

# THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



## Department of Agricultural Resources

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### Notice

Pursuant to the provisions of the Rights-of-Way Management 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 Massachusetts Department of Agricultural Resources (MDAR). Brookfield Renewables Bear Swamp Project has submitted and holds a current VMP, therefore, notice of receipt of a YOP and procedures for public review is hereby given as required by Section 11.06 (3).

Edward Sturtevant of Lewis Tree Service, Inc. submitted a YOP to MDAR for Brookfield Renewables Bear Swamp Project in May of 2020.

In 2020 Brookfield Renewables Bear Swamp Project will conduct an Integrated Vegetation Management (IVM) program on their transmission lines. The intended vegetation control program will be consistent with Brookfield Renewables Bear Swamp Project VMP. In accordance with the guidelines set forth in Brookfield Renewables Bear Swamp Project VMP and YOP, herbicides will be selectively applied to target vegetation by licensed/certified applicators carrying backpack or hand held application equipment for the IVM program.

Brookfield Renewables Bear Swamp Project YOP identifies the following municipalities as locations where they intend to use herbicides to treat their electric Rights-of-Way in 2020:

#### Rowe & Florida

Brookfield Renewables Bear Swamp Project will only use herbicides recommended by MDAR for use in regulated sensitive areas for their IVM program. 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, by certified mail, will be provided to each "affected" municipality at least twenty-one days prior to any herbicide application.

In accordance with 333 CMR 11.06 (2), 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, a list of the application companies and YOP supervisor; procedures for handling, mixing and loading herbicides; emergency resources including local, state and federal emergency telephone numbers; maps of the ROWs which included regulated sensitive areas, and herbicide fact sheets and labels.

#### PUBLIC REVIEW

MDAR seeks to verify the location of regulated Sensitive Areas defined in Section 11.02 reported in the YOP. MDAR itself has a limited ability to survey the geography, land use and water supplies in all the communities through which ROWs pass. Municipalities have most of this information readily available, and the particular knowledge with which to better certify the regulated Sensitive Areas in their communities. MDAR, therefore, requests, and urges the assistance of the "affected" municipalities in reviewing the completeness and accuracy of the maps contained in the submitted YOP.

MDAR has established the following procedures for this review:

The YOP may be viewed online at : <https://www.mass.gov/service-details/rights-of-way-vegetation-management-vmpps-yops-and-notice>

Copies of the YOP and this *Notice* will be sent by the applicant to the Conservation Commission, Board of Health (or designated health agent), and the Head of Government (Mayor, City Manager, Chair of the Board of Selectman) of each municipality where herbicides are to be applied during the 2020 calendar year; and if applicable to the Natural Heritage Endangered Species Program of the Massachusetts Department of Fisheries and Wildlife, the Massachusetts Water Resource Authority 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 "regulated 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 regulated sensitive areas indicated on the maps. The maps should then be "corrected" and returned to the applicant and a copy should be sent to MDAR 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 MDAR 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/town that requested the disputed changes within fifteen days of receipt of the request. MDAR will decide whether or not the YOP should be approved without the requested changes. MDAR will consider the "final approval" of a YOP individually for each municipality.

The 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-town offices that received copies of the YOP completed their review and all corrections were duly made by the applicant and approved by MDAR.

A failure by the city/town to respond to the applicant's submission of the YOP within the forty-five day period will be automatically considered by MDAR to indicate agreement by the municipal officials with the regulated 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 L. 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:

Edward Sturtevant  
General Foreman  
Lewis Tree Service  
300 Lucius Gordon Dr  
West Henrietta, NY 14586

**COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS (5pm) ON Friday, July 24, 2020**