

December 13, 2023

Littleton Conservation Commission
37 Shattuck Street
1st Floor, B100
Littleton, MA 01460

**RE: TOWN OF LITTLETON RDA SUBMITTAL
VEGETATION MANAGEMENT PLAN**

Dear Littleton Conservation Commission:

The Littleton Electric Light & Power Department (LELWD) is pleased to submit the following Record for Determination of Applicability (RDA) for the attached Vegetation Management Plan (VMP) for right-of-way (ROW) management.

This VMP is intended to establish criteria for LELWD to control vegetation along municipal ROWs in compliance with the ROW Management Regulations (333 CMR 11.00) as promulgated by the Massachusetts Department of Agricultural Resources (MDAR). As required by these regulations, a negative RDA determination is sought for this 5-year plan per 310 CMR 10.03(6)(b).

This VMP, currently being approved by MDAR, summarizes the use of Integrated Pest Management (IPM) methods to minimize the use of herbicides. When determined to be necessary, the use of a pre and/or post-emergent herbicide will be used for the control of public nuisance vegetation species such as Poison Ivy, hazard and/or detrimental vegetation, and invasive species that cannot be controlled through physical and/or mechanical methods along critical LELWD infrastructure.

Although only the VMP requires a negative RDA determination, the Yearly Operational Plan (YOP) has also been included with the submittal for informational purposes only. The YOP is a yearly plan that requires MDAR approval on an annual basis.

Please contact me if you have any questions or require any additional information at (978) 540-2253 or mmcfarland@lelwd.com.

Sincerely,



Matt McFarland
Distribution Supervisor
Littleton Electric Light and Water Departments

Enclosures

CC: MassDEP CERO



Massachusetts Department of Environmental Protection

Bureau of Water Resources - Wetlands

WPA Form 1- Request for Determination of Applicability

Littleton
Municipality

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.

**1. Applicant:**

Littleton Electric Light & Water Department

First Name

39 Ayer Road

Address

Littleton

City/Town

978-540-2253

Phone Number

Last Name

MA

01460

State

Zip Code

mmcfarland@lelwd.com

Email Address

2. Property Owner (if different from Applicant):

Town of Littleton

First Name

37 Shattuck Street

Address

Littleton

City/Town

Last Name

MA

01460

State

Zip Code

Phone Number

Email Address (if known)

3. Representative (if any):

Stephanie Hanson

First Name

Comprehensive Environmental Inc.

Last Name

Company Name

41 Main Street

Address

Bolton

City/Town

508-281-5160 x318

Phone Number

MA

01740

State

Zip Code

shanson@ceinegineers.com

Email Address (if known)

B. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

Town-wide easements/right-of-ways

Street Address

City/Town

Latitude (Decimal Degrees Format with 5 digits after decimal e.g.

XX.XXXXX)

Longitude (Decimal Degrees Format with 5 digits after decimal e.g. -XX.XXXXX)

Assessors' Map Number

Assessors' Lot/Parcel Number

b. Area Description (use additional paper, if necessary):

Areas identified to have hazard, detrimental, invasive and/or noxious vegetation requiring removal.

c. Plan and/or Map Reference(s): (use additional paper if necessary)

Littleton Electric Light & Water Department Vegetation Management Plan

Title

2024

Date

Title

Date

[How to find Latitude and Longitude](#)

[and how to convert to decimal degrees](#)



B. Project Description (cont.)

2. a. Activity/Work Description (use additional paper and/or provide plan(s) of Activity, if necessary):

See attached 2024-2028 LELWD Vegetation Management Plan

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

310 CMR 10.03(6)(b) - Presumption Concerning Application of Herbicides and 310 CMR 10.58(6)(a).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single-family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



Massachusetts Department of Environmental Protection
Bureau of Water Resources - Wetlands

WPA Form 1- Request for Determination of Applicability Littleton
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40 Municipality

C. Determinations

1. I request the Littleton make the following determination(s). Check any that apply:
Conservation Commission

- a. whether the **area** depicted on plan(s) and/or map(s) referenced above is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced above are accurately delineated.
- c. whether the **Activities** depicted on plan(s) referenced above is subject to the Wetlands Protection Act and its regulations.
- d. whether the area and/or Activities depicted on plan(s) referenced above is subject to the jurisdiction of any **municipal wetlands' ordinance or bylaw** of:

Littleton
Name of Municipality

- e. whether the following **scope of alternatives** is adequate for Activities in the Riverfront Area as depicted on referenced plan(s).

D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.


Signature of Applicant

Date

12/13/23


Signature of Representative (if any)

Date

2-26-2024

Vegetation Management Plan (VMP)

Littleton Electric Light & Water Departments

2024-2028



Submitted on December 20, 2023

Prepared By:

Little Electric Light & Water Departments
39 Ayer Road
Littleton, MA 01460
978-540-2253

&

Comprehensive Environmental Inc.
41 Main Street
Bolton, Massachusetts 01740
508-281-5160

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- MDAR VMP Approval
- Environmental Monitor Notice
- Determination of Applicability
- 333 CMR 11.00 Rights-of-Way Management Regulations

1.0 Statement of Goals and Objectives

This Vegetation Management Plan (VMP) is intended to establish criteria for the Littleton Electric Light & Water Departments (LELWD) to manage vegetation along municipal Rights-of-Way (ROW) in compliance with the Rights-of-Way Management Regulations (333 CMR 11.00) as promulgated by the Massachusetts Department of Agricultural Resources (MDAR). LELWD serves the Town of Littleton and Boxborough.

