor spills. However, more equipment and materials may be required for cleanup and certain notifications are mandatory. If the spill is too large for the treatment crew to clean up, then, after containment and site protection is accomplished, a hazardous waste cleanup company should be contacted immediately and directed to the site. Framingham Public Works, DAR, as per 333 CMR 10.15 (4) Record Keeping Requirements, DEP, and any other persons or agencies stipulated in applicable federal, state or municipal laws will be notified.

Once contained, or if unable to contain, control or absorb the spill properly, call 911 for the local fire department. The fire department is the first responder in spill situations.

3. In the event of personal contact with hazardous materials:
 - Remove any clothing that is soaked with hazardous materials;
 - Wash affected area with sufficient soap and water;
 - Provide first aid as needed;
 - Contact a physician or poison control center if necessary;
 - Do not breathe fumes of hazardous materials.

Contact information to report a spill:

DEP 24-hour Spill Reporting

To report a release of oil or hazardous material, call the DEP 24-hour notification line: 888-304-1133

DEP Northeast Regional Office: 978-694-3200

DAR (Department of Agricultural Resources) Pesticide Bureau within 48 hours: 617-626-1700

Director of Highway and Sanitation, Kathryn Ronconi: 508-532-6030

Other Helpful Numbers

Emergency Services 911

Massachusetts Poison Center 800-682-9211

American Association of Poison Control 800-222-1222

Bayer U.S. – Crop Science, Monsanto Company	309-928-9445
Bayer Crop Science	866-99-BAYER
Massachusetts Department of Public Health, Bureau of Environmental Health's Environmental Toxicology Program (For questions about exposure to pesticides)	617-339-8351
Massachusetts State Police Headquarters	508-820-2300
Chemtrec / Emergency 24 Hour Number	800-424-9300

APPENDIX 1

History of Vegetation Management Plan 2002-2021

Daniel Nau | Former Director of Highway and Sanitation

Kathryn Ronconi | Director of Highway and Sanitation

Prior to having an approved Vegetation Management Plan (VMP), the City of Framingham had to utilize manual mechanical means to control weed growth. This process was time consuming and inefficient. Several problems that the Department of Public Works faced included out of control weed growth, debris cleanup, and employee health issues, including poison ivy and respiratory related problems. Additionally, this method generated severe dust clouds, which limited the visibility of the crew, pedestrians, and vehicular traffic. This created the potential for traffic issues and hazardous situations for the crews working in the roadway. In an attempt to manage the out of control vegetation, a five-man crew and supervisor were typically assigned, using mainly line trimmers. The crew was able to cut and trim about one mile per day, as well as address associated clean up issues. This use of manpower depleted the Department's resources during the relatively short New England construction season and left many necessary infrastructure repairs unaddressed. It was clear the City and the Department needed to move toward a more productive and proactive solution to reduce potential hazards, expenditures, and the use of resources.

The Department's first VMP and first Yearly Operational Plan (YOP) were approved in 2002. The application of herbicides was then able to be contracted out to a qualified company. In the first year, the contracted company worked ten, ten hour nights and was only able to complete approximately half of the approved street list. We observed a high level of usage and although target spraying was the goal, a nearly-constant trigger pull seemed necessary to address the high volume of vegetation. It took several years to get a handle on growth control, but with every successive treatment, we observed significant improvement. Soon crew sizes, application time, and the amount of herbicide used were decreased. Some streets even required little or no treatment at all. Today, our program typically consists of a two or three man crew, working two or three nights, and is considered a maintenance program.

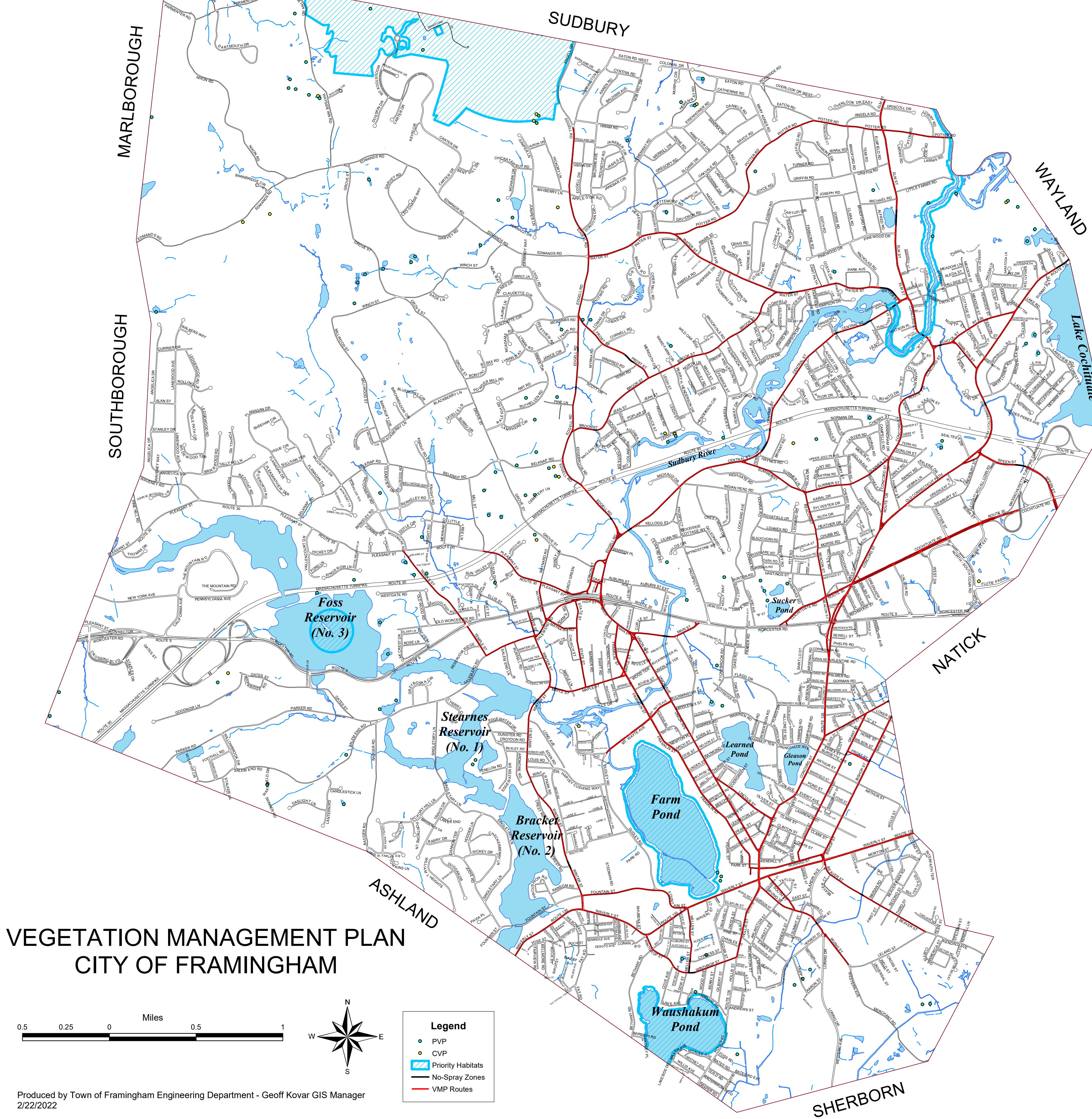
At the program's inception, the Department was inundated with complaints, both from other City Departments and from residents. The School Department was concerned about walking routes, bus stops, and poison ivy. The Police Department requested that we address sightline and obstruction issues. The Fire Department requested fire hydrant and fire pull boxes be addressed. Residents of the City were concerned about all of the above issues and had complaints regarding the aesthetics of their neighborhoods. Residents wanted not only the vegetation to be addressed, but also damage done to the roads and sidewalks by established root systems.

Due to recent changes in stormwater regulations, the City has developed a comprehensive street sweeping program, which provides the additional benefit of removing debris and weeds that would grow in the roadways.

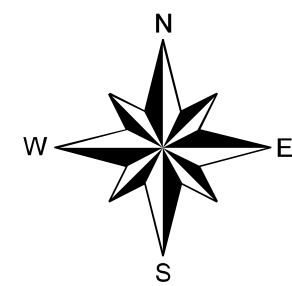
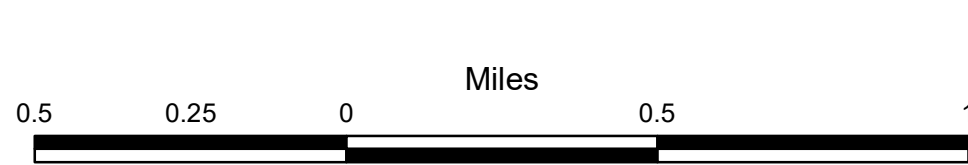
Today, the majority of complaints that the Department receives regarding vegetation management are relative to tree and scrub trimming or removal concerns. As we enter into the 21st year of the program, it is easy to see how much the program has progressed. The City's VMP has succeeded in its goals to reduce and control weed growth and to provide safe and unobstructed roads and sidewalks. By having an approved VMP, the City benefits from a significant financial advantage. In today's economic climate, with reduced budgets and labor forces, the Department could not afford to put a five to six man crew on

daily weed removal operations. This use of the Department's labor force would defer other critical maintenance, necessitating even more costly repairs. The program is a major factor in reducing hazards to the Department's crews and to the residents of Framingham.

The City has had a VMP in place for twenty years and herbicide applications have been performed without incident. The program has been extremely successful and beneficial to achieving the goals of the Department of Public Works.



VEGETATION MANAGEMENT PLAN CITY OF FRAMINGHAM



- Legend**
- PVP
 - CVP
 - Priority Habitats
 - No-Spray Zones
 - VMP Routes

TOWN OF FRAMINGHAM WELL PERMITS 1977 - 2017

ADDRESS	DATE	TYPE	DRILLER	DEPTH	Decommissioned
A St #115 (FHS)	10/8/2008	Monitor	Mass DCR	20 ft	
Alder Lane #19	May-93	Irrigation	None Given	None Given	
Angelica Drive #100	Jun-87	Irrigation	Boggastow Valley Well & Pump	200 ft	
Arbetter Dr #9	10/25/04	Irrigation	Gagne Pump Co	600 ft	
Arbetter Dr #9	6/6/07	Irrigation	Sullivan Co, Inc. (Bolton)	to 900 ft	
Badger Rd #1	Apr-96	Potable	A&W Artesian Well Co.	380 ft	
Badger Rd #10	Oct-99	Irrigation	Skillings & Sons Inc.	180 ft	
Bayview Rd #4	Oct-86	Potable	N/G	N/G	
Belknap Rd #237	Apr-00	Potable	Northeast Water Wells		
Belknap Rd #276	Jun-91	Irrigation	Northeast Water Wells	665 ft	
Beulah Street #45	Sep-03	Monitor	MA Dept Environ. Mgt.	7 ft	
Beaver Court #21 (5 wells)	Jan-07	Monitor	Technical Drilling Service	5 ft	
109-212 Bishop Rd	Apr-00	Irrigation	Dan Manble	505 ft	
Birch Road	Nov-80	Potable	New England Sand & Gravel	N/G	
Blandin Ave #88	Feb-04	Monitor	Technical Drilling Service	15 ft	
Brook Meadow #14	Feb-01	Heat Pump	Viera Artesian Wells		
Carter Drive #46	Mar-79	Potable	R.W Spear & Son (Millis)	225 ft	
Carter Drive #48	Mar-79	Potable	R.W Spear & Son (Millis)	100 ft	
Carter Drive #50	Jul-79	Potable	R.W Spear & Son (Millis)	125 ft	
Carter Drive #51	Jun-79	Potable	R.W Spear & Son (Millis)	225 ft	
Carter Drive #52	Mar-79	Potable	R.W Spear & Son (Millis)	125 ft	
Carter Drive #54	Dec-80	Potable	Montachusett Pump (Paxton)	150 ft	
Carter Drive #54 (lot#65)	Apr-79	Potable	N/G	N/G	
Carter Drive #55	Jun-79	Potable	R.W Spear & Son (Millis)	100 ft	
Carter Drive #55 (lot#71)	Mar-79	Potable	R.W Spear & Son (Millis)	125 ft	
Carter Drive #56 (lot#66)	Apr-79	Potable	R.W Spear & Son (Millis)	300 ft	
Carter Drive #57 (lot#70)	Feb-83	Potable	Need Pump Co.(Sterling)	245 ft	
Carter Drive #58 (lot#1)	Dec-80	Potable	Montachusett Pump (Paxton)	580 ft	
Carter Drive #59 (lot#69)	Apr-79	Potable	R.W Spear & Son (Millis)	420 ft	
Carter Drive #60 (lot#2)	Aug-84	Potable	Welltech Corp.	660 ft	
Carter Drive #62 (lot#3)	Dec-80	Potable	A&W Artesian Well Co.	240 ft	
Carter Drive #63	Mar-79	Potable	Montachusett Pump (Paxton)	600 ft	
Carter Drive #63 (lot#58)	Jul-82	Potable	A&W Artesian Well Co.	720 ft	
Carter Drive #64 (lot#4A)	Jan-85	Potable	Skillings & Sons Inc.	400 ft	
Carter Drive #65 (lot#59)	Feb-81	Potable	A&W Artesian Well Co.	720 ft	

