

# THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



## Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114  
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lt. Governor

MATTHEW A. BEATON  
Secretary

JOHN LEBEAUX  
Commissioner

### Notice

Pursuant to the provisions of the Rights-of-Way Management Regulations, 333 CMR 11.00, to apply herbicides to control vegetation along rights-of-way (ROW), a five year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Department of Agricultural Resources (DAR). Notice of receipt of a YOP for the City of Lowell and procedures for public review is hereby given as required by Section 11.06 (3).

Vegetation Control Service, Inc. (VCS) of Athol, Massachusetts submitted a YOP to DAR for the City of Lowell in April 2018 along with the following commentary:

In 2018 Lowell will conduct an Integrated Vegetation Management (IVM) program along select locations on the city's public ways to control vegetation that poses a public nuisance and/or poses a risk to pedestrian or vehicular safety.

The intended vegetation control program will be consistent with Lowell's VMP. Therefore, in accordance with the guidelines set forth in Lowell's VMP and YOP, herbicides will be selectively applied to target vegetation by licensed/certified applicator(s) with hand-held equipment.

In regulated sensitive areas, Lowell will only use herbicides recommended by DAR for use in these sensitive areas. Pursuant to 333 CMR 11.04, no herbicides will be sprayed within any designated "no spray sensitive area" instead mechanical only methods will be used to control vegetation.

Public notification will be provided to the Mayor, Conservation Commission, Board of Health and Water Department at least twenty-one days prior to any herbicide application.

In accordance with 333 CMR 11.06 (2), Lowell's YOP includes the identification of target vegetation; methods of identifying, marking and protecting regulated sensitive areas; application techniques; the herbicides, application rates, carriers and adjuvants proposed for use; alternative control measures; the individuals responsible for supervising the YOP and applying the herbicides; procedures for handling, mixing and loading herbicides; emergency resources including local, state and federal emergency telephone numbers; a city wide street listing and map of the city's downtown public ways which includes mapped sensitive areas, herbicide fact sheets and manufacturers' labels.

### PUBLIC REVIEW

The DAR seeks to verify the location of sensitive areas defined in Section 11.02 reported in the YOP. DAR itself has a limited ability to survey the geography, land use and water supplies. Municipalities have most of this information readily available, and the particular knowledge with which to better certify the Sensitive Areas in their communities. DAR, therefore, requests, and urges the assistance of in reviewing the completeness and accuracy of the map contained in the submitted YOP.

DAR has established the following procedures for this review:

Copies of the YOP and this *Notice* will be sent by the applicant to the Mayor, Conservation Commission, Board of Health and Water Department, and the Massachusetts Department of Conservation and Recreation. Municipal agencies and officials will have forty-five days, following receipt of the YOP, to review its map for inaccuracies and omissions in the location of "sensitive areas not readily identifiable in the field."

Municipal agencies and officials are requested to forward the YOP to the appropriate official(s) in their municipality qualified to certify the accuracy of the sensitive areas indicated on the maps. The maps should then be "corrected" and returned to the applicant and a copy should be sent to DAR at the address listed below within the forty-five day review period.

If the city needs more time to carry out this review, it should send a written request for an extension to DAR and cite why there is a "good cause" for requesting additional time.

The applicant is required to make all corrections and the corrected maps will be sent back to the city that requested the disputed changes within fifteen days of receipt of the request. DAR will decide whether or not the YOP should be approved without the requested changes.

The twenty-one day public review period of the Municipal ROW Notification Letter may serve concurrently with the forty-five day YOP review period in order to provide public notifications as required by 333 CMR 11.07, if the applicant has an approved VMP and if all the requisite city offices that received copies of the YOP completed their review and all corrections were duly made by the applicant and approved by DAR.

A failure to respond to the applicant's submission of the YOP within the forty-five day period will automatically be considered by DAR to indicate agreement by the municipal officials with the Sensitive Area demarcations provided by the applicant in their YOP.

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

Clayton Edwards  
Director of Rights-of-Way Programs  
Massachusetts State Pesticide Bureau  
251 Causeway Street, Suite 500  
Boston, MA 02114-2151

Any questions or comments regarding the YOP should be addressed to:

James Donison, P.E.  
Commissioner of Public Works  
Department of Public Works  
The City of Lowell  
1365 Middlesex Street | Lowell, MA 01851  
(978) 674-4111

**COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS 5 p.m., ON: May 28, 2018**