The primary objective of this VMP is to provide the public and the LELWD staff with safe and unobstructed ROWs while minimizing reliance upon herbicides. Vegetation maintenance is necessary along public ROWs such as roads, sidewalks, and trails, to control vegetation that may pose a public nuisance, result in safety hazards, or inhibit access or cause damage to structures and infrastructure. The LELWD has approximately 120 miles of infrastructure to manage and maintain.

The goal of the program is to manage undesirable vegetation while minimizing impacts to the environment. Only herbicides listed on the current MDAR ROW Sensitive Areas Materials List (<https://www.mass.gov/service-details/rights-of-way-sensitive-area-materials-list>) will be used.

Periodic monitoring and inspection will aid in the success of the VMP which is expected to:

- Manage target vegetation while ensuring the protection of sensitive areas and the environment.
- Reduce the amount of herbicides applied over time.
- Reduce the frequency of herbicide application.
- Ensure vegetation management activities are conducted in a safe and effective manner and in compliance with regulations.

This VMP will serve as technical guidance for individuals involved in ROW vegetation management and as an accessible source of information for residents and public officials.

2.0 Target Vegetation

Vegetation targeted will be species or plants that fall into the categories described below. The LELWD will submit a Yearly Operational Plan (YOP) for MDAR to approve and which will specify the herbicide(s) to be used, target species and application locations.

Hazard Vegetation

Vegetation considered to be a hazard includes plants or plant species that pose a risk to public safety or that impede movement along public ways. Hazard vegetation may: obscure sightlines and signs, be a fall hazard, and contribute to icy roads due to winter shading.

Noxious Vegetation

This category includes vegetation that could cause problems for the general public, employees or contractors. Generally, it includes poisonous plant species and those with thorns. Target vegetation in this category is primarily poison ivy within 10 feet of the edge of pavement.

Detrimental Vegetation

Detrimental vegetation applies to all vegetation that can destroy or compromise the function of infrastructure by growing in cracks along the roadway, pavement/bridge joints, medians/traffic islands, drainage structures/drainageways, trails and bike paths.

Invasive Vegetation

Invasive plants can aggressively colonize areas along ROWs, blocking site distances and compromising infrastructure. Many invasive plants, such as Japanese knotweed and *Phragmites*, are difficult to control using mechanical means alone. Mechanical methods can also result in spreading these plants to new locations. In addition, invasive plants pose a threat to biodiversity of naturalized areas. Herbicides are the most effective method of treatment for many invasive plants. Invasive plants can include those listed on the Massachusetts Prohibited Plant List located at <https://www.mass.gov/service-details/massachusetts-prohibited-plant-list>. These may include plants designated as likely or potentially invasive).

3.0 Vegetation Management Methods & Actions to Minimize Herbicides

The LELWD vegetation management program will include both non-chemical techniques and chemical application where necessary. Vegetation management may involve the following methods:

- Physical – street sweeping, sealing cracks, resurfacing (led and provided by the Town of Littleton and Town of Boxborough Department of Public Works).
- Mechanical – hand-cutting, mowing, selective trimming.
- Chemical – foliar herbicide treatments, cut-stem surface treatment.

The management methods selected will be chosen based on a variety of factors (including but not limited to efficacy of method, staff safety and site accessibility) and with the goal to achieve a long-term, vegetation management program.

Physical (led and provided by the Towns of Littleton and Boxborough Department of Public Works)

Physical management methods will rely primarily on pavement maintenance. Pavement maintenance will consist of sealing cracks and general ROW repairs including resurfacing and installing new sidewalks. This helps to eliminate weeds by preventing seeds from imbedding in pavement cracks. The towns also completes routine street sweeping. The build-up of sediment and other material can provide a medium for plant growth. Regular street sweeping helps eliminate this material from accumulating as a base for weed establishment.

Mechanical

Mechanical management methods may include hand-cutting, mowing, and/or selective trimming.

Hand-Cutting

Hand-cutting consists of the mechanical cutting of target species using chainsaws and brush saws. Target species are cut as close to the ground as practical. Hand-cutting is used to protect environmentally sensitive sites. It is also used on target vegetation greater than twelve feet in height. Hand-cutting is used on those restricted sites where terrain, site size, or environmental sensitivity renders mowing impossible or impractical. Hand-cutting may be practiced at any time during the year.

Mowing

Mowing consists of the mechanical cutting of target vegetation using push mowers, large rider mowers, rear deck mowers, brush mowers, brush cutters, pole-saws, edgers and line trimmers. Selection of specific equipment is based on terrain, target vegetation species, size and density of target vegetation area, and equipment availability. Mowing will be used in areas where terrain and target stem size permit safe and efficient use of the above machinery. Mowing will be the principal method for vegetation management along road shoulders and where herbicide use is prohibited. Mowing will be conducted seasonally when weather conditions allow.

Selective Trimming

Selective trimming consists of the mechanical pruning of encroaching limbs of tall trees that may block roadway, sidewalk, and trail and bike path access. Trimming

will be accomplished using aerial lifts via trucks or tractors, or by climbing crews if terrain or obstruction prevents equipment access.

Chemical

Chemical management may include foliar treatment and/or cut stem surface treatments. Selected chemicals are limited to those listed on the MDAR Rights-of-Way Sensitive Area Materials List.

Foliar Treatment

Foliar treatments involve the selective application of an herbicide, in accordance with manufacturers' directions, to the foliage. Several types of equipment for foliar treatments may be used. These could include: backpack sprayers, hand-held pump sprayers, or a motorized truck-mounted sprayer. Foliar treatments with backpack and hand-held pump sprayers are used on low-density target vegetation. No more than the minimum labeled rate of the herbicide for the site, plant targeted, and application method shall be applied. Motorized application equipment may be used for foliar treatment on areas where the vegetation density is high and the use of a backpack sprayer may not be as effective.