Carter Drive #66 (lot#5B)	May-81	Potable	Montachusett Pump (Paxton)	715 ft	
Carter Drive #68	Mar-79	Potable	United Pump (Webster)	400 ft	
Carter Drive #68 (lot#6)	Dec-80	Potable	Montachusett Pump (Paxton)	509 ft	
Carter Drive #69	Dec-99	Potable	Hydro Systems Inc.	700 ft	
Carter Drive #69 (lot#57)	Dec-80	Potable	Montachusett Pump (Paxton)	635 ft	
Carter Drive #70 (lot#7)	Dec-80	Potable	A&W Artesian Well Co.	600 ft	
Carter Drive #71 (lot#51)	Sep-82	Potable	Culley Pump Co (E.Princeton)	465 ft	
Carter Drive #73 (lot#50)	Oct-80	Potable	A&W Artesian Well Co.	765 ft	
Carter Drive #75 (lot#49)	Dec-80	Potable	A&W Artesian Well Co.	620 ft	
Carter Drive #77 (lot#48)	Sep-81	Potable	Montachusett Pump (Paxton)	450 ft	
Carter Drive #78	Oct-00		Gagne Pump Co	610 ft	
Carter Drive #79 (lot#47)	Dec-80	Potable	Montachusett Pump (Paxton)	385 ft	
Carter Drive #80 (lot#7D)	Aug-83	Potable	A&W Artesian Well Co.	600 ft	
Carter Drive #81	Oct-04	Potable	Gagne Pump Co		
Carter Drive #78	May-00	Not Approved			
Carter Drive #81 (lot#16)	Dec-80	Potable	Montachusett Pump (Paxton)	650 ft	
Carter Drive #87	Aug-02	Potable	Mike Sullivan Co, Inc.		
Central Street #223	Nov-77	Potable	A&W Artesian Well Co.	260 ft	
Chickatawbut Rd #10	May-82	Potable	Domestic Wells Inc.	500 ft	
Claflin Street #35	Jul-02	Monitor	Geohydrocycle	18 ft	
Cochituate Rd #375	Sep-12	Monitor	Donald Leger		
Cochituate Rd #740	Apr-01	Irrigation	O.E. Dube & Son Inc.	N/G	
Concord St #281	Feb-16	Monitoring	Eric Boucher /Tech. Drilling Service		
Concord St #506 (gas station)	Nov-08	Monitor	Technical Drilling Service	16.5 ft	
Concord St #600 (Court House)	Sep-08	Monitor	Technical Drilling Service	3 wells - 15 ft	
Concord St #828	Nov-06	Monitor	Drillex Env.	18 ft	
Crest Rd lot 1	Jun-08	Potable	Montachusett Pump (Paxton)	pending	
Crest Rd lot 2	Jun-08	Potable	Montachusett Pump (Paxton)	pending	
Daisley Place #15	Jun-94	Potable	Northeast Water Wells	205 ft	
Danforth St #190	Jul-05	TEST	SEA Consultants	4 wells 55-70 ft	
Danforth St #190	Mar-05	Monitor (14)	SEA Consultants	8.5 ft	
Dartmouth Dr. #10 (lot#55)	May-78	Potable	Smith Artesian Wells(Slatersville)	300 ft	
Dartmouth Dr. #11 (lot #77)	Jun-78	Potable	N/G	N/G	
Dartmouth Dr. #12 (lot #56)	May-98	Potable	A&W Artesian Well Co.	360 ft	
Dartmouth Dr. #15 (lot #73)	May-79	Potable	United Pump Co (Auburn)		
Dartmouth Dr. #16 (lot #58)	May-79	Potable	R.W Spear & Son (Millis)	125 ft	
Dartmouth Dr. #17 (lot #72)	May-79	Potable	N/G	N/G	
Dartmouth Dr. #18 (lot #59)	May-79	Potable	R.W Spear & Son (Millis)	100 ft	

Dartmouth Dr. #19 (lot #71)	Jun-80	Potable	Alan Wheeler		
Dartmouth Dr. #2 (lot #51)	May-78	Potable	United Pump (Shrewsbury)	N/G	
Dartmouth Dr. #21 (lot #70)	Jun-80	Potable	United Pump (Webster)	N/G	
Dartmouth Dr. #22 (lot #61)	May-79	Potable	R.W Spear & Son (Millis)	200 ft	
Dartmouth Dr. #25 (lot #68)	Jun-80	Potable	R.W Spear & Son (Millis)	250 ft	
Dartmouth Dr. #26 (lot #63)	Jun-80	Potable	R.W Spear & Son (Millis)	140 ft	
Dartmouth Dr. #27 (lot#660	Jul-80	Potable	R.W Spear & Son (Millis)	235 ft	
Dartmouth Dr. #28 (lot #75)	May-79	Potable	R.W Spear & Son (Millis)	150 ft	
Dartmouth Dr. #29 (lot #65)	Jun-80	Potable	R.W Spear & Son (Millis)	185 ft	
Dartmouth Dr. #3 (lot #81)	Jun-78	Potable	United Pump (Shrewsbury)	N/G	
Dartmouth Dr. #30 (lot #76)	Jun-80	Potable	United Pump Co (Auburn)	N/G	
Dartmouth Dr. #31 (lot #64)	Jun-80	Potable	R.W Spear & Son (Millis)	225 ft	
Dartmouth Dr. #32 (#74)	May-79	Potable	R.W Spear & Son (Millis)	140 ft	
Dartmouth Dr. #4 (lot#52)	Aug-98	Potable	E.R. Sullivan Inc.	425 ft	
Dartmouth Dr. #5 (lot #80)	Jun-78	Potable	United Pump (Shrewsbury)	N/G	
Dartmouth Dr. #6 (lot #53)	May-78	Potable	N/G	N/G	
Dartmouth Dr. #7 (lot #79)	Jun-78	Potable	United Pump (Shrewsbury)	N/G	
Dartmouth Dr. #8 (lot #54)	Oct-90	Potable	Northeast Water Wells	345 ft	
Dartmouth Dr. #9B	May-01	Potable	Gagne Pump Co	900	
Dartmouth Dr. #9D	Aug-01	Potable	Gagne Pump Co	550	
Dartmouth Dr.#1 (lot #1)	Aug-87	Potable	Boggastow Valley Well & Pump	400 ft	
Dartmouth Dr.(lot #51)	May-78	Potable	Smith Artesian Wells(Slatersville)	110 ft	
Dartmouth Dr.(lot #52)	May-78	Potable	Smith Artesian Wells(Slatersville)	100 ft	
Dartmouth Dr.(lot #53)	May-78	Potable	Smith Artesian Wells(Slatersville)	65 ft	
Dartmouth Dr.(lot #54)	May-78	Potable	Smith Artesian Wells(Slatersville)	140 ft	
Dartmouth Dr.(lot #77)	May-78	Potable	Smith Artesian Wells(Slatersville)	100 ft	
Dartmouth Drive #20 (lot #60)	May-79	Potable	R.W Spear & Son (Millis)	150 ft	
Dartmouth Drive lot#77B	Dec-00	Potable	Gagne Pump Co	150 ft	
Delmar Ave. #18	May-89	Irrigation	N/G	N/G	
Doeskin Dr. #1 (lot #27)	Sep-84	Potable	Montachusett Pump (Paxton)	400 ft	
Doeskin Dr. #11 (lot 22A)	Dec-85	Potable	Montachusett Pump (Paxton)	350 ft	
Doeskin Dr. #14	Nov-93	Potable	A&W Artesian Well Co.	500 ft	
Doeskin Dr. #14 (lot C)	Dec-87	Potable	Montachusett Pump (Paxton)	305 ft	
Doeskin Dr. #2 (lot #17)	Feb-86	Potable	Montachusett Pump (Paxton)	305 ft	
Doeskin Dr. #3 (lot #26)	Aug-86	Potable	Montachusett Pump (Paxton)	280 ft	
Doeskin Dr. #4 (lot #18)	Sep-84	Potable	Montachusett Pump (Paxton)	900 ft	
Doeskin Dr. #5 (lot #25)	Nov-85	Potable	Montachusett Pump (Paxton)	225 ft	
Doeskin Dr. #6 (lot #19)	Mar-86	Potable	Montachusett Pump (Paxton)	255 ft	

Doeskin Dr. #7 (lot #24)	Feb-85	Potable	Montachusett Pump (Paxton)	450 ft	
Doeskin Dr. #8	Feb-85	Potable	Montachusett Pump (Paxton)	325 ft	
Doeskin Dr. #9 (lot 23A)	Feb-85	Potable	Montachusett Pump (Paxton)	850 ft	
Doeskin Dr.#15 (lot 21A)	Feb-85	Potable	Montachusett Pump (Paxton)	600 ft	
Doeskin Pl. (lot #E)	Oct-94	Potable	Welltech Corp.	555 ft	
Doeskin Place #5 (lot 33)	Jun-98	Potable	Welltech Corp.	330 ft	
Doeskin Place #7 (lot 332)	Jun-98	Potable	Welltech Corp.	300 ft	
Edgell Road #664 (lot 37)	Mar-78	Potable	E.R. Sullivan Inc.	235 ft	
Edgell Road #900	Oct-01	Monitor	Geosearch Inc	25	
Edmands Rd. Lot #2	Sep-12		Connorstone Eng./Paul Croft		
Edmands Rd #220	Oct-07	Monitor	Technical Drilling Service	19 ft	
Edmands Rd #1062	Sep-12		Northeast Water Wells		
Everit Ave #156	Mar-05	Monitor	Soil Exploration Corp.	11 ft	
Fairbrook Road #55	Jul-11	Monitor	Soil Exploration Corp.	15 ft	
Fountain Street #196	Jun-02	Monitor	State Eviron.Management	8ft	
Franklin Street #485	Apr-92	Irrigation	A&W Artesian Well Co.	280 ft	
Garvey Rd #5	Jan-00	Irrigation	Ace Drilling Co.	700	
Georgetown Drive	Apr-92	Irrigation	A&W Artesian Well Co.	760	
Goodnow Ln #42	Aug-16	Irrigation			
Goodnow Ln #45	Aug-16	Irrigation			
Goodnow Ln #54	Oct-08	Geothermal	Ace Drilling Co.	100 ft 4 wells	
Grove Street #467	Mar-10	Irrigation	Sullivan Co, Inc. (Bolton)	425 ft	
Grove Street #618	Aug-93	Not Approved			
Grove Street #959	Jul-07	Irrigation	Northeast Water Wells	1005	
Grant St #1	Jul-02	Monitor	Technical Drilling Service	10	
Grant St #1	Sep-10	Monitor	Geotechnical Drilling	4 wells	
Gregory Rd #53	Jan-09	Monitor	Technical Drilling Service	12 ft 5 wells	
Hemenway Road #180	Nov-93	Potable	Northeast Water Wells	505 ft	
Hill Top Lane #10 (lot 2)	Apr-79	Potable	R.W Spear & Son (Millis)	100 ft	
Hill Top Lane #11 (lot 4)	Jan-80	Potable	E.R. Sullivan Inc.	325 ft	
Hill Top Lane #12 (lot 3)	Sep-79	Potable	N/G	N/G	
c/o Hollis St/Hollis Ct	Mar-03	Monitor (3)	Geohydrocycle	57',51',37'	
c/o Hollis St/Hollis Ct	5/26/11s	Monitor (7)	Beta Group, Inc	10-15'	
Hollis Street 105	Dec-12	Monitor	Williamson Environmental	15ft	
Hollis Street 105	Dec-12	Monitor	Williamson Environmental	20ft	
Howard St #243 (8 wells)	Oct-03	Monitor	Technical Drilling Service	7 ft	
Indian Head Heights #9	May-16	Monitoring	Nobis Engineering	10 ft	
Irving Street #280	May-04	Monitor (3)	Technical Drilling Service	2 ft	

