

Legal Notice

Pursuant to the provisions of the Rights-of-Way Management Regulations, 333 CMR 11.00, in order to apply herbicides to control vegetation along railroad rights-of-way, a 5-year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Department of Food and Agriculture (DFA). Therefore, notice of receipt of a YOP and procedures for public review is hereby given, as required by Section 11.06(3).

A YOP for the Boston and Maine Corporation, prepared by Keith L. Morris and Michael F. Gragnolati, Environmental Consultants from Leeds, Massachusetts, has been submitted to the DFA.

Municipalities included in the Boston and Maine Corporation's YOP for treatment of rights-of-way with herbicides for the calendar year 1998 are:

Acton	Adams	Andover	Ashburnham
Athol	Ayer	Belmont	Bernardston
Billerica	Boston	Boxborough	Buckland
Cambridge	Charlemont	Chelmsford	Chelsea
Chicopee	Clinton	Concord	Conway
Danvers	Deerfield	Easthampton	Erving
Everett	Fitchburg	Florida	Gardner
Greenfield	Groton	Harvard	Hatfield
Haverhill	Holyoke	Lancaster	Lawrence
Leominster	Lincoln	Littleton	Lowell
Lunenburg	Lynn	Lynnfield	Malden
Medford	Melrose	Methuen	Montague
North Adams	North Andover	Northampton	Northfield
Orange	Peabody	Phillipston	Reading
Revere	Rowe	Royalston	Salem
Saugus	Shelburne	Shirley	Somerville
Springfield	Sterling	Stonham	Swampscott
Templeton	Tewksbury	Tyngsborough	Wakefield
Waltham	Watertown	Wendell	West Boylston
Westford	Westminster	Whatley	Williamstown
Winchendon	Worcester		

The consultants have submitted the following commentary on the Boston and Maine Corporation's YOP:

The intended vegetation control program will be consistent with the VMP, as approved by the DFA. Herbicides shall be applied to the roadbed by a spray truck, in accordance with the guidelines set forth in the VMP and the YOP. The herbicides to be applied, Roundup and Oust, are recommended for use in "sensitive areas" by the Department of Environmental Protection, and the DFA. The herbicides Roundup and Oust shall be applied for brush and weed control to free spray and sensitive areas along the rights-of-way. No herbicides shall be applied within 10 feet of any wetland, watercourse, or waterbody, within 400 feet of any municipal water supply well, within 100 feet of any surface water utilized as a public water supply, or within 50 feet of any private drinking water supply well (pursuant to 333 CMR 11.04: Sensitive Area Restrictions). Applications of herbicide shall commence after the approval of the YOP by the DFA, following public review and comment. It is anticipated that herbicide application will occur in June, 1998. The YOP contains: maps locating rights-of-way and sensitive areas; the name of the herbicides proposed for use, including application rates, carriers and adjuvants; application techniques and alternative control measures; material safety data sheets and herbicide fact sheets as approved by the DFA; the names of the applicator and YOP supervisor; methods used to identify and mark sensitive areas on the right-of-way; procedures for handling, mixing, and loading of herbicides; and identification of target vegetation in accordance with 333 CMR 11.06(2). Additionally, the YOP contains emergency/contingency measures and local, state and federal emergency contact telephone numbers.

The applicant has described in its YOP, on site loci, the rights-of-way that have been scheduled for treatment:

Public Review

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

- YOPs and a copy of this notice will be sent by the applicant to the Conservation Commission, Board of Health (or designated health agent), and to the head of the government (Mayor, City Manager, Chair or Board of Selectmen) of each municipality where herbicides are to be applied along the rights-of-way during the calendar year 1998. Municipal agencies and officials will have forty-five (45) days following receipt of the YOP to review the maps contained in the document that indicates the location of

"Sensitive areas not readily identifiable in the field" for inaccuracies and omissions.
Sensitive areas shall be defined as in section 11.02 a-f.

- Municipal agencies and officials are requested to forward the YOP to the appropriate official(s) in their municipality qualified to certify the accuracy of sensitive area locations as indicated on the maps. The maps should be "corrected" and returned to the applicant. Also, a copy of the maps with these corrections indicated should be sent to the DFA at the address listed below within the forty-five-(45) day review period. If a city or town needs additional time to carry out this review, it should send a written request for an extension to the DFA and cite why there is "good cause" for requesting additional time.

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

The final twenty-one (21) days of public review period can serve concurrently to provide public notification as required by section 11.07 of the Rights-of-Way Management regulations, if the applicant has an approved VMP and if all necessary modifications to the YOP have been made and approved by the DFA.

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

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

Dennis Guastalli
Supervisory Investigator
Rights-of-Way Program
Pesticide Bureau
Massachusetts Department of Food and Agriculture
100 Cambridge Street, 21st Floor
Boston, MA 02202

Any additional questions or comments on any information provided as a part of the proposed YOP, should be addressed in writing to the Boston and Maine Corporation and a copy should be sent to Mr. Dennis Guastalli, Rights-of-Way Program, at the address indicated above.

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Leeds, Massachusetts 01053
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MICHAEL F. GRAGNOLATI

P.O. Box 3127
Windsor Locks, Connecticut 06096
860 623-2588

June 3, 1998
File No. 98-001

Office of the Mayor
City Hall
57 Inman Street
Cambridge, MA 02138

RE: 1998 Post-Emergent
Yearly Operational Plan
for Vegetation Management
Boston & Maine Corporation

Dear Board/Commission Member:

Enclosed please find a copy of the 1998 Post-Emergent Yearly Operational Plan (YOP) and Environmental Monitor Notice for the Boston and Maine Corporation. This YOP has been reviewed and approved by the Massachusetts Department of Food and Agriculture (DFA). A copy of the YOP has been sent, via certified mail, to the Board of Health, Conservation Commission, and chief elected municipal in each community covered by the YOP. As per the Pesticide Board of Regulations 333 CMR 11.00, there is a 45-day review and comment period upon receipt of the YOP. Plans depicting sensitive areas not readily identifiable in the field are available for review at each community's Conservation Commission Office.

This correspondence also represents formal notification, in accordance with 333 CMR 11.07 of the Regulations, that the Boston and Maine Corporation will commence with the post emergent herbicide application program on or after July 1, 1998. The specific date of application shall depend upon scheduling and weather conditions, but is expected to occur mid-July to mid-August, 1998.

If you should have any questions concerning the above matter, please contact our office at your convenience.

Sincerely,



Keith Morris
Environmental Consultant

Attachments

cc: Massachusetts Department of Food & Agriculture
Boston and Maine Corporation

Comm & Rpts from City
Officers #3

446-S

A letter from Keith Morris,
Environmental Consultant,
regarding the 1998 Post-
Emergent Yearly operational
plan for Vegetation Management
Baton & Maine Corporation.

In City Council June 15, 1998

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