These foliar applications will take place when plants are in full leaf and actively growing, and in accordance with the product label. When used according to the label, foliar treatments are an effective and efficient method to manage the whole target plant. Managing the whole target plant reduces the potential of resprout from root and/or rhizome systems.

Cut-Stem Treatment

Cut-stem treatments consist of mechanical cutting of target species using chainsaws immediately followed by herbicide treatment applied with a squirt bottle, a hand-held pump sprayer, or painted on the freshly cut surface of the stump. Treatment will include spraying the root collar area, sides of the stump, and the outer portion of the cut surface, including the cambium, until thoroughly wet, but not to the point of runoff. Cut-stem application can be effective during the dormant period, however, it may not be effective during times of sap flow (i.e., maple and birches during the months of February through early April), as flowing sap will limit the herbicide from being absorbed into the stump down to the roots. All herbicides are to be applied to freshly cut stems to be effective.

Monitoring

All roadsides proposed for chemical management will be visually surveyed by the LELWD to determine the method of control prior to any scheduled treatment program. Monitoring will be conducted by the LELWD on foot and/or by vehicle. Monitoring of areas may result from requests from the public. All monitoring records will be maintained by the LELWD.

Record Keeping

A log of areas surveyed will be maintained by the LELWD for future planning and reference. Areas maintained either through physical repair, mechanical or chemical management will be recorded.

Management Tactics

The decision to use one or a combination of vegetation management techniques will depend on the site-specific situation. The management techniques selected will efficiently control target vegetation while keeping environmental impacts to a minimum.

4.0 Justification of Herbicide Use

As discussed in this VMP, physical and mechanical methods are sufficient to manage most plants that interfere with traffic, visibility and safety. However, chemical treatment is necessary where topography, access, growth and reproduction characteristics or concerns regarding worker safety limit the potential for management by physical or mechanical methods.

Chemical management is the preferred method or only method of management for plants that pose a health hazard for the technician in the field. For example, Poison Ivy, the primary noxious plant targeted, is extremely hazardous to handle and resprouts after cutting, making it difficult to achieve cost-effective management using mechanical methods. In addition, manual and mechanical management of the vine along roadsides can put worker safety at risk due to high-speed traffic. Moreover, because poison ivy climbs over stone walls, up tree trunks, and around guardrails/guiderrails, make mechanical management impractical for safety and economic reasons.

Mowing will manage most herbaceous species. Herbicide applications, however, are used where mechanical management is not feasible due to location, stem density, and/or height. Although herbaceous species are more often a desirable vegetative cover along public ways, herbicide is used in areas where it is difficult and sometimes dangerous to remove by mechanical treatment methods, herbicide is used. These areas include, but are not limited to, cracks in asphalt, along guardrails/guiderrails, paved traffic islands, sidewalks, and curbs. In these instances, herbaceous species are considered target vegetation.

Woody vegetation growing along the ROW that interfere with pedestrian or vehicle safety is managed by a variety of techniques. Pruning or ground cutting using hand tools or chainsaws is typically sufficient to manage large woody vegetation. Depending upon the species of plant removed and its proximity to other vegetation, these stumps may be treated with an herbicide to prevent resprouting.

Small woody plants that are growing along the road shoulder in an accessible location will usually be mowed along with the roadside grass. Woody plants that are growing over obstacles that would impede the mower or have a viney growth habit and are not practical to hand-cut or chip, or that grow very rapidly can be managed with foliar application of herbicides.

Finally, invasive plant management is usually required along ROWs for sight distances and to prevent destruction of infrastructure. Treatment can allow native, more stable vegetation to establish. Managing invasive plants via mechanical means can be ineffective and depending on the species, may encourage the spread of an existing population or inadvertently result in the introduction of a new population. In these situations, the use of an herbicide can be the most effective method of managing invasive plants. Working in conjunction with the Conservation Commission, the LELWD may treat invasive plants to encourage the growth of native species.

5.0 Identification of Sensitive Areas

Sensitive areas are defined within 333 CMR 11.00 as areas within ROWs in which public health and environmental concerns warrant special protection to further minimize risks of unreasonable adverse effects of herbicides. These include public groundwater sources, Class A public surface water sources, associated surface water bodies, tributaries, Class B drinking water intakes, private wells, state listed species habitat, wetlands, waters over wetlands, riverfront areas, certified vernal pools, inhabited areas and agricultural areas. Sensitive areas will be identified through the use of existing data and verified, in the field.

Sensitive Areas Basemap

There are several readily available sources of information that can be used to develop a draft sensitive areas basemap. These sources include:

- Massachusetts Department of Environmental Protection (MassDEP) Water Supply Maps (1:25,000).
- Aerial Photographs.
- MassDEP Wetlands Conservancy Maps (scale 1:1,000).
- Municipal maps and records including those from the Littleton and Boxborough Health Department to identify private water supplies.
- Regional Planning Agency maps and records.
- U.S. Fish and Wildlife Service National Wetlands Inventory Maps.
- Ortho Photo Information – MassDEP (1:5,000).
- Massachusetts Division of Fisheries and Wildlife Natural Heritage and Endangered Species Program (NHESP).
- Available MassGIS maps.

Identification of Sensitive Areas

With the sensitive areas basemap complete, the LELWD staff will identify and mark the proposed treatment zones on the basemap. LELWD staff will visually survey treatment zones in the field for any additional sensitive areas not already on the basemap.

Sensitive areas identified in the field that are not already on the basemap will be added or adjusted as needed. Similarly, treatment zones located within sensitive areas will be adjusted according to the Sensitive Areas Restrictions listed in Table 1. An updated basemap will be developed, as needed.