Irving Street #280	Feb-05	Monitor (2)	Technical Drilling Service	3 ft	
Leland Street #133	Sep-05	Monitor (7)	Technical Drilling Service	40 ft	
Leland Street #142	Jun-90	Potable	Boggastow Valley Well & Pump	N/G	
Lindbergh Rd	Oct-09	Monitor	Beta Group, Inc	2 ft (4 wells)	
Loring Drive #25	Jul-02	Monitor	Geohydrocycle	12 ft	
Macomber Lane #2	Sep-00	Irrigation	William Blocher	N/G	
Marble St #1	Jun-10	Monitor	Technical Drilling Service	7 ft	
Maple St #220	Sep-03	Irrigation	A&W Artesian Well Co.	500 ft	
MASS Pike, 7W	Jun-05	Monitor	Technical Drilling Service	8 wells, 12 ft	
Maynard Rd #136	Oct-99	Irrigation	A&W Artesian Well Co.	N/G	
Maynard Rd #136	Oct-99	Potable	A&W Artesian Well Co.	N/G	
Merchant Rd (parcel #5)	Jul-99	Potable	Northeast Water Wells	N/G	
Merchant Rd (parcel #5)	Jul-99	Potable	Northeast Water Wells	N/G	
Millwood St #155	Nov-02	Potable	American Drilling		
Merchant Rd.(Soccer field)	Aug-99	Potable	Northeast Water Wells	N/G	
Mountainview Dr (lot 30) #1	May-92	Potable	Welltech Corp.	605 ft	
Mountainview Dr (lot 38A)	Apr-96	Potable	E.R. Sullivan Inc.	520 ft	
Mountainview Dr #10 (lot 39A)	Jun-89	Potable	Montachusett Pump (Paxton)	400 ft	
Mountainview Dr #10	Aug-15				
Mountainview Dr #14 (lot 40)	Jan-98	Potable	Richardson Wells & Pumps(Uxbridge)	630 ft	
Mountainview Dr #2 (lot 38A)	Sep-97	Potable	Hydro Systems Inc.	520 ft	decommissioned
Mountainview Dr #5 (lot 42A)	Jun-98	Potable	Charlton Well Co.(Charlton)	598 ft	
Mountainview Dr #6 (lot 38B)	Feb-98	Potable	Richardson Wells & Pumps(Uxbridge)	630 ft	
Mountainview Dr (#41A)	Aug-93	Potable	Welltech Corp.	560 ft	
Mountainview Dr (lot 30) #2	May-92	Potable	Welltech Corp.	605 ft	
Murphy Circle #8	Aug-89	Potable	N/G	N/G	
Myra Rd #3	Nov-06	Monitor	NE Geotech	5 wells, 11 ft	
Nobscot Rd #1 Boy Scouts	Mar-10	Potable	Northeast Water Wells	300 ft	
Nixon Road #16	Oct-99	Potable	Welltech Corp.		
Nixon Road #17	Oct-97	Potable	Northeast Water Wells		
Nixon Road #19	Dec-04	Potable	Charles Hanson		
Nixon Road #19 (lot 3)	Jul-87	Potable	Welltech Corp.	305 ft	
Nixon Road #1A (lot 5)	Nov-87	Potable	N/G	N/G	
Nixon Road #3	Aug-00	Potable	Avellino Well & Pump Co.	460 ft	
Nixon Road #3 (lot 4)	Jun-96	Potable	Avellino Well & Pump Co.	460 ft	
Nixon Road #34	Apr-08	Potable	G.R.Clausen	600	
Nixon Road #39 (lot 17)	Jul-77	Potable	N/G	N/G	
Nixon Road #40 (lot 5B)	Jun-92	Potable	A&W Artesian Wells Co.	600 ft	

Nixon Road #45	Mar-03	Potable	Viera Artesian Wells	3 wells	
Nixon Road #48 (lot 5A)	Jun-83	Potable	La Framboise	300 ft	
Nixon Road #49 (lot 2A)	Jul-86	Potable	Boggastow Valley Well & Pump	125 ft	
Nixon Road #51 (lot 1)	Jul-86	Potable	Boggastow Valley Well & Pump	200 ft	
Nixon Road #52A	Sep-12		Derek Duble		
Nixon Road #54 (lot 1)	May-92	Potable	Montachussett Pump (Paxton)	N/G	
Nixon Road #55	Sep-03	Potable	A&W Artesian Wells Co.		
Nixon Road #56 (lot 2)	Sep-92	Potable	Welltech Corp.	605 ft	
Nixon Road #56 (lot 3)	Mar-92	Potable	Welltech Corp.	505 ft	
Nixon Road #60 (lot 4)	Oct-96	Potable	A&W Artesian Wells Co.		
Nixon Road #60A (lot 5)	Oct-96	Potable	A&W Artesian Wells Co.	360 ft	
Nixon Road #60B (lot 6)	Oct-96	Potable	A&W Artesian Wells Co.	600 ft	
Nixon Road #60C (lot 7)	Oct-96	Potable	A&W Artesian Wells Co.	700 ft	
Nixon Road #60D (lot 8)	Oct-96	Potable	A&W Artesian Wells Co.	600 ft	
Nixon Road #60E (lot 9)	May-97	Potable	Welltech Corp.	205 ft	
Nixon Road #61 (lot 19)	Sep-85	Potable	Scales Wells	145 ft	
Nixon Road #62-66	Aug-94	Potable	Northeast Water Wells	305 ft	
Nixon Road #7 (lot 7)	Sep-86	Potable	Montachussett Pump (Paxton)	N/G	
Nixon Road #70 (lot 3)	Mar-84	Potable	Welltech Corp.	205 ft	
Nixon Road #70R (lot 5A)	Jan-82	Potable	R.W Spear & Son (Millis)	200 ft	
Nixon Road #71 (lot B)	Mar-98	Potable	E.R. Sullivan Inc.	365 ft	
Nixon Road #75 (lot A)	Mar-98	Potable	E.R. Sullivan Inc.	245 ft	
Nixon Road #76 (lot 4)	Mar-84	Potable	R.W Spear & Son (Millis)	225 ft	
Nixon Road (lot 3)	Jul-00	Potable	E.R. Sullivan Inc.	245 ft	
Nixon Road (lot 4)	Jul-00	Potable	E.R. Sullivan Inc.	240 ft	
Nixon Road (lot B)	Mar-98	Potable	E.R. Sullivan Inc.	N/G	
Old Conn Path (Bike Path) #615	Mar-07	Monitor (7 wells)	Technical Drilling Service	17 ft	
Old Conn Path #280	Apr-13	Irrigation	Mike Sullivan Drill		
Pamela Road #30	Jan-16	(Permit app. Rec'd)			
Park Ave. #1	May-89	Irrigation	N/G	N/G	
Parker Road #151 (lot 3)	Jul-95	Potable	Northeast Water Wells	165 ft	
Parker Road #155	Grandfather				
Parmenter Road #1 (lot 1)	May-83	Potable	Montachussett Pump (Paxton)	145 ft	
Parmenter Road #10 (lot 5S)	Aug-86	Potable	D.P.Sullivan & Daughters	165 ft	
Parmenter Road #103(lot 1C)	May-81	Potable	A&J Well Company	200 ft	
Parmenter Road #107	Jun-85	Potable	E.R. Sullivan Inc.	475 ft	
Parmenter Road #109	Jul-81	Potable	A&J Well Company	365 ft	
Parmenter Road #11 (lot 6N)	Aug-83	Potable	Montachussett Pump (Paxton)	304 ft	

Parmenter Road #111 (1G)	Oct-85	Potable	A.&W. Wells Co	300 ft	
Parmenter Road #115 (lot 7)	Jun-85	Potable	A.&W. Wells Co	560 ft	
Parmenter Road #12 (lot 6S)	Oct-83	Potable	Montachusett Pump (Paxton)	100 ft	
Parmenter Road #14(lot 7S)	Aug-83	Potable	Montachusett Pump (Paxton)	180 ft	
Parmenter Road #16 (lot 8S)	Oct-83	Potable	Montachusett Pump (Paxton)	290 ft	
Parmenter Road #17 (lot 8N)	Jul-83	Potable	E.R. Sullivan Inc.	245 ft	
Parmenter Road #18 (lot 9S)	May-84	Potable	Welltech Corp.	125 ft	
Parmenter Road #19 (lot 9N)	May-85	Potable	Boggastow Valley Well & Pump	450 ft	
Parmenter Road #20	822/02	Potable	Skillings & Sons Inc.	320	
Parmenter Road #21 (lot 10N)	Feb-86	Potable	N/G	N/G	
Parmenter Road #22 (lot 11S)	Aug-85	Potable	Boggastow Valley Well & Pump	185 ft	
Parmenter Road #23 (lot 11N)	Feb-86	Potable	N/G	N/G	
Parmenter Road #24 (lot12S)	Jul-84	Potable	R.W Spear & Son (Millis)	200 ft	
Parmenter Road #25 (lot12N)	Feb-86	Potable	N/G	N/G	
Parmenter Road #2 (lot 1S)	Oct-83	Potable	Montachusett Pump (Paxton)	160 ft	
Parmenter Road #4	Apr-83	Potable	Montachusett Pump (Paxton)	115 ft	
Parmenter Road #5 (lot 3N)	Sep-83	Potable	Montachusett Pump (Paxton)	255 ft	
Parmenter Road #6 (lot 3)	May-83	Potable	Montachusett Pump (Paxton)	235 ft	
Parmenter Road #7 (lot 4)	May-83	Potable	Montachusett Pump (Paxton)	115 ft	
Parmenter Road #8 (lot 4)	May-83	Potable	Montachusett Pump (Paxton)	205 ft	
Parmenter Road #9 (lot 5N)	Sep-83	Potable	Montachusett Pump (Paxton)	155 ft	
Parmenter Road #95 (lot 2)	May-98	Potable	Sullivan Co, Inc. (Bolton)	220 ft	
Parmenter Road #95 (lot 8)	Aug-79	Potable	N/G	N/G	
Parmenter Road #97	Feb-78	Potable	A.&W. Wells Co	300 ft	
Parmenter Road #98 (lot1A)	Mar-81	Potable	A.&W. Wells Co	175 ft	
Parmenter Road #99A	Mar-06	Potable	Wayne's Well Drilling	300	
Parmenter Road (lot 2)	Jul-88	Potable	Montachusett Pump (Paxton)	230 ft	
Parmenter Road #105	Dec-16	Potable	Approved but not yet installed.		
Parmenter Road #105	Dec-16	Potable	Approved but not yet installed.		
Pearl St #58 (by RR track)	May-09	Monitor	Technical Drilling Service	90 ft	
Pennsylvania Ave #125	Jun-07	Monitor	Technical Drilling Service	4 wells 6 ft	
Phelps Road (lot 71)	Sep-93	Irrigation	N/G	N/G	
Pinewood Drive Ext. #1(lot318/9B)	Sep-98	Potable	A.&W. Wells Co	300 ft	
Pleasant Street #29	Feb-01	Potable	A.&W. Wells Co		
Pleasant Street	Feb-08	Monitor (5)	Geotechnical Drilling	15 ft	
Pleasant Street #21	Dec-16	Potable	Approved but not yet installed.		
Pleasant Street #154	May-02	Irrigation	A.&W. Wells Co		
Pratt Street #48	Aug-10	Monitor (4)	Soil Exploration Corp.	12 ft	

Prospect Street #115	Jan-98	Potable	Sullivan Co, Inc. (Bolton)	N/G	
Reservoir Ridge #4	Jun-00	Potable	Wilmington Pump		
Russell Rd #121	Jan-07	Irrigation	Avellino Well & Pump Co.	450	
Salem End Road #779	Aug-95	Potable	La Framboise	N/G	
Salmi Road #26	Mar-95	Potable	Avellino Well & Pump Co.	150 ft	
Singleary Lane #362	Jun-99	Irrigation	Northeast Water Wells	N/G	
Sloane Drive #34	Jun-89	Irrigation	N/G	N/G	
Stillmeadow Way #14	Jul-04	Potable	Avellino Well & Pump Co.	140	ABANDONED 3/06
Stoneybrook Rd #41	Jul-04	Monitor	Technical Drilling Service	20 ft	
Swift Road #74	Oct-90	Irrigation	La Framboise	N/G	
Taylor St #39	Jun-02	Monitor	Technical Drilling Service	15	
Underprice Way #1	Jun-00	Irrigation	A.&W. Wells Co	860	
Union Ave #535	Nov-03	Monitor	Lowtherskin Environmental	5 ft	
Union Ave #532	Dec-05	Monitor (11)	Technical Drilling Service	25 ft	
Union Ave #172-174	Mar-10	Monitor (3)	Geotechnical Drilling	18 ft	
Walnut Ave (lot 150)	Mar-79	Potable	A.&W. Wells Co	630 ft	
Water Street #449	Feb-94	Irrigation	Skillings & Sons Inc.	500 ft	
Water Street #552	Jun-99	Irrigation	Welltech Corp.		
Waverly Street #22 (7 wells)	Apr-03	Monitor	D'Amore Assoc., Lancaster, MA	12 ft	
Waverly Street #24 (15 wells)	Jan-07	Monitor	Technical Drilling Service	10 ft	
Waverly Street #102	Aug-08	Monitor	Technical Drilling Service	9 ft - 5 wells	
Waverly Street #125	Mar-05	Monitor	Technical Drilling Service	13 ft	
Waverly Street #620	Aug-10	Monitor (4)	Soil Exploration Corp.	15 ft	
Waverly Street #624	Dec-04	Monitor	Technical Drilling Service	10 ft	
Waverly Street #624	May-05	Monitor	Technical Drilling Service	7wells - 11ft	
Waverly Street #694-698	Feb-04	Monitor	Technical Drilling Service	16 ft	
Waverly Street #721	Mar-04	Monitor	Technical Drilling Service	15 ft	
Wayside Circle #1	Aug-04	Potable	Gagne Pump Co		
Wayside Circle #2	Aug-04	Potable	Gagne Pump Co		
Wayside Circle #3	Aug-04	Potable	Gagne Pump Co		
Wayside Circle #4 (5)	Aug-05	Potable	A&W Well Co		
Wayside Circle #6	Apr-03	Potable	A&W Artesian Well Co		
Wayside Inn Circle #1 (lot 1)	Aug-04	Potable	Gagne Pump Co		
Wayside Inn Circle #2 (lot 6)	Aug-04	Potable	Gagne Pump Co		
Wayside Inn Circle #3 (lot 2)	Aug-04	Potable	Gagne Pump Co		
Wayside Inn Road #100 (lot 10)	Apr-93	Potable	N/G	N/G	
Wayside Inn Road #16 (lot 85A)	Nov-93	Potable	Sullivan Co, Inc. (Bolton)	185 ft	
Wayside Inn Road #18 (lot 83A)	Nov-93	Potable	Sullivan Co, Inc. (Bolton)	205 ft	

