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THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
Department of Food and Agriculture
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2003 JUN 13 A 11:20
OFFICE OF THE CLERK
COMMONWEALTH OF MASSACHUSETTS

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 five-year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Department of Food and Agriculture. Therefore, notice of receipt of a YOP and procedures for public review are hereby given as required by Section 11.06 (3).

A Yearly Operational Plan has been submitted for: MBTA Massachusetts Bay Transportation Authority, Rapid Transit System.

This plan has been prepared and submitted to the Department of Food and Agriculture by: TEC Associates of South Portland, Maine.

Municipalities identified in the MBTA YOP as locations where the rights-of-way will be treated with herbicides during the 2003 calendar year are:

Boston, Braintree, Brookline, Cambridge, Malden, Medford, Milton, Newton, Quincy, Revere, Somerville.

One selective application of a DFA approved herbicide mixture is proposed to occur in the 2003 calendar year within approved areas along MBTA Rapid Transit System rights-of-way. Public notification (by registered mail) will be provided to the chief elected official, Board of Health, and Conservation Commission in each affected municipality at least twenty-one days prior to any herbicide application.

Herbicide applications to the roadbed and areas around switches, signals, signs, and crossings will be conducted with a spray truck and/or a backpack sprayer according to the guidelines set forth in the VMP and YOP. Sensitive areas as defined by the Rights-of-Way Management Regulations will receive the full protection afforded by those regulations. All herbicide applications will be done by an applicator properly licensed by the DFA Pesticide Bureau and fully trained in herbicide mixing, handling, and application methods. Applications will commence following approval of the YOP by the DFA. This post-emergent application is scheduled for mid to late July. The YOP contains the names and application rates of the herbicides proposed for use along with DFA approved herbicide fact sheets for each product. Additionally, the YOP contains the names of the herbicide applicator and YOP supervisor, and

procedures for mixing and handling herbicide concentrates. A description of sensitive area flagging methods is included along with updates of sensitive area maps for each town.

PUBLIC REVIEW

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

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

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

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

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

copies of the YOP have completed their review and corrections have been duly made by the applicant and approved by the Department.

A failure by the city/town to respond to the applicants submission of the YOP within the forty five (45) day public review period, will automatically be considered by the DFA to indicate agreement by 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 Notice and the procedures established for the municipal review as outlined above, should be addressed to:

Rights-of-Way Program
Massachusetts Pesticide Bureau
251 Causeway Street, Suite 500
Boston, Massachusetts 02114-2151

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

Wayne Duffett
TEC Associates
46 Sawyer Street
South Portland, Maine 04106

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

COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS, MONDAY, JUNE 23, 2003.

5-189

Communication #1

A communication was received from The Commonwealth of Massachusetts, Executive Affairs, Department of Food and Agriculture, regarding the provision of the Rights-of-Ways Management Regulations, 333CMR 11.00, applying herbicides to control vegetation along railroad rights-of-way.

In City Council June 2, 2003

REFERRED TO CITY MANAGER