Field Verification of Sensitive Areas

With the draft sensitive areas basemap complete, LELWD staff will deploy in advance of treatment crews to identify the treatment areas in the field. All treatment areas will be identified and marked on the sensitive areas' maps. Sensitive areas in the vicinity of the treatment areas will be confirmed during this field effort, if possible, and any additional sensitive areas identified in the field or corrections will be applied to the basemap. Treatment areas located within limited spray areas will be adjusted according to the Sensitive Areas Restrictions listed in Table 2.

Table 2. Sensitive Area Restrictions

Sensitive Area	No Spray Areas	Limited Spray Areas	Where Identified
Wetlands and Water Over Wetlands	Within 10 feet (unless provisions of 333 CMR 11.04(4)(c) are followed)	10 – 100 feet; 12 months must elapse between applications; Selective low pressure, using foliar techniques or cut-stem 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 directed spray or cut-stem applications	YOP Maps and identify on site
Public Ground Water Supply	Within 400 feet (Zone I)	Zone II or IWPA (Interim Wellhead Protection Area which is the Primary Recharge Area); 24 months must elapse between applications; Selective chemical, using directed spray or cut-stem applications	YOP Maps
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 ¹ ; 24 months must elapse between applications; Selective chemical, using directed spray or cut-stem 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 ¹ ; 24 months must elapse between applications; Selective chemical, using directed spray or cut-stem 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 chemical, using directed spray or basal or cut-stem applications	

¹ Per 310 CMR 22.02 (a) the land area between the 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); Class 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.

Private Water Supply	Within 50 feet	50 – 100 feet; 24 months must elapse between applications; Selective chemical, using directed spray or cut-stem applications	YOP will list and identify on site
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 chemical, using directed spray or cut-stem applications	YOP Maps and identify on site
Agricultural and Inhabited Areas	N/A	0 – 100 feet; 12 months must elapse between application; Selective chemical, using directed spray or cut-stem applications.	Identify on site
State-listed Species Habitat	No application within habitat area except in accordance with a YOP approved in writing by the Division of Fisheries and Wildlife		YOP Maps ²

² Includes Estimated Habitats of Rare Wildlife and the Priority Habitats for State-Listed Species as shown on the most recent edition of the Massachusetts Natural Heritage Atlas prepared by the NHESP

6.0 Operational Guidelines for Applicators Relative to Herbicide Use

As required by regulations, applicators to roadside ROWs must hold a valid Category 40 pesticide certification from MDAR. The applicator(s) will be LELWD staff and/or a certified contractor working under the supervision of the LELWD. All applicators and their supervisors will have a copy of the VMP and YOP with them at all times for reference during the herbicide application. A Daily Vegetation Management Report form will be filed at the end of each day with the individual supervising the YOP. This will include the following information:

- Applicator or contractor name
- Weather conditions during application
- Identification of site/work area
- Type of equipment and hours used
- Method of application
- Target vegetation
 - Total amount of herbicide used (amount/concentration used)
 - Identification of adjuvants or dilutants and amount/concentration used
 - Unusual conditions or incidents noted
 - Public inquiries noted
 - Recording/verification of sensitive areas
 - Lane miles treated
 - Man hours (actual spray hours) vs. total herbicide used.

In addition to the applicable rules and regulations, applicators will adhere to the following operational guidelines.

Weather

Herbicide applications will be restricted during certain adverse weather conditions, such as rain or wind. Herbicide applications will not be conducted during periods of moderate or heavy rainfall. Foliar applications can be effective in light mist situations; however, any measurable rainfall that creates leaf runoff will wash the herbicide off target vegetation. If foliar applications are interrupted by unexpected rainfall, the treatment will not resume until the rain ends and active leaf runoff has ceased.

To minimize off-target drift, the applicator will comply with the following restrictions:

- During periods of wind, which are strong enough to bend the tops of the main stems of trees on the roadside, the applicator will periodically observe the application of the foliar treatment to ensure that there is no significant movement of the herbicide. If the applicator can see the herbicide moving off target, the application will immediately stop until the wind has subsided enough to permit further applications.
- Herbicide solution to be used for a foliage application may contain low drift agents. Low drift agents may be added to the foliage herbicide solutions as per the low drift agent label. In moderate wind conditions, as per label recommendations, more low drift agent may be added, at the discretion of the applicator to manage increased drift.

- Foliar treatment will not be made to target vegetation that exceeds twelve feet in height.

Equipment Calibration

Foliar application equipment will be calibrated prior to application and in accordance with manufacturer's recommendations. Applicator nozzles will be adjusted to apply a coarse spray pattern.

Equipment will be adjusted to deliver an herbicide solution that minimizes herbicide overspray or drift.

Sensitive Area Restrictions

In defined sensitive areas, there exists a no-spray area where herbicide use is prohibited and a limited spray area where herbicide use is allowed under certain conditions. In places around sensitive areas where herbicide use is allowed, only the minimum labeled rate of application for the management of target species can be applied.

7.0 Alternative Land Use Options

Every effort will be given for alternative land use options. However, there are specific criteria to be met for adoption of alternative land use options. The alternative land use option must effectively manage vegetation as required for ROW access and safety and must not cause a negative impact to the environment.

8.0 Remedial Plan to Address Spills and Related Accidents

All mixing and loading of herbicides will be conducted at the facility where the herbicides are stored. This will be a LELWD facility if the application is completed by a LELWD employee, or offsite, if the application is being completed by an outside contractor. Only the amount of herbicide necessary to carry out the vegetation management, based on monitoring results, will be mixed daily to ensure that there will be no waste and will minimize potential problems. The vehicles carrying out the spray operations will be equipped with a bag of absorbent, activated charcoal, leak-proof containers, a broom and a shovel, in case of minor spills. A log of the herbicides on the vehicle will be kept in the vehicle. Herbicide labels and fact sheets will be carried on-site by the applicator.