Wayside Inn Road #23	Jan-04	Potable	Skillings & Sons Inc.		
Wayside Inn Road #26	May-80	Potable	N/G	N/G	
Wayside Inn Road #26	May-02	Potable	Mike Sullivan Co.		
Wayside Inn Road #27	Feb-80	Potable	N/G	N/G	
Wayside Inn Road #30	Dec-02	Potable	Skillings & Sons Inc.		
Wayside Inn Road #32 (lot 25)	Apr-00	Potable	Skillings & Sons Inc.	280 ft	
Wayside Inn Road #34 (lot 83A)	Feb-81	Potable	N/G	N/G	
Wayside Inn Road #34 (lot 83A)	Jul-11	Irrigation	Mike Sullivan Drill		
Wayside Inn Road #36	May-03	Potable	A&W Artesian Well Co		
Wayside Inn Road #38 (lot 28)	Mar-00	Potable	Skillings & Sons Inc.	680 ft	
Wayside Inn Road #39 (lot 358)	Apr-01	Potable	American Drilling	205	
Wayside Inn Road #41 (lot 77)	Sep-85	Potable	A.&W. Wells Co	230 ft	
Wayside Inn Road #43A (lot 38)	Oct-85	Potable	O.E. Dube & Son Inc.	284 ft	
Wayside Inn Road #51	Jun-83	Potable	Northeast Water Wells	600 ft	
Wayside Inn Road #85A	Jan-92	Potable	N/G	N/G	
Wayside Inn Road #9 (lot A)	Dec-85	Potable	Welltech Corp.	610 ft	
Wayside Inn Road #90 (lot 16)	Apr-85	Potable	R.W Spear & Son (Millis)	200 ft	
Wayside Inn Road #92 (lot 15)	Apr-85	Potable	R.W Spear & Son (Millis)	125 ft	
Wayside Inn Road #94 (lot 130)	Apr-84	Potable	Montachusett Pump (Paxton)	180 ft	
Wayside Inn Road #96 (lot 12)	Apr-84	Potable	Montachusett Pump (Paxton)	205 ft	
Wayside Inn Road #98 (lot11)	Apr-84	Potable	Montachusett Pump (Paxton)	180 ft	
Whiting Road #8	Sep-93	Potable	N/G	N/G	
Wildewood Terrace #11	Jul-99	Potable	Northeast Water Wells	405 ft	
Winch Street #250	Sep-02	Potable	Sullivan Co, Inc. (Bolton)		
Winch Street #340	Oct-80	Potable	A.&W. Wells Co	300 ft	
Winch Street #360	Mar-95	Potable	Northeast Water Wells	400 ft	
Woodstock Drive #10 (lot 10)	Dec-91	Potable	Unknown	148 ft	
Woodstock Drive #12 (lot 30)	Oct-86	Potable	Montachusett Pump (Paxton)	355 ft	
Woodstock Drive #14 (lot 31)	Oct-86	Potable	Montachusett Pump (Paxton)	310 ft	
Woodstock Drive #5 (lot 45)	Feb-90	Potable	Montachusett Pump (Paxton)	505 ft	
Woodstock Drive #7 (lot 44)	Oct-86	Potable	Montachusett Pump (Paxton)	580 ft	
Woodstock Drive #8 (lot 28)	Oct-86	Potable	Montachusett Pump (Paxton)	230 ft	
Woodstock Drive #9 (lot 43)	Oct-86	Potable	Montachusett Pump (Paxton)	600 ft	
Woodstock Drive (lot 46A)	Oct-97	Potable	Richardson Wells & Pumps(Uxbridge)	660 ft	
Worcester Road #1671	May-89	Irrigation	Skillings & Sons Inc.	250 ft	
Worcester Road #1	May-89	Potable	Wilmington Pump	650 ft	
Worcester Road #740	Jul-05	Monitor	Technical Drilling Service	3 wells 7 ft	
Worcester Road #749	Nov-06	Monitor	Technical Drilling Service	8 wells, 9 ft	

Worcester Road #1199	May-08	Monitor	Technical Drilling Service	4 wells, 15 ft	
Worcester Road #1183 (lot 0038)	Apr-92	Irrigation(Car wash)	Avellino Well & Pump Co.	400 ft	
Worcester Road #1610	Nov-93	Irrigation	A.&W. Wells Co	500 ft	
Worcester Road #1657	May-89	Irrigation	Skillings & Sons Inc.	265 ft	
Worcester Road #1657	6/15/2005	Irrigation	Ogden Co. Inc	800	no records

333 CMR 11.00: RIGHTS OF WAY MANAGEMENT

Section

- 11.01: Purpose
- 11.02: Definitions
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- 11.05: Vegetation Management Plan (VMP)
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11.01: Purpose

The purpose of 333 CMR 11.00 is to establish a statewide and uniform regulatory process which will minimize the uses of, and potential impacts from herbicides in rights-of-way on human health and the environment while allowing for the benefits to public safety provided by the selective use of herbicides. Specific goals of 333 CMR 11.00 are to:

- (1) Ensure that an Integrated Pest Management (IPM) approach to vegetation management is utilized on all rights-of-way covered by 333 CMR 11.00.
- (2) Establish standards, requirements and procedures necessary to prevent unreasonable risks to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.
- (3) Ensure ample opportunity for public and municipal agency input on potential impacts of herbicide application to rights-of-way in environmentally sensitive areas.
- (4) Establish a mechanism for public and municipal review of rights-of-way maintenance plans.

11.02: Definitions

For the purposes of 333 CMR 11.00, unless the context clearly requires otherwise, the following definitions shall apply:

Agricultural Area includes, but is not limited to, actively cultivated gardens, greenhouses, orchards, fields, pastures, and other areas under cultivation or agricultural management.

Applicant, any person representing any federal, state or local government or agency, utility, railroad or pipeline, that intends to maintain a right-of-way in the Commonwealth by application of herbicides.

Associated Surface Water Body, as identified on the most current available maps prepared by the Department of Environmental Protection, any body of water that is hydrologically connected to a Class A surface water source.

Ballast, the coarse gravel or crushed rock on which the ties, tracks and switching, signaling and communication devices of a railroad are laid.

Broadcast, any non-selective herbicide application technique which results in application to all vegetation within a target area.

Certified Vernal Pool, a confined basin depression, certified and mapped by NHESP pursuant to the provisions of 310 CMR 10.57(2)(a)5. and 6., which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations.

11.02: continued

Certified Vernal Pool Habitat, that vernal pool habitat which has been certified and mapped by NHESP pursuant to the provisions of 310 CMR 10.57(2)(a)5. and 6. or, in the event that such habitat has not been mapped, the area extending 100 feet horizontally outward from the boundary of any Certified Vernal Pool.

Class A Waters, waters which are designated as a source of public water supply, as defined in 314 CMR 4.05(3)(a).

Class B Drinking Water Intakes, intakes to Class B waters suitable as sources of public water supply with appropriate treatment, as defined at 314 CMR 4.05(3)(b) and as identified on the most current available maps prepared by the Department of Environmental Protection.

Department, the Department of Agricultural Resources.

FIFRA, the Federal Insecticide, Fungicide and Rodenticide Act, Public Law 92-516.

Foliar Treatment, any technique which applies herbicide to leaves of target vegetation.

Inhabited Area, any area where people generally live, work or gather, including, but not limited to, any residence, school, hospital, park or recreational facility.

Interim Wellhead Protection Area (IWPA), for public water systems using wells or well fields that lack a Department of Environmental Protection-approved Zone II, an interim wellhead protection area, as that term is defined in the Massachusetts drinking water regulations, 310 CMR 22.02, and as identified on the most current available maps prepared by the Department of Environmental Protection, shall apply. Generally, this is a ½- mile radius for sources whose approved pumping rate is 100,000 gallons per day or greater. For smaller sources, the radius in feet is determined by multiplying the approved pumping rate in gallons per minute by 32 and adding 400.

Limited Application Waiver, a waiver from the requirements of 333 CMR 11.05 and 11.06, granted at the Department's sole discretion pursuant to 333 CMR 11.03(14), when the reason for the application is emergency public health or safety or when the application is for one time only.

Limited Spray Area, any area that is both within a Right-of-Way and within:

- (a) any Zone II or IWPA;
- (b) a distance of between 100 feet and 400 feet of any Class A Surface Water Source;
- (c) a distance of between ten and 200 feet of any tributary or associated surface water body where the tributary or associated surface water body runs outside the Zone A for the Class A surface water source;
- (d) a lateral distance of between 100 and 200 feet for 400 feet upstream, on both sides of the river, of a Class B Drinking Water Intake;
- (e) a distance of between 50 and 100 feet of any identified Private Well;
- (f) a distance of between 10 and 100 feet of any Wetlands or Water Over Wetlands;
- (g) a distance of between ten feet from the mean annual high water line of any river and the outer boundary of the Riverfront Area;
- (h) a distance of between ten feet from any Certified Vernal Pool and the outer boundary of any Certified Vernal Pool Habitat; and
- (i) a distance of 100 feet of any Agricultural or Inhabited Area.

Low Pressure, pressure under 60 pounds per square inch (psi).

Maps, United States Geological Survey maps of scale 1:25,000 or other maps, as determined by the Department, which are of such accuracy and scale to provide sufficient detail so that sensitive areas can be delineated.

NHESP, the Natural Heritage and Endangered Species Program within the Massachusetts Division of Fisheries and Wildlife.

11.02: continued

No-spray Area, any area that is both within a Right-of-Way and within:

- (a) any Zone I;
- (b) 100 feet of any Class A Surface Water Source;
- (c) 100 feet of any tributary or associated surface water body where the tributary or associated surface water body runs within 400 feet of a Class A surface water source;
- (d) ten feet of any tributary or associated surface water body where the tributary or associated surface water body is at a distance greater than 400 feet from a Class A surface water source;
- (e) a lateral distance of 100 feet for 400 feet upstream, on both sides of the river, of a Class B Drinking Water Intake;
- (f) 50 feet of any identified Private Well;
- (g) ten feet of any Wetlands or Water Over Wetlands;
- (h) ten feet of the mean annual high-water line of any river; and
- (i) ten feet of any Certified Vernal Pool.

Person, an individual, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or its political subdivisions, administrative agencies, public or quasi-public corporation or body, or any other legal entity or its legal representatives, agent or assignee, or a group of persons.

Person Aggrieved, any person who, because of an act or failure to act by the Department may suffer an injury in fact which is different either in kind or magnitude from that suffered by the general public and which is within the scope of the interests identified in 333 CMR 11.00. Such person must specify in writing sufficient facts to allow the Department to determine whether or not the person is in fact aggrieved.

Private Well, any private drinking water supply identified by the local Board of Health, the well owner or the Department of Agricultural Resources.

Private Well Registry, a registry of private wells located within 100 feet of a right-of-way which is maintained by the Department of Agricultural Resources. Homeowners must notify the Department by completing a registration form which is available directly from the Department or online at the Department website.

Public Water Supplier, as defined at 310 CMR 22.02(1), any person who owns or operates a public water supply system.