Spills requiring action, include but are not limited to: herbicides, fuels, oils and other motor/hydraulic fluids. As soon as any spill is observed, immediate action will be taken to contain the spill and protect the spill area. The cause of the spill must be identified and secured. Spill containment will be accomplished by covering the spill with absorptive clay or other absorptive material or, for large spills, building clay or soil dikes to impede spill progress. Until completely remediated, the spill area will be protected by the placement of barriers and by the delineation of the spill area by crew members. If a fire is involved, care will be taken to avoid breathing fumes from any burning chemicals.

Minor spills of liquid herbicide will be remedied by soaking up the spill with adsorption clay or other absorptive material and placing it in leak-proof containers, removed from the site and disposed of properly. Minor spills involving dry herbicides, such as granulars, will be swept up or shoveled up directly in leak proof containers, removed from the site and disposed of properly. All contaminated soil will be placed in leak-proof containers, removed from the site and disposed of properly. Any minor spill will be reported to the MDAR, Division of Crop & Pest Services.

Major spills will be handled in a similar manner as minor spills, except in cases where the spill cannot be contained and/or removed by the crew. In this case, the MassDEP Emergency Response Unit and the MDAR, Division of Crop & Pest Services must be contacted.

Emergency first responders (including, but not limited to, fire and police) should be immediately notified of a major spill and/or any size incident deemed a possible risk to public health, safety and the environment.

MassDEP will be contacted when there is a spill of a reportable quantity, regardless of major or minor spill status and in accordance with 310 CMR 40.0000 Massachusetts Contingency Plan.

In the event of a spill, information on safety precautions and clean up procedures may be gathered from (but not limited to) the sources listed in Table 3.

Table 3. Emergency Resources

Resource	Location/Phone #
Herbicide Label	Approved YOP
Herbicide Safety Data Sheet (SDS)	Approved YOP
Herbicide Manufacturer <ul style="list-style-type: none">• Corteva Agriscience (formerly Dow/Dupont)• NuFarm• Bayer	(800) 992-5994 (877) 325-1840 (866)-99-BAYER
MDAR, Division of Crop & Pest Services Clayton Edwards	(617) 626-1700
Massachusetts Department of Environmental Protection Emergency Response	(888) 304-1133
Department of Public Health Environmental Toxicology Program	(617) 624-5286
Massachusetts Poison Control Center 24-Hour Hotline	(800) 222-1222
Littleton Electric Light & Water Department	(978) 540-2222
Littleton Fire Department	(978) 540-2302 – non-emergency or 911
Boxborough Fire Department	(978) 264-1770 – non-emergency or 911
Littleton Police Department	(978) 540-2300 – non-emergency or 911
Boxborough Police Department	(978) 264-1750 – non-emergency or 911
Littleton Health Department (via Nashoba Associated Boards of Health 12 hour hotline)	(800) 698-3307
Boxborough Health Department (via Nashoba Associated Boards of Health 12 hour hotline)	(800) 698-3307
Chem-Trec	(800) 262-8200
National Pesticide Information Center	(800) 858-7378
National Animal Poison Control Center	(800) 426-4435

9.0 Notification Procedures

Once approved, a copy of the VMP will be provided to the Board of Selectmen, Board of Health and Conservation Commission. Upon approval of the VMP and YOP and 21-days in advance of the application of herbicide to a ROW, LELWD will notify the MDAR, Board of Health, water supplier, Board of Selectmen and Conservation Commission of the application. Notification will include: method and location of application, herbicide fact sheet, U.S. EPA registration number for herbicide and applicator contact information. Additionally, at least 48-hours prior to a ROW herbicide application, the applicant will publish in a local newspaper the following information: methods and location of herbicide application, approximate dates of herbicide application, name of herbicide(s) to be used, description/purpose of application and contact information for the designated individual representing LELWD whom citizens can contact. Section 9.0 was developed per 333 CMR 11.00.

10.0 Monitoring Plan

On an annual basis, LELWD will evaluate the success of this Vegetation Management Program based on the goals and objectives stated in this VMP (page 1) which include:

- Manage target vegetation while ensuring the protection of sensitive areas and the environment.
- Reduce the amount of herbicides applied over time.
- Reduce the frequency of herbicides application.
- Ensure vegetation management activities are conducted in a safe and effective manner and in compliance with regulations.

plan and assessment activities will include the following:

1. An assessment of all sites prior to treatment with regard to the estimated area and identification of target species will be mapped for future assessment.
2. Recording of amount of herbicide used during treatment for each area.
3. Evaluation of each treatment area following herbicide application. Evaluation will include a description of the overall management of target species and observation of nearby sensitive resource areas, noting impacts if any.
4. The LELWD will hold an annual VMP evaluation meeting to take place after a sufficient period of time following completion of all herbicide application activities. This meeting will evaluate efficacy and assess the following issues:
 - a. Overall management of target species in each primary treatment area
 - b. Amount of herbicide applied
 - c. Impacts related to weather
 - d. Sensitive area impacts
 - e. Comments received from the public
 - f. Overall program implementation including suggested changes

This meeting will result in the development of documentation needed to summarize the program annually for inclusion in the next VMP and/or YOP, should one be developed for MDAR approval.

Meeting minutes will include the above information, data and discussion points and will include comparisons to previous years' information. Recommendations on location and use will be reflected in the next year's YOP as applicable.

11.0 Qualifications of Individuals Developing & Submitting the Plan

Mr. Matt McFarland is Distribution Supervisor for LELWD with over 15 years of experience with LELWD. His first 11 years at LELWD was spent as an Electric Lineman and now supervises line crews. Additionally, he is the direct supervisor for the LELWD tree crew employees. Mr. McFarland holds the following certifications/licenses: Journeyman Lineman, Class A CDL, 1A/2A MA Hoisting License, CRP/First Aid, MA EHAP certified.

Comprehensive Environmental Inc. (CEI) is a civil engineering and environmental science firm that has served municipal, state, and Federal agencies throughout the New England area for over 35 years. CEI staff have worked with public entities to develop MDAR approved Vegetation Management Plans and Yearly Operations Plans for over 15 years. Technical staff are experienced in the areas of wetlands, water resources, stormwater, environmental permitting, and resource area protection.

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

225 Turnpike Road, 3rd Floor, Southborough, MA 01772
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



Maura T. Healey
GOVERNOR

Kimberley Driscoll
LIEUTENANT
GOVERNOR

Rebecca L. Tepper
SECRETARY

Ashley E. Randle
COMMISSIONER

NOTICE: PUBLIC HEARINGS FOR VEGETATION MANAGEMENT PLAN

Pursuant to the Rights-of-Way Management Regulations (333 CMR 11.00) in order to apply pesticides to control vegetation to maintain Rights-of Ways, the Department of Agricultural Resources must approve a Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP). The VMP is intended to justify the need to control vegetation, identify target vegetation, describe the intended methods of control, describe methods for identifying sensitive areas, describe operational guidelines for applicators, outline a program of Integrated Pest Management (IPM) designed to reduce the use of herbicides, and describe alternative land use activities.

The following municipalities are advised that Littleton Electric Light & Water Department proposes to utilize herbicides to treat their Rights-of-Way:

To provide all interested parties an opportunity to comment on the proposed VMP, a public ZOOM hearing will be held at the following location:

**Littleton Electric Light & Water Department VMP Public Hearing
Mar 8, 2024 09:30 AM Eastern Time (US and Canada)**

Join Zoom Meeting

<https://us02web.zoom.us/j/83230265910?pwd=Wi9VZkpPMXFvS1dKYINSV3RZT0V4Zz09>

Meeting ID: 832 3026 5910

Passcode: 694394

Dial by your location

• +1 929 205 6099 US (New York)

Meeting ID: 832 3026 5910

Passcode: 694394

Find your local number: <https://us02web.zoom.us/u/kuWwezHlk>

Available for Public Review Prior to Hearings:

Section 11.05 (3)(d) of the Row Management Regulations provide: "At least 21 days prior to the end of the public comment period, the applicant shall send a copy of the proposed VMP to the chief elected official, the Board of Health, and the Conservation Commission in affected communities upon their request." Such request should be made to:

Mr. Matt McFarland
Distribution Supervisor
Littleton Electric Light and Water Department
39 Ayer Road, Littleton, MA 01460
(978) 540-2253

The proposed VMP is posted at <http://www.mass.gov/eea/agencies/agr/pesticides/vegetation-management-and-yearly-operation-plans.html> for reviewing. It is also available for review at the Reference Desk of the following public library:

Reuben Hoar Public Library, 41 Shattuck Street, Littleton, MA 01460

Written Comments Requested

The public hearings listed above will give interested parties the opportunity to present data, views or arguments, orally or in writing concerning the proposed VMP. Persons giving testimony are also requested to provide written comments. Written comments in advance of the hearing dates are welcome. The Department will accept written testimony concerning the Littleton Electric Light & Water Department VMP until the close of business (5pm):

March 8, 2024

Commentary should be sent to:

Rights-of -Way Program
Massachusetts Department of Agricultural Resources
225 Turnpike Road, 3rd Floor
Southborough, MA 01772

333 CMR 11.00: RIGHTS OF WAY MANAGEMENT

Section

- 11.01: Purpose
- 11.02: Definitions
- 11.03: General Provisions
- 11.04: Sensitive Area Restrictions
- 11.05: Vegetation Management Plan (VMP)
- 11.06: Yearly Operational Plan (YOP)
- 11.07: Public Notification
- 11.08: Notice of Modification and Revocation
- 11.09: Right-of-appeal
- 11.10: Penalties
- 11.11: Rights-of-way Advisory Panel

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 $\frac{1}{2}$ - 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

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.

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.

Yearly Operational Plan (YOP)
Littleton Electric Light & Water Departments
2024



Submitted on December 20, 2023

Prepared By:
Little Electric Light & Water Departments
39 Ayer Road
Littleton, MA 01460
978-540-2253

&

Comprehensive Environmental Inc.
41 Main Street
Bolton, MA 01740
800.725.2550

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Table/Figure

Figure: 2024 Herbicide Treatment -
Sensitive Areas Not Readily Identifiable in the Field

Table: Control Strategies for Sensitive Areas

Appendix

- MDAR YOP Approval
- Environmental Monitor Notice
- Daily Vegetation Management Report
- Vegetation Management Plan
- Safety Data Sheets
- Herbicide Labels
- Herbicide Fact Sheets

1.0 Program Purpose

The purpose of 333 CMR 11.00, Rights of Way Management (ROW), is to promote the implementation of integrated pest management techniques and to establish standards, requirements, and procedures necessary to minimize the risk of unreasonable adverse effects on human health and the environment associated with the use of herbicides to maintain streets, road, sidewalks and paths. These regulations establish procedures that guarantee ample opportunity for public and municipal agency review and input on the right-of-way maintenance plans.