Public Ground Water Source, a source of water for a Public Water Supply System, as that term is defined in the Massachusetts drinking water regulations at 310 CMR 22.02.

Right(s)-of-way (ROW), any roadway, or thoroughfare on which public passage is made and any corridor of land over which facilities such as railroads, powerlines, pipelines, conduits, channels or communication lines or bicycle paths are located.

Rights-of-way Advisory Panel, a panel established to advise the Department on issues relating to 333 CMR 11.00 and to fulfill specific functions as detailed within 333 CMR 11.05 and 11.11.

River, a river as defined at 310 CMR 10.04 and as identified on the most current available maps prepared by the Department of Environmental Protection.

Riverfront Area, a riverfront area as defined at 310 CMR 10.58(2) and as identified on the most current available maps prepared by the Department of Environmental Protection. In general, this term shall mean the area between the mean annual high-water line of a perennially flowing river and a parallel line 200 feet away.

Selective Application, any application of herbicides, in such a manner that the delivery to the target vegetation is optimized and delivery to non-target vegetation and the environment is minimized.

11.02: continued

Sensitive Areas, as defined in 333 CMR 11.04, any areas within Rights-of-Way, including No-Spray and Limited-Spray Areas, in which public health, environmental or agricultural concerns warrant special protection to further minimize risks of unreasonable adverse effects.

State-listed Species, any species on the Massachusetts list of Endangered, Threatened, and Special Concern Species as described in the Massachusetts Endangered Species Act (M.G.L c. 131A; 321 CMR 10.02).

State-listed Species Habitat, the Estimated Habitats of Rare Wildlife (310 CMR 10.59 and 10.37) and the Priority Habitats for State-listed Species (321 CMR 10.02) as shown on the most recent edition of the Massachusetts Natural Heritage Atlas prepared by NHESP.

Stem Treatment, any technique including, but not limited to, stump, basal, stem, injection, banding, frill, or girdle and any other technique which delivers herbicide at low pressure to the stump, base or stem of the target vegetation.

Surface Water Source, any lake, pond, reservoir, river, stream or impoundment designated as a public water supply in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, as identified on the most current available maps prepared by the Department of Environmental Protection.

Target Vegetation, any plant species which has the potential to interfere with the operation and safety of the right-of-way.

Touch-up Application, any limited application of herbicides following an initial treatment, which is necessary to achieve the desired vegetation control.

Tributary, as identified on the most current available maps prepared by the Department of Environmental Protection, any body of running, or intermittently running, water which moves in a definite channel, naturally or artificially created, in the ground due to a hydraulic gradient, and which ultimately flows into a Class A surface water source, as defined in 314 CMR 4.05(3)(a).

Vegetation Management Plan (VMP), a long term management plan for the applicant's right-of-way system which describes the intended program for vegetation control over a five year period.

Vernal Pool, *see* Certified Vernal Pool.

Water Over Wetlands, the ocean or any estuary, lake or pond as defined at 310 CMR 10.04.

Wetlands, any of the following areas as defined in 310 CMR 10.02(1)(a), (b), (c) and (f):

- (a) Any bank, the ocean
- any freshwater wetland, any estuary
- any coastal wetland, any creek
- any beach, bordering any river
- any dune, on any stream
- any flat any pond
- any marsh, or any lake
- or any swamp;
- (b) Land under any of the water bodies listed in 333 CMR 11.02: Wetlands(a); and
- (c) Land subject to tidal action.

11.02: continued

Wetlands Determination, a written determination of the boundaries of Wetlands and boundaries of areas within 100 feet of Wetlands in accordance with the regulations of the Department of Environmental Protection (DEP) at 310 CMR 10.05(3)(a)1. and 2. 310 CMR 10.03(6)(b) requires applicants not eligible for a public utility exemption to submit these determinations with their VMPs if they will apply herbicides within 100 feet of wetlands and will not submit a Notice of Intent under M.G.L. c. 131, § 40, the Wetlands Protection Act. In order to obtain a Wetlands Determination, the applicant should submit a request to the conservation commission on maps of a scale that will enable the conservation commission or Department of Environmental Protection to find and delineate the boundaries of Wetlands and buffer zones within the vicinity of the right-of-way herbicide management area. To be considered “valid”, the Wetlands Determination should be made no sooner than six months immediately prior to the submission of the Vegetation Management Plan. The Wetlands Determination shall cover the period of the Vegetation Management Plan only and shall expire at the end of the five year period of that Vegetation Management Plan.

Yearly Operational Plan (YOP), the yearly operational plan which describes the detailed vegetation management operation for the calendar year consistent with the terms of the long term Vegetation Management Plan.

Zone A, as identified on the most current available maps prepared by the Department of Environmental Protection, the protective land area for a Surface Water Source, Class A water source, Tributary, or Associated Surface Water Body defined in 310 CMR 22.02 as:

- (a) the land area between the Class A surface water source and the upper boundary of the bank;
- (b) the land area within a 400 foot lateral distance from the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a); and
- (c) the land area within a 200 foot lateral distance from the upper boundary of the bank of a Tributary or Associated Surface Water Body.

Zone I, as identified on the most current available maps prepared by the Department of Environmental Protection and as defined at 310 CMR 22.02, the protective radius required around a public water supply well or wellfield. For public water system wells with approved yields of 100,000 gallons per day (gpd) or greater, the protective radius is 400 feet. Tubular wellfields require a 250 foot protective radius. Protective radii for all other public water system wells are determined by the following equation: Zone I radius in feet = $(150 \times \log \text{ of pumping rate in gpd}) - 350$.

Zone II, as identified on the most current available maps prepared by the Department of Environmental Protection and as defined at 310 CMR 22.02, the aquifer recharge area for a public water supply well or wellfield.

11.03: General Provisions

- (1) No person shall use an herbicide for the purpose of clearing or maintaining a right-of-way unless appropriately certified by the Department, or licensed by the Department and working under the on-site supervision of an appropriately certified applicator.
- (2) No person shall use an herbicide for the purpose of clearing or maintaining a right-of-way except in accordance with a Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) as approved by the Department. The YOP shall be available at the work site at all times during herbicide applications and be made available to the Department and municipal officials including the Conservation Commission and Board of Health upon reasonable request.
- (3) No person shall handle, mix or load an herbicide concentrate on a right-of-way within 100 feet of a sensitive area.
- (4) The perimeter of any sensitive areas which are not readily identifiable on the ROW shall be identified with a clearly visible marker system, consistent with the VMP, prior to any herbicide application.

11.03: continued

- (5) No foliar application of herbicides shall be used to control vegetation greater than 12 feet in height except for side trimming.
- (6) No herbicide shall be applied when the wind velocity is such that there is a high propensity to drift off target and/or during measurable precipitation, and no person shall apply herbicides in such a manner that results in drift into any No-spray Area.
- (7) No person shall apply herbicides by aircraft for the purpose of clearing or maintaining a right-of-way.
- (8) No touch-up applications shall be carried out except under the following conditions:
 - (a) Touch-up applications must occur within 12 months of the initial application.
 - (b) All applicable public notification procedures of M.G.L. c. 132B, § 6B, as outlined in 333 CMR 11.07(1) and (3), are followed.
 - (c) No more than 10% of the initially identified target vegetation on the applicant's right-of-way in any municipality may be treated and the total amount of herbicide applied in any one year shall not exceed the limits specified by the label or Yearly Operational Plan.
 - (d) The Department may impose such additional restrictions or conditions on the use of herbicides as it deems necessary to protect public health and the environment.
- (9) The Department will maintain mailing lists of individuals and groups desiring to obtain notices on various aspects of the Program.
- (10) No person shall apply any herbicide identified as a Potential Ground Water Contaminant pursuant to 333 CMR 12.00 to a right-of-way.
- (11) No person shall use an herbicide for the purpose of clearing or maintaining a right-of-way unless that person has obtained the most current available map of public ground water sources from the Department of Environmental Protection.
- (12) No person shall use an herbicide for the purpose of clearing or maintaining a right-of-way unless that person has done one or more of the following:
 - (a) obtained a current list of identified Private Wells within 100 feet of the right-of-way from the Board of Health, or
 - (b) obtained a current list of all private wells, within 100 feet of the right of way from the Department of Agricultural Resources private well registry; or
 - (c) followed an alternative Private Well identification method outlined in an approved YOP.
- (13) The applicator shall provide any employee of any state agency, or authority as defined in M.G.L. c. 3, § 39, when such employee is, within a right-of-way, using pesticides, supervising the use of pesticides, or present during the use of pesticides, with personal protective equipment and clothing. Applicators should note that other federal or state laws or regulations pertaining to pesticide applications may require this personal protective equipment to include protections according to Material Safety Data Sheets (MSDS's), the product label, and any other supporting technical data supplied by the manufacturer.
- (14) Notwithstanding the provisions of 333 CMR 11.03(2) or other provisions of 333 CMR 11.00, the Department may, at its sole discretion, issue Limited Application Waivers to applicants wishing to apply herbicides to clear or maintain rights-of-way without VMPs or YOPs, but only under the following conditions:
 - (a) The applicant must demonstrate either:
 1. that the application will not occur more than once in a five-year period unless a VMP and a YOP are prepared and all other requirements of 333 CMR 11.00 are met; or
 2. that the application is necessary to protect public health or safety.
 - (b) The applicant must still adhere to all public notification requirements established at 333 CMR 11.07(1) and (3).
 - (c) The applicant must provide the Department with a letter establishing the concurrence of the chief elected official or board of selectmen of the municipality where the application is to be made.

11.03: continued

(d) The applicant may only use herbicides on the Department's "Herbicides Recommended for Use in Sensitive Areas List."

(e) If the application could impact Wetlands, the Department recommends that the applicant send a copy of its application for a Limited Application Waiver to the Department of Environmental Protection's Division of Wetlands and Waterways no less than 21 days before the proposed application.

(f) It should be noted that, with certain exceptions for public utilities, wetlands regulations at 310 CMR 10.03(6)(b) currently require Wetlands Determinations prior to any application within 100 feet of a Wetland.

Limited Application Waivers shall be issued solely at the Department's discretion, and the Department may impose such additional restrictions or conditions on the use of herbicides as it deems necessary to protect public health and the environment.

11.04: Sensitive Area Restrictions(1) General. In any sensitive area:

(a) No more than the minimum labeled rate of herbicide for the appropriate site, pest, and application method shall be applied.

(b) Herbicides shall only be applied selectively by low pressure, using foliar techniques or basal or cut-stump applications, or other method approved for use by the Department.

(c) No person shall apply herbicides for the purpose of clearing or maintaining a right-of-way in such a manner that results in drift to any area within ten feet of standing or flowing water in a wetland; or area within 400 feet of a public drinking water supply well; or area within 100 feet of any Class A surface water used as a public water supply; or area within 50 feet of a Private Well.

(d) Only herbicides specified by the Department as acceptable for use in sensitive areas pursuant to the Cooperative Agreement executed between the Department of Agricultural Resources and the Department of Environmental Protection on July 1 and 2, 1987, or future amendments thereto, shall be used in sensitive areas. Applicants proposing to use an herbicide which has been registered for use on rights-of-way but has not yet been evaluated pursuant to the provisions of the Cooperative Agreement may request that such herbicides be evaluated pursuant to said provisions. For an herbicide that has been evaluated pursuant to the provisions of the Cooperative Agreement, applicants proposing to use such herbicide in a manner inconsistent with the terms and conditions of use imposed in the guidelines may request a modification or waiver of such terms or conditions. A request for such modification or waiver shall provide a detailed rationale for use, with all relevant data including but not limited to environmental fate, efficacy and human health effects of the proposed herbicide. Such herbicides and/or uses shall be subject to the evaluation standards adopted by the Departments of Agricultural Resources and Environmental Protection in the Cooperative Agreement.

Commentary. Applicants not eligible for the public utilities exemption from the Wetlands Protection Act outlined at 310 CMR 10.03(6)(a), who wish to apply pesticides registered for use in Massachusetts to rights-of-way, may choose to apply herbicides determined to be suitable for use in sensitive areas in accordance with the provisions of the Cooperative Agreement mentioned above or, alternatively, such applicants may proceed pursuant to the provisions of 310 CMR 10.00 as authorized by M.G.L. c. 131, § 40.

(e) The Department may impose such additional restrictions or conditions on the use of herbicides within or adjacent to sensitive areas as it determines necessary to protect human health or the environment. Such changes may be proposed by a municipal agency or individual during the public comment period.

(f) In the event of a question or dispute as to which setback applies to a sensitive area, the most restrictive setback shall apply.

(2) Water Supplies.(a) Public Ground Water Sources.