A yearly operational plan (YOP) must be submitted to the Department of Agricultural Resources (MDAR) every year herbicides are intended for use to maintain rights-of-way. The YOP provides a detailed program for vegetation management for the year. A five-year Vegetation Management Plan (VMP) was approved by the Department and is available for review at both the Town of Littleton and Town of Boxborough Departments of Public Works, Boards of Health, Conservation Commissions, and the Select Board/Town Administrators office. The VMP was approved for 2024 through 2028.

Upon receipt of this YOP, MDAR publishes a notice in the *Environmental Monitor*. The LELWD must provide a copy of the proposed YOP and *Environmental Monitor* notice to the Board of Health, Conservation Commission, and the Board of Selectmen, in which the herbicide treatment is proposed. MDAR allows a 45-day comment period on the proposed YOP beginning with the publication of the notice and receipt of the YOP and *Environmental Monitor* notice by LELWD.

Public notification of herbicide application along any ROWs is made in advance of the treatment by a separate notice and in accordance with 333 CMR 11.00. Notice is made to the MDAR, Select Board, Board of Health, and the Conservation Commission in both the Town of Littleton, MA and the Town of Boxborough, MA.

Any comments on this YOP should be made to the person designated herein as the person supervising the YOP or the person performing the treatment.

This Yearly Operational Plan, approved by the Massachusetts Department of Agricultural Resources pursuant to Rights-of-Way Management Regulations (333 CMR 11.00), has been adopted by the following roadway vegetation management program for LELWD. The undersigned hereby acknowledges that the conditions of the Yearly Operational Plan will be adopted and complied with.

Entity : Littleton Electric Light & Water Departments

Name: Mr. Matt McFarland

Office: Little Electric Light & Water Department

Address: 39 Ayer Road, Littleton, MA 01460

Telephone / Fax: Ph: (978) 540-2253

Email: mmcfarland@lelwd.com

Signature: _____

Date: _____

Wetland Determination: Issued by the Littleton Conservation Commission
Date: TBD
Valid: TBD

Issued by the Boxborough Conservation Commission
Date: TBD
Valid: TBD

2.0 Individual Supervising YOP

Name and Title: Mr. Matt McFarland
Distribution Supervisor

Department: Littleton Electric Light and Water Department

Address: 39 Ayer Road, Littleton, MA 01460

Telephone: (978) 540-2253

Signature: _____

3.0 Municipal Department Performing Herbicide Treatment

Either LELWD staff that are licensed herbicide applicators or a licensed herbicide applicator under contract to LELWD will perform the herbicide treatment. Applicators are certified by the Massachusetts Department of Agricultural Resources in the applicator category and supervised onsite by a(n) individual(s) with a Category 40 License:

Certified Applicator(s) &
License Number

Company or Department:

TBD

Address:

Telephone Number:

Email:

The following information is provided as details of the YOP for the LELWD in accordance with the requirements of 333 CMR 11.06(2):

4.0 Herbicides Proposed

The herbicides proposed for use in calendar year 2024 are:

Herbicide & EPA Reg:	Round-Up Pro (524-475) Aquaneat Aquatic Herbicide (228-365)
Active Ingredient:	Glyphosate
Registrant:	Bayer Cropscience (Round-Up Pro) NuFarm (Aquaneat)
Application Rate:	Round-Up Pro – 0.50-10% solution Aquaneat – 0.75-8% solution

Complete information for the above products is attached, including the Safety Data Sheet (SDS) and herbicide fact sheets and is made part of this YOP.

5.0 Herbicide Application Techniques and Alternative Control Procedures

The herbicide will be applied in accordance with the instructions in the attached manufacturer's information. Alternative control procedures, applicable at the designated "No Spray Zones" will consist of hand cutting, mowing, or selective trimming (mechanical). Other alternative controls will include routine street sweeping along with crack and road repairs, however these are led and provided by the Town of Littleton and Boxborough respective Departments of Public Works and not by LELWD.

Foliar treatments will be made using ready to use squirt bottles or hand pump backpacks. High volume foliar application may include a truck-mounted hydraulic sprayer. In both cases, the herbicide solution is applied to lightly wet the target plant/target area. These techniques have few limitations with the exception being reduced effectiveness on tall, high-density target vegetation and will not be used on vegetation over 12 feet in height.

Cut stump treatments will generally be performed to trees greater than 12' tall and resprout. Cut stump treatments consist of mechanical cutting of target species using chain saws immediately followed by herbicide treatment applied with a squirt bottle, a hand pump sprayer, or painted on the freshly cut surface of the stump. The herbicide is limited to freshly cut surface of the remaining stump.

All equipment used for vegetation management programs must be maintained in good working condition and should be of adequate design and ability to produce the professional quality of work that the LELWD requires. Because LELWD recognizes the vast variety and performance of herbicide application equipment, dictating how that equipment should be calibrated to deliver precise amounts of herbicide to effectively control a host of vegetation conditions is not feasible. Therefore, LELWD will utilize the most appropriate application equipment, calibrated to effectively and legally control target vegetation.

LELWD will ensure that vegetation management activities are conducted in a professional, safe, efficient manner, with special attention directed towards minimal environmental impact. LELWD staff holding applicator status are qualified, licensed and certified to apply herbicides. "Qualified" means those personnel who have been trained to recognize and identify target and non-target vegetation and are knowledgeable in the safe and proper use of both mechanical and chemical vegetation management techniques. All personnel applying herbicides in Massachusetts must be Core licensed in the Commonwealth and must work under the on-site supervision of a certified applicator for ROWs with a Category 40 license. All applicator personnel will follow all label instructions regarding Personal Protective Equipment (PPE).