1. No herbicides shall be applied within a Zone I.

2. No herbicides shall be applied within a Zone II or IWPA unless:

11.04: continued

- a. A minimum of 24 months has elapsed since the last application to the site; and
 - b. Herbicides are applied selectively by low pressure, using foliar techniques or basal or cut-stump applications.
- (b) Class A Public Surface Water Sources, Associated Surface Water Bodies, Tributaries and Class B Drinking Water Intakes.
 - 1. No herbicides shall be applied within 100 feet of any Class A public surface water source.
 - 2. No herbicides shall be applied within 100 feet of any tributary or associated surface water body located within the Zone A of a Class A public surface water source, or within ten feet of any tributary or associated surface water body located outside of the Zone A of the Class A public surface water source.
 - 3. No herbicides shall be applied within a lateral distance of 100 feet for 400 feet upstream of any Class B Drinking Water Intake.
 - 4. No herbicides shall be applied within a distance of between 100 feet from any Class A surface water source and the outer boundary of any Zone A, or within a distance of between ten feet and the outer boundary of the Zone A for any tributary or associated surface water body located outside of the Zone A of a Class A surface water source, or within a lateral distance of between 100 and 200 feet for 400 feet upstream of a Class B Drinking Water Intake, unless:
 - a. A minimum of 24 months has elapsed since the last application to the site; and
 - b. Herbicides are applied selectively by low pressure, using foliar techniques or basal or cut-stump applications.
- (c) Private Wells.
 - 1. No herbicides shall be applied within 50 feet of an identified Private Well.
 - 2. No herbicides shall be applied within a distance of between 50 feet and 100 feet of an identified Private Well, unless:
 - a. A minimum of 24 months has elapsed since the last application to the site; and
 - b. Herbicides are applied selectively by low pressure, using foliar techniques or basal or cut-stump applications.
- (3) State-listed Species Habitat.
 - (a) Any person proposing to apply an herbicide within any State-listed Species Habitat who does not have a current Yearly Operational Plan approved in writing by the Division of Fisheries and Wildlife pursuant to 321 CMR 10.14(12), shall submit all necessary materials required for review pursuant to 321 CMR 10.18.
 - (b) The management of vegetation within existing utility rights-of-way shall be exempt from the requirements of 321 CMR 10.18 through 10.23, provided that the management is carried out in accordance with a Yearly Operational Plan approved in writing by the Division of Fisheries and Wildlife, pursuant to 321 CMR 10.14(12).
 - (c) No person shall apply an herbicide within State-listed Species Habitat unless the application is approved by the Division of Fisheries and Wildlife pursuant to 333 CMR 11.04(3)(a) and (3)(b), and such approval is submitted to the Department.
- (4) Wetlands, Waters Over Wetlands, Riverfront Areas, and Certified Vernal Pools.
 - (a) No herbicide shall be applied on or within ten feet of a Wetland or Water Over a Wetland, within ten feet of the mean annual high-water line of any River, or within ten feet of any Certified Vernal Pool.
 - (b) No herbicide shall be applied on or within a distance of between ten feet and 100 feet of any Wetland or Water Over a Wetland, within a distance of ten feet from the mean annual high-water line of any River and the outer boundary of any Riverfront Area, or within a distance of ten feet from any Certified Vernal Pool and the outer boundary of any Certified Vernal Pool Habitat unless:
 - 1. A minimum of 12 months has elapsed since the last application to the site; and
 - 2. Herbicides are applied selectively by low pressure, using foliar techniques or basal or cut-stump applications.
 - (c) Notwithstanding 333 CMR 11.04(4)(a) and (b), public utilities providing electric, gas, water, telephone, telegraph and other telecommunication services (and other applicants, if consistent with all relevant provisions of the Massachusetts Wetlands Protection Act and its regulations in effect at the time of application) may apply herbicides on or within ten feet of a Wetland in accordance with the following conditions:

11.04: continued

1. Submission of a study, the design of which is subject to prior approval by the Departments of Agricultural Resources and Environmental Protection, evaluating impacts of the proposed vegetation management program utilizing herbicides on or within ten feet of Wetlands, and comparing those impacts to those which would result if only non-chemical control methods were used in these areas. The study must detail vegetation management practices and use patterns specific to those used by the type of entity submitting the study; and
 2. A finding by the Department, after consultation with the Rights-of-way Advisory Panel, that the proposed vegetation management program utilizing herbicides on or within ten feet of Wetlands will result in less impacts to the Wetlands than mechanical control.
 3. Notwithstanding the above, no herbicides shall be applied on or within ten feet of any standing or flowing water in a Wetland.
- (5) Inhabited and Agricultural Areas. No foliar herbicide shall be applied within 100 feet of any Inhabited Area or any Agricultural Area unless:
- (a) A minimum of 12 months has elapsed since the last application to the site; and
 - (b) Herbicides are applied selectively by low pressure, using foliar techniques or basal or cut-stump applications.

11.05: Vegetation Management Plan (VMP)

- (1) General.
 - (a) Unless otherwise specified by the Department, all VMPs should be submitted by the applicant no later than September 1st prior to the calendar year of the proposed first year of maintenance. All approved VMPs shall be effective for a five year period unless otherwise modified, or revoked by the Department.
 - (b) The VMP shall be presented on forms and/or format approved by the Department.
- (2) Requirements. The VMP shall include, but not be limited to, the following:
 - (a) General statement of goals and objectives of the VMP.
 - (b) Identification of target vegetation.
 - (c) Intended methods of vegetation management and rationale for use, including vegetation control techniques, equipment proposed for use, timing of applications and alternative control procedures.
 - (d) Discussion of justification for proposed herbicide applications, including a description of the alternative control methods considered and the reasons that they were rejected.
 - (e) Methods, references and sources for identifying sensitive areas and control strategies proposed for sensitive areas. Applicants should note that the Department of Environmental Protection regulations at 310 CMR 10.03(6)(b) require Wetlands Determinations for applicants that are not eligible for a public utility exemption.
 - (f) Operational guidelines for applicators relative to herbicide use.
 - (g) Identification and qualifications of individuals developing and submitting a plan.
 - (h) A detailed description of the IPM Program, showing how it will minimize the amount and frequency of herbicide application.
 - (i) Description of alternative land use provisions or agreements that may be established with individuals, state, federal or municipal agencies that would minimize the need for herbicides, including the rationale for accepting or denying any reasonable request made by any individual.
 - (j) Description of a remedial plan to address spills and related accidents.
 - (k) For state agencies and authorities as defined in M.G.L. c. 3, § 39, a description of the applicant's policy to eliminate or, if necessary, reduce the use of pesticides for any vegetation management purpose along roadways, and a demonstration that, for the proposed application, the costs of non-chemical vegetation control significantly outweigh the benefits.
- (3) Public Notice, Review and Comment.
 - (a) Upon receipt of the proposed VMP, the Department shall schedule and hold appropriate regional public hearings affording all interested parties the opportunity to comment, both at the hearings and in writing to the Department, on the proposed plan.

11.05: continued

(b) At least 21 days prior to the public hearings, the Department shall publish notice of the hearings in the *Environmental Monitor* and regionally located newspapers, and send notice to municipalities covered by the plan and to the appropriate mailing list. The notice will include locations where copies of the VMP can be reviewed.

(c) The public shall have no less than 45 days, starting from publication of the *Environmental Monitor* notice, to comment upon proposed VMPs, unless the Department extends the comment period for good cause.

(d) Wherever a chief elected official, Board of Health or Conservation Commission in a municipality covered by the proposed VMP requests a copy of the proposed plan, the applicant shall, at least 21 days prior to the end of the public comment period, respond to this request. The response must either include a copy of the proposed VMP, or an Internet address where the VMP may be viewed and a note that a hard copy will be provided promptly upon further request.

(4) Disposition of VMP.

(a) 25 copies of the proposed VMP shall be submitted to the Department. The Department shall distribute copies of the proposed VMP to each member of the Rights-of-way Advisory Panel. The Department may, at its sole discretion, allow electronic presentation of the VMP in lieu of some or all of the 25 copies that would otherwise be submitted pursuant to 333 CMR 11.05(4).

(b) Within 30 days of the end of the public comment period unless extended for good cause, the Rights-of-way Advisory Panel shall review the VMPs and recommend in writing to the Department approval, denial or modification of each VMP; if necessary, the Advisory Panel may request additional information from the applicant.

(c) Within 21 days of the end of the Rights-of-way Advisory Panel review period, unless extended by the Department for good cause, the Department will notify the applicant and the Advisory Panel in writing one of the following:

1. request for additional information or modification;
2. denial of VMP; or
3. approval of VMP.

(d) The VMP may be modified, withdrawn or amended by the applicant through a written request sent by certified mail to the Department.

(e) Resubmission of a denied VMP, updating of a VMP, or a significant amendment to an approved VMP shall be processed according to 333 CMR 11.05.

(f) The applicant must send a copy of the approved VMP, or an Internet address where the VMP may be viewed and a note that a hard copy will be provided promptly upon further request, to the chief elected official, Board of Health, and Conservation Commission in each municipality covered by the plan.

(5) Time for Action. Non-action by the Department on a VMP within the time specified in 333 CMR 11.05 does not constitute approval of the submitted plan. In the event that the Department fails to notify the applicant of a decision within the time specified in 333 CMR 11.05(4) and upon written request from the applicant, the Commissioner must issue a finding within ten days of receipt stating the reason for the delay and providing an estimated completion date.

11.06: Yearly Operational Plan (YOP)

(1) General.

(a) The applicant is responsible for the accuracy and completeness of all information submitted with the YOP. The YOP shall be consistent with the objectives of the VMP and shall describe the intended operational program for that calendar year.

(b) The YOP shall be presented on forms and in a format approved by the Department.

(2) Requirements. The YOP shall include but not be limited to the following:

- (a) Maps locating the rights-of-way and sensitive areas not readily identifiable in the field;
- (b) Herbicides proposed including Environmental Protection Agency (EPA) Registration numbers, application rates, carriers and adjuvants;
- (c) Herbicide application techniques and alternative control procedures proposed.
- (d) The name, address and phone number of the company which will perform any herbicide treatment;

11.06: continued

- (e) Identification of target vegetation;
- (f) The name, address and phone number of the individual representing the YOP applicant;
- (g) Description of methods used to flag or otherwise designate sensitive areas on the right-of-way;
- (h) Herbicide Fact Sheets as approved by the Department; and
- (i) Procedures and locations for handling, mixing and loading of herbicide concentrates.

(3) Public Notice, Review and Comment.

- (a) Upon submittal of the YOP for approval, the Department will publish a notice in the *Environmental Monitor*. Said notice shall be provided by the applicant and shall include the information on the municipalities through which the rights-of-way pass, a brief description of the intended program, and the procedure for public review and comment. The Department shall send notification of the publication to the applicant and the appropriate mailing list.
- (b) Upon submittal of the YOP to the Department, the applicant shall provide by certified mail under separate cover to the Board of Health, Conservation Commission, chief elected municipal official, and where applicable, the Massachusetts Water Resources Authority and Massachusetts Department of Conservation and Recreation, a copy of the proposed YOP (or an Internet address where the proposed YOP may be viewed and a note that a hard copy will be provided promptly upon request) and the *Environmental Monitor* notice for the municipality or municipalities in which the herbicide treatment is proposed. Community water suppliers shall receive electronic information or a one page notification by mail which provides details about where to receive more information. The applicant shall maintain copies of the packet sent to municipalities and certified mail receipts. The applicant shall make copies of the packet, certified mail receipts, and any further correspondence regarding hard copies of YOPs in lieu of Internet viewing, available to the Department upon request.
- (c) The Department shall allow a 45-day comment period on proposed YOPs, unless extended for good cause, commencing with the publication of the notice in the *Environmental Monitor* and receipt of the proposed YOP and *Environmental Monitor* notice by each municipality.
- (d) The Department may approve, deny or modify YOPs after the 45-day comment period has expired.

(4) Disposition of YOP.

- (a) The applicant shall submit the YOP to the Department at least 90 days prior to the proposed commencement of application to allow completion of the comment and review period.
- (b) The Department shall review the YOP to ensure that the YOP is consistent with the approved VMP. Any inconsistencies or deficiencies will be noted by the Department and returned with the YOP to the applicant.
- (c) Where practical, the Department shall approve or deny the YOP within 90 days of receipt. The Department will provide notice of the decision to the applicant, municipal agencies and commentators in writing.
- (d) The approved YOP in conjunction with the VMP shall govern the application of herbicide for a period not to exceed 12 months in accordance with other laws and regulations of the State and Federal governments and impose such conditions as necessary to minimize the risk of adverse effects on human health and the environment.

(5) Time for Action. Non-action by the Department on a YOP within the time specified in 333 CMR 11.06(4) does not constitute approval of the submitted plan. In the event that the Department fails to notify the applicant of a decision within the time specified and upon a written request from the applicant, the Commissioner must issue a finding within ten days of receipt stating the reason for the delay and providing an estimated completion date.

11.07: Public Notification

(1) At least 21 days in advance of application of herbicide to a right-of-way in any city or town, the applicant shall notify the Department, the board of health, and the local public water supplier and, by registered mail, the Mayor, City Manager or Chairman of the Board of Selectman, and the conservation commission in the municipality where the right-of-way lies. The notice shall include the following information: the approximate dates on which such herbicide application shall commence and conclude, provided however, that said application shall not commence more than ten days before nor conclude more than ten days after said approximate dates; the method and locations of application; a Department-approved Herbicide Fact Sheet on the active ingredient(s) of the herbicide(s) used; the EPA registration number(s) for the herbicide(s) used; the name, title, business address and phone number of the certified commercial applicator or licensed applicator, or the contractor, employer or employees responsible for carrying out the application. Where specific information required for this notice is already contained in the current YOP that is on file with the local official, the applicant may incorporate the appropriate pages of the YOP by reference in its notice to that official, indicating that these pages are also directly available from the applicant upon request.

(2) This public notice may run concurrently with the public notice and comment period in 333 CMR 11.06(3), provided that the notice is distributed at least 21 days prior to the herbicide application, and that, prior to the herbicide application, the public notice and comment period has closed and the Department has granted YOP approval without modifications. When the Department's final approval requires modifications or application dates are selected after YOP approval, separate notice under 333 CMR 11.07(1) is required.

(3) At least 48 hours prior to the application referred to in 333 CMR 11.07(1), the applicant must publish a conspicuous notice in at least one newspaper of general circulation in the city or town where the right-of-way lies. The notice must appear in the local section of the newspaper and measure at least four by five inches in size. The notice shall contain the following information: the method and locations of pesticide application; the approximate dates on which the pesticide application shall commence and conclude, provided that the applications shall not commence more than ten days before nor conclude ten days after said approximate dates; a list of potential pesticides to be used; a description of the purpose of the application; and the name, title, business address and phone number of a designated contact person representing the applicant from whom any citizen may request further information. The notice should apply only to the calendar year in which the notice is published. Upon request the notice must be made available to the Department.

11.08: Notice of Modification and Revocation

(1) The Department may suspend approval of any VMP or YOP, by written notice to the applicant and applicator, halting the application of herbicide to that right-of-way of the YOP. After 21 days if the applicant does not request a hearing, the Department may revoke or modify the VMP and YOP, if it finds:

- (a) that the terms, conditions of restrictions thereof, are being violated or are inadequate to avoid unreasonable adverse effects on the environment or on human health; or
- (b) that the applicant has made a false or misleading statement or has not provided information requested by the Department or Rights-of-way Advisory Panel; or
- (c) that the applicant has violated any provision of the Massachusetts Pesticide Control Act or FIFRA, or any regulations, standards, orders or license issued under either.

(2) Upon notice of revocation or modification, the applicant may modify the YOP by written request to the Department. Applications to modify the YOP shall be submitted in the manner set forth in 333 CMR 11.06 and disposed of in the manner set forth in 333 CMR 11.06. The Department may waive all or part of the requirement if it determines that the proposed changes do not significantly change the terms of the approved YOP.

333 CMR: PESTICIDE BOARD

11.09: Right-of-appeal

Any person aggrieved by the decision of the Department to approve, deny, modify or revoke a VMP or YOP may request an adjudicatory hearing. The request for a hearing must be received by the Department within 21 calendar days after receipt of the decision. The request should state clearly and concisely the facts of the proceeding, the reasons the decision is alleged to be inconsistent with 333 CMR 11.00 and the relief sought by the adjudicatory hearing. The adjudicatory hearing before the Pesticide Board shall be conducted in accordance with the informal rules of adjudicatory proceeding as set forth in M.G.L. c. 30A.

11.10: Penalties

Any person who violates any provision of 333 CMR 11.00 shall be subject to the criminal and civil penalties set forth in M.G.L. c. 132B, § 14.

11.11: Rights-of-way Advisory Panel

(1) A Rights-of-way Advisory Panel shall be established to advise the Department on issues relating to 333 CMR 11.00 and to fulfill specific functions as detailed within 333 CMR 11.00.

(2) The Department shall request that the following members participate on the Rights-of-way Advisory Panel: the Commissioners/Secretaries or his/her designee of the Department of Environmental Protection, the Department of Public Health, and the Executive Office of Transportation; and a representative, respectively, from each of the following, all to be appointed by the Department Commissioner: the Massachusetts Association of Conservation Commissions, the Massachusetts Association of Health Boards, the Massachusetts Department of Conservation and Recreation, and an Environmental Advocacy Organization Representative, a member of the University of Massachusetts Extension who is well versed in weed science and Integrated Pest Management of weeds, a representative of the Massachusetts Railroad Association, a representative of a utility company and a commercial pesticide applicator.

(3) Non-agency representatives shall remain on the panel for a term of five years. Any member absent from two or more consecutive meetings may be removed from the Advisory Panel at the discretion of the Commissioner of the Department, and a replacement requested from the representative agency, industry group, or association.

(4) The Advisory Panel shall meet at least once each year, and shall hold further meetings upon the request of the Department of Agricultural Resources or at the request of any two members of the Advisory Panel.

(5) All Advisory Panel members shall serve without compensation.

REGULATORY AUTHORITY

333 CMR 11.00: M.G.L. c. 132B.

Acts (2000)

Chapter 85

AN ACT PROTECTING CHILDREN AND FAMILIES FROM HARMFUL PESTICIDES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. (a) The general court finds that:

- (1) the people of the commonwealth have a fundamental right to know about the use of pesticides;
- (2) pesticides contain toxic substances, many of which may have a detrimental effect on human health and the environment and, in particular, have developmental effects on children;
- (3) citizens of the commonwealth are being denied their right to know and their ability to make informed decisions about the level of pesticide exposure to them and their children; and
- (4) information compiled regarding pesticide use in the commonwealth is not maintained in a manner which is useful to the public, thereby making it difficult to assess and address the potential health and environmental impact of pesticide use in the commonwealth;

(b) The policy goals of this act are to:

- (1) prevent unnecessary exposure of children to chemical pesticides;
- (2) promote safer alternatives to pesticides;
- (3) ensure that clear and accurate notification concerning the use of pesticides in schools, day care centers and school age child care programs be made available so that measures may be taken to prevent and address pest problems effectively without endangering children or adults;
- (4) promote the use of integrated pest management techniques to reduce the need for reliance on chemical pesticides; and
- (5) develop a comprehensive, reliable and cost-effective system for collecting and organizing information on all categories of pesticide use in the commonwealth for review by government agencies, researchers, policy makers and the public to ensure the public health and safety and to protect the environment of the commonwealth.

SECTION 2. Chapter 28A of the General Laws is hereby amended by inserting after section 10B the following section:-

Section 10C. Any person who operates a school age child care program or a day care center as defined in section 2 of chapter 132B, shall comply with the requirements regarding pesticide applications as set forth in sections 6C to 6I, inclusive, of said chapter 132B.

SECTION 3. Section 68 of chapter 71 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the sixth sentence the following sentence:- Each school shall comply with the requirements regarding pesticide applications as set forth in sections 6C to 6I, inclusive, of chapter 132B.

SECTION 4. Section 2 of chapter 132B of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Advisory council" the following definition:-

"Agency", any executive office, department, division, agency, board, branch, bureau or commission of the commonwealth.

SECTION 5. Said section 2 of said chapter 132B, as so appearing, is hereby further amended by inserting after the definition of "Animal" the following definition:-

"Anti-microbial pesticide", a pesticide that is used for the control of microbial pests, including, but not limited to, viruses, bacteria, algae and protozoa, and is intended to disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms. Anti-microbial pesticide shall not include any fungicide or pesticide used on plants, turf or other vegetation or for ornamental uses.

SECTION 6. Said section 2 of said chapter 132B, as so appearing, is hereby further amended by inserting after the definition of "Commissioner" the following definition:-

"Day care center", any public or private facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center or preschool, or known under any other name, which receives children not of common parentage who are not more than six years of age, or who are not more than 21 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to

kindergarten, nursery or related preschool services; periodic religious instruction classes conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

SECTION 7. Said section 2 of said chapter 132B, as so appearing, is hereby further amended by inserting after the definition of "Insect" the following definition:-

"Integrated pest management", a comprehensive strategy of pest control whose major objective is to achieve desired levels of pest control in an environmentally responsible manner by combining multiple pest control measures to reduce the need for reliance on chemical pesticides; more specifically, a combination of pest controls which addresses conditions that support pests and may include, but is not limited to, the use of monitoring techniques to determine immediate and ongoing need for pest control, increased sanitation, physical barrier methods, the use of natural pest enemies and a judicious use of lowest risk pesticides when necessary.

SECTION 8. Said section 2 of said chapter 132B, as so appearing, is hereby further amended by inserting after the definition of "Registrant" the following four definitions:-

"School", any public or private school for preschool, elementary, middle or high school students.

"School administration", a school committee, private school board of directors, or other body of school supervisory officers.

"School age child care program", any public or private program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than 14 years of age, or not more than 21 years of age if such child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays. A school age child care program shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to a school age day care program; periodic religious instruction classes conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation.

"Standard written notification", includes the following information: the approximate dates on which the spraying, release, deposit or application of a pesticide shall commence and conclude; the specific location of the anticipated application; the product name and type of each pesticide to be used; a department-approved fact sheet and United States Environmental Protection Agency registration number for each pesticide; a description of the purpose of the pesticide application; and a department-approved statement describing ways to

minimize exposure, and precautions to be taken, especially for sensitive individuals such as children, the elderly, pregnant women and those with health problems.

SECTION 9. Said chapter 132B is hereby further amended by inserting after section 5 the following section:-

Section 5A. The department shall promote the use of biologic controls, integrated pest management, sustainable agriculture and other alternate pest control methods through education, technical assistance and research in order to reduce or eliminate, whenever possible, human or environmental exposures to chemical pesticides. Said department shall submit an annual report to the clerks of the senate and the house of representatives and the joint committee on natural resources and agriculture describing the efforts taken and the progress made toward reducing pesticide use, furthering the use of integrated pest management and other alternate pest control methods in the commonwealth.

SECTION 10. Said chapter 132B is hereby further amended by striking out section 6B, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 6B. (a) No gas, electric, telephone or other utility company licensed to do business in the commonwealth, nor any agency of the commonwealth or any of its political subdivisions, nor any authority, as defined in section 39 of chapter 3, nor any private entity or their agent, shall spray, release, deposit or apply any pesticide to any land which it owns, or as to which it holds an easement or similar right and over which it maintains power, high tension or other lines, or to any roadway, railway, or other transportation layout, without first

notifying the department and, by registered mail, the mayor, city manager or chair of the board of selectmen and the conservation commission in the city or town where such application is to occur 21 days before such spraying, release, deposit or application, and without first publishing conspicuous notice in at least one newspaper of general circulation in each city or town where such land lies at least 48 hours prior to such spraying, release, deposit or application. Such notice shall appear in the local section of the newspaper and measure at least four by five inches in size. The published notice shall include: the method and locations of pesticide spraying, release, deposit or application; the approximate dates on which spraying, release, deposit or application shall commence and conclude, but such spraying, release, deposit or application shall not commence more than ten days before nor conclude more than ten days after such approximate dates; a list of potential pesticides to be used; a description of the purpose of the spraying, release, deposit or application; and the name, title, business address and phone number of a designated contact person from whom any citizen may request further information.

(b) The notice to the city or town where the affected land lies shall contain the following information: the method and locations of pesticide spraying, release, deposit or application; the approximate dates on which such spraying, release, deposit or application shall commence and conclude, but such spraying, release, deposit or application shall not commence more than ten days before nor conclude more than ten days after such approximate dates; the type of pesticide to be used and a copy of all information supplied by the manufacturers thereof relative to the pesticide; a department-approved fact sheet and United States Environmental Protection Agency

registration number for each pesticide; the name, title, business address and phone number of the certified commercial applicator, certified private applicator or licensed applicator, or the contractor, employers or employees responsible for carrying out the pesticide spraying, release, deposit or application.

(c) Notwithstanding any other provision of law, all agencies of the commonwealth and all authorities, as defined in section 39 of chapter 3, shall develop policies to eliminate or, if necessary, reduce the use of pesticides for any vegetation management purpose along any roadway.

(d) Any employee of any state agency, or authority, as defined in section 39 of chapter 3, when spraying, releasing, depositing or applying pesticides, supervising the use of pesticides, or when present during the spraying, release, deposit or application of pesticides, shall be provided with personal protection equipment and clothing in conformance with all federal and state laws and regulations pertaining to pesticide applications. This shall include, but not necessarily be limited to, protections according to Material Safety Data Sheets (MSDS), the product label, and any other supportive technical data provided by the manufacturer.

SECTION 11. Said chapter 132B is hereby further amended by inserting after section 6B the following nine sections:-

Section 6C. (a) Pesticides shall not be sprayed, released, deposited or applied indoors while children are on the property of a school, day care center or school age child care program, except for those pesticides listed in section 6F.

(b) Pesticides shall not be sprayed, released, deposited or applied on the outdoor property of a school, day care center or school age child care program while children are located in, on, or adjacent to the area of the pesticide application.

(c) (1) Whenever pesticides are to be sprayed, released, deposited or applied outdoors at a school, day care center or school age child care program, the school administration, day care center operator or school age child care program operator shall ensure that employees, pupils or supervised children and their parents or guardians receive standard written notification, as defined in section 2, at least two working days before pesticides are sprayed, released, deposited or applied, provided that such spraying, release, deposit or application of pesticides shall not commence prior to the approximate dates set forth on the standard written notification, and shall not conclude more than 72 hours after such approximate dates.

(2) Such notification policy shall apply at all times except during periods when classes are not scheduled for at least five consecutive days after the spraying, release, deposit or application or when day care or school age child care facilities are not scheduled to be open for at least five consecutive days after the spraying, release, deposit or application.

(3) Information to be included in the standard written notification shall be provided to the school administration, day care center operator, or school age child care program operator by the certified commercial applicator, certified private applicator, or licensed applicator, or the contractor, employers or employees responsible for carrying out the pesticide spraying, release, deposit or application. Larval mosquito

control applications using pesticides classified as category four pesticides by the United States Environmental Protection Agency, as applied by mosquito control projects under chapter 252, are exempt from the notification requirements of this section. This section shall not apply to any use of an anti-microbial pesticide as defined in section 2.

Section 6D. Each school administration, day care center operator, or school age child care program operator shall ensure that standard written notification is posted in a common area of its facility at least two working days before the outdoor spraying, release, deposit or application of a pesticide and for at least 72 hours following the spraying, release, deposit or application. Treated areas will be posted with clear and conspicuous warning signs along the perimeter in accordance with regulations to be promulgated by the department governing indoor and outdoor spraying, release, deposit or application of pesticides at schools, day care centers and school age child care programs. Larval mosquito control applications using pesticides classified as category four pesticides by the United States Environmental Protection Agency, as applied by mosquito control projects under chapter 252, are exempt from the notification requirements of this section. This section shall not apply to any use of an anti-microbial pesticide as defined in section 2.

Section 6E. (a) On or before November 1, 2001, each school, day care center and school age child care program in the commonwealth shall adopt and implement, in accordance with any regulations promulgated by the department pursuant to this chapter, an integrated pest management plan. The plan shall cover both indoor and outdoor areas. The department shall produce a generic integrated pest management

plan that may be adopted by any school, day care center or school age child care program. One copy of the plan adopted by the school, day care center or school age child care program shall be filed with the department, and at least one additional copy shall be kept on site and made available to the public upon request pursuant to section 10 of chapter 66. Every agency of the commonwealth shall develop and implement integrated pest management plans and procedures for all buildings and grounds owned or managed by the commonwealth.

(b) No person shall spray, release, deposit or apply or supervise the spraying, release, deposit or application of any pesticide in, on, or around structures or grounds of a school, day care center or school age child care program unless that person is a certified commercial applicator, certified private applicator, licensed applicator, or is under the supervision of a certified commercial applicator, certified private applicator or licensed applicator.

Section 6F. Beginning November 1, 2001, pesticide products eligible for use indoors on the facility grounds of any school, day care center or school age child care program shall be limited to the following:

- (a) Anti-microbial pesticides;
- (b) Rodenticides placed in tamper resistant bait stations or placed in areas inaccessible to children and the general public;
- (c) Ready-to-use dust, powder or gel formulations of insecticide applied in areas inaccessible to children and the general public;
- (d) Insecticidal baits placed in tamper resistant bait stations or in areas inaccessible to children and the general public;

- (e) Termiticides used only in the presence of an active termite infestation and when non-chemical pesticide alternatives have been determined to be ineffective; and
- (f) Pesticides classified by the United States Environmental Protection Agency as exempt materials under 40 CFR 152.25.

Section 6G. Beginning November 1, 2001, pesticide products eligible for use on the outdoor grounds of any school, day care center or school age child care program shall be limited to the following:

- (a) pesticides used in accordance with the facility's integrated pest management plan filed with the department and maintained on site;
- (b) pesticides other than those classified as known, likely or probable human carcinogens by the United States Environmental Protection Agency, or equivalently categorized by the department, except as provided for in section 6H;
- (c) pesticide products that do not contain inert ingredients categorized as "List 1: Inerts of Toxicological Concern" or any equivalent categorization by the United States Environmental Protection Agency; and
- (d) pesticides that are applied for reasons other than purely aesthetic purposes, except that any municipality, city or town may allow the use of pesticide products for purely aesthetic purposes on the outdoor grounds of any school, day care center or school age child care program.

Section 6H. (a) If a school official or an operator of a day care center or school age child care program determines that a human health emergency warrants the use of a pesticide not otherwise allowed under

this chapter, or warrants its use sooner than two days after providing the required standard written notification, such official or operator may apply for a single-use waiver from the appropriate municipal board of health or agent or director of public health or the department.

(b) The department or appropriate municipal board of health or agent or director of public health shall determine if such a waiver is warranted based on the following criteria:

(1) whether the pest situation poses an immediate threat to human health; and

(2) whether no viable alternatives to the use of chemical pesticides exist.

As a condition of approval, the appropriate municipal board of health or agent or director of public health or the department shall require a commitment from the school official or operator of a day care center or school age child care program that the underlying causes of the pest outbreak will be identified and addressed in order to prevent future outbreaks.

(c) In such an emergency situation, the school official or operator of a day care center or school age child care program shall ensure that conspicuous warning signs are posted near the site of the spraying, release, deposit or application prior to, and for at least 72 hours after the spraying, release, deposit or application. Treated areas will be posted with clear and conspicuous warning signs along the perimeter in accordance with regulations to be promulgated by the department governing indoor and outdoor spraying, release, deposit or application of pesticides at schools, day care centers and school age child care programs. In such an emergency situation, the school official or

operator of a day care center or school age child care program shall also ensure that standard written notification is provided to employees, pupils or supervised children and their parents or guardians immediately prior to or, if necessary, immediately following the emergency spraying, release, deposit or application. A record of the emergency event, including the identification of the cause and the actions taken to address it, shall be maintained as a part of the records required under section 6I.

Section 6I. A written or electronic record of any and all chemical pesticide spraying, release, deposit or application made at a school, day care center or school age child care program in the commonwealth shall be maintained on site for a period of not less than five years, and shall be made available to the public upon request pursuant to section 10 of chapter 66.

Section 6J. Notwithstanding any other provisions of this chapter, sections 6C to 6I, inclusive, shall not apply to the spraying, release, deposit or application of any pesticide made as a part of a supervised training program at any of the state-aided and approved vocational-technical or agricultural schools in the commonwealth.

Section 6K. The department shall conduct a review of anti-microbial pesticides, as defined in section 2, to determine whether and to what extent they should be subject to the provisions of this chapter.

SECTION 12. Said chapter 132B is hereby further amended by inserting after section 7 the following section:-

Section 7A. (a) Subject to appropriation, the department shall establish and implement a pesticide use reporting system for use by government agencies, researchers, policy makers and the public to

ensure the public health and safety and to protect the environment of the commonwealth. In establishing and implementing the system, said department shall design, develop and implement the system in order to collect, evaluate, summarize, retain and report information on the use of pesticides in each major category of use in the commonwealth, including agriculture, forestry, industrial, commercial and homeowner uses. Said department shall, at least one time each year, collect the best data practicable from each major category of pesticide use in a manner that will allow such data to be used for public health purposes, including, but not limited to, epidemiological studies, and for environmental protection purposes. Such data shall be collected in a manner which minimizes reporting costs. Said department shall begin operation of the required statewide data reporting program on or before January 31, 2002.

(b) The secretary of environmental affairs shall appoint a pesticide stakeholder work group to advise the department in developing the pesticide use reporting system required by this section. Said secretary shall appoint the following members of the work group: one pesticide applicator, one pesticide dealer, one public health expert or researcher familiar with pesticides and their impact on public health, one representative from the department of public health, one representative from the department of environmental protection, one representative from the department's pesticide board established by section 3, and one representative from each of the following organizations: one environmental organization, one labor organization, one public health organization, one public water supplier and one agricultural organization. In carrying out its responsibilities under this section, the department shall consult with the work group appointed

under this section and convene meetings of the work group as necessary. All meetings of the work group shall be open to the public and shall include an opportunity to receive recommendations and comments from members of the public. The work group shall make specific recommendations on stable and sufficient funding mechanisms to support the pesticide reporting program.

(c) Said department shall conduct an analytical review of any issues that must be resolved in order to establish a valid, cost-effective pesticide use reporting system in the commonwealth. The review shall be conducted in consultation with the work group appointed under this section, and its conclusions shall be published not later than January 31, 2001. As part of the analytical review required by this section, the department shall consider whether and to what extent use of anti-microbial pesticides, as defined in section 2, shall be part of the pesticide use reporting system. In implementing the pesticide use reporting system, the department shall, beginning January 31, 2003, and annually thereafter, make available data on pesticide use in the commonwealth.

(d) Said department shall develop protocols for the exchange of information with the department of public health or other state agencies for the purpose of conducting research related to the public health and the environment. Said department shall also establish policy and adopt rules relating to the public release of pesticide use information. The policy and rules may not reveal the identity of the owner or lessee of a specific property or the address of the property itself where a pesticide has been applied, and shall maintain the confidentiality of that information. Nothing in the policy or rules adopted by said department shall limit access to data for the following

purposes: (1) information obtained as part of any investigation under any other provision of law; (2) the release of information obtained exclusively under this chapter to any other local, state or federal agency, if the local, state or federal agency has agreed to maintain the confidentiality of any information that is required to be treated as confidential under this subsection, unless the public interest by clear and convincing evidence requires disclosure in the particular instance; and (3) the release of information obtained exclusively under this chapter to a health or environmental researcher acting in an official capacity from an accredited university or accepted research institute who agrees to maintain the confidentiality of any information that is required to be treated as confidential under this section.

(e) Nothing in this section shall be construed to create a new private right of action against any pesticide user or retail pesticide dealer.

SECTION 13. The eighth paragraph of section 10 of said chapter 132B, as appearing in the 1998 Official Edition, is hereby amended by adding the following sentence:- Each examination shall include an evaluation of the applicant's competence with respect to the use of integrated pest management.

SECTION 14. Section 14 of said chapter 132B, as so appearing, is hereby amended by striking out, in line 9, the words "six A or six B" and inserting in place thereof the following:- 6A to 6I, inclusive, or section 7A.

SECTION 15. Said chapter 132B is hereby further amended by inserting after section 14 the following section:-

Section 14A. (a) The department may adopt and promulgate such regulations as may be necessary for the enforcement of sections 6C to 6I, inclusive, and the licensing requirements of section 10. Said department may assess a civil administrative penalty of up to \$1,000 against any person or school administration who violates the requirements of sections 6C to 6I, inclusive, or any regulation promulgated under such sections.

(b) Said department may assess a civil administrative penalty of up to \$1,000 against any person who violates the licensing requirement of section 10.

(c) Prior to assessment of the penalty, said department shall provide written notice and an opportunity to correct the violation within 90 days of the issuance of the notice of violation. This penalty shall be assessed in addition to any other civil penalty otherwise provided for by law. Notice of assessment of a penalty pursuant to this section shall be made by service in hand, or by certified mail, return receipt requested, and shall state the amount of the administrative penalty, the date the penalty shall be due, a statement of the violator's right to an adjudicatory hearing pursuant to chapter 30A regarding the assessment, a statement of the actions the person may take in order to avoid the assessment of the penalty or to avoid waiving the right to a hearing relative to the penalty, and the manner of acceptable payment if an election to waive a hearing is made.

A person shall be deemed to have waived all right to an adjudicatory hearing unless, within 21 days of the date of the department's notice, the person files a written notice, by hand or by certified mail, return receipt requested, requesting such adjudicatory hearing. In the event

that such request is not received in accordance with this section, the proposed administrative penalty shall become final and payment shall be due in accordance with the notice.

SECTION 16. Said chapter 132B is hereby further amended by adding the following section:-

Section 16. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Children and Families Protection Fund. There shall be credited to the fund any penalties collected for violations of sections 6C to 6I, inclusive, and any income derived from the investment of amounts credited to the fund. Amounts credited to the fund shall be used, subject to appropriation, for the implementation and enforcement of said sections 6C to 6I.

SECTION 17. This act shall take effect on November 1, 2000.

Approved May 12, 2000.