Staff applicators and contractor applicators will comply with all applicable Federal and state laws and regulations. These include, but are not limited to, applicable OSHA, FIFRA and DOT regulations, 333 CMR 1-15.00, Rights-of-Way Management, Chapter 132B, Chapter 85 of the Acts of 2000 and 321 CMR 10.00 as managed by NHESP.

Herbicides will only be applied in a safe and judicious manner, in compliance with all-applicable state and Federal pesticide regulations.

Applicators will at all times exercise good judgment and common-sense during herbicide treatment activities and will immediately cease operations if adverse conditions or other circumstances warrant.

Herbicides will NOT be applied during the following adverse weather conditions:

- A. During high wind velocity, per 333 CMR 11.03
- B. Foliar applications during periods of dense fog, or moderate to heavy rainfall
- C. Foliar applications of volatile herbicides during periods of high temperatures (90 plus degrees Fahrenheit) and low humidity
- D. Cut Stump applications when deep snow (i.e.: 6" plus or ice frozen on stem or stump) prevents adequate coverage of target plants to facilitate acceptable control

LELWD staff applicators or subcontractor must complete daily vegetation management reports that include:

- A. Date, name and address of vegetation management staff
- B. Identification of site or work area
- C. List of crew members
- D. Type of equipment and hours used, both mechanical and chemical
- E. Method of application and description of target vegetation
- F. Amount, concentration, product name of herbicide(s), adjuvants, and dilutants (EPA registration numbers must be on file)
- G. Weather conditions
- H. Notation of any unusual conditions or incidents, including public inquiries
- I. Recording and/or verification of sensitive areas on ROW maps

A Daily Vegetation Management Form is included in the Appendix.

6.0 Target Vegetation

The target vegetation for this YOP will include hazard, detrimental, nuisance and invasive vegetation.

Vegetation management crews will exercise care to ensure that low-growing desirable vegetation and other non-target organisms are not unreasonably affected by the application of herbicides.

Hazard Vegetation

Vegetation considered to be a hazard includes plants or plant species that pose a risk to public safety or that impede movement along public ways. Hazard vegetation may: obscure sightlines, signs and vehicular movement, create windfall hazards, and cause winter shading (causing ice/reduced melting).

Noxious Vegetation

This category includes vegetation that could cause problems to the general public, employees or contractors. Generally, it includes poisonous plant species and those with thorns. Nuisance vegetation poses a risk to safety and health often due to dermal contact with plants that are poisonous, heavily thorned or densely colonized. Target vegetation in this category is primarily poison ivy and other noxious vegetation within 10 feet of the edge of pavement.

Detrimental Vegetation

Detrimental vegetation applies to all vegetation that can destroy or compromise the function of infrastructure by growing in cracks along the roadway, pavement/bridge joints, medians/traffic islands, drainage structures/drainageways, trails and bike paths.

Invasive Vegetation

Invasive plants can aggressively colonize areas along ROWs, blocking site distances and compromising infrastructure. Many invasive plants, such as Japanese knotweed and Phragmites, are difficult to control using mechanical means alone. Mechanical methods can also result in spreading these plants to new locations. In addition, invasive plants pose a threat to biodiversity of naturalized areas. Herbicides are the most effective method of treatment for many invasive plants. Invasive plants can include those listed on the Massachusetts Prohibited Plant List located at <https://www.mass.gov/service-details/massachusetts-prohibited-plant-list> and those voted as 'invasive' by the MA Invasive Plants Advisory Group.

7.0 Description of Methods Used to Flag or Otherwise Designate Sensitive Areas

Sensitive areas as defined by 333 CMR 11.04 are '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.' The Sensitive Areas Restriction Table at the end of this document defines specific sensitive areas and associated buffer zones and treatment restrictions such as limited-spray and no-spray zones.

The attached map identifies 'Sensitive Areas Not Readily Identifiable in the Field'. With this map, sensitive areas will be identified and marked along the ROW prior to any herbicide application. Field methods will include flagging and/or roadway marking (via paint) of start and stop areas.

With the assistance of the Conservation Commission Agent(s) and the Water Department, sensitive areas will be identified and marked along the ROW prior to any herbicide application, if needed.

8.0 Procedures and Locations for Handling, Mixing and Loading of Herbicide Concentrates

If the herbicide is applied by the LELWD staff then it will be mixed in the controlled environment at the LELWD facility or at the contractor's facility if applied by an outside contractor.

Although it is expected that all the mixed herbicide will be used, any remaining will be stored at the LELWD facility or at the contractor's facility, in accordance with manufacturer's instructions. The absorbent product "Speedi-Dri" will be available for use at the locations of application. If there is a leak in the hose, the pump will be immediately shutoff. Equipment used will be washed at the LELWD facility or contractor's facility.

If a licensed subcontractor will apply the herbicide, then all mixing and storing will take place at the subcontractor's offsite facility in a controlled environment.

Herbicides will be handled and applied only in accordance with the label instructions. Applicators will strictly adhere to all mandated safety precautions directed towards the public, the applicator and the environment.

9.0 Remedial Plan to Address Spills and Related Accidents

All mixing and loading of herbicides will be conducted at the facility where the herbicides are stored. Only the amount of herbicide necessary to carry out the vegetation control, based on monitoring results, will be mixed to ensure that there will be no waste and minimize potential problems. The vehicles carrying out the spray operations will be equipped with a bag of absorbent, activated charcoal, leak-proof containers, a broom and a shovel in case of minor spills. A clipboard log of the herbicides on the vehicle will be kept on the vehicle. Herbicide labels and fact sheets will be carried on-site by the applicator.

As soon as any spill is observed, immediate action will be taken to contain the spill and protect the spill area. The cause of the spill must be identified and secured. Spill containment will be accomplished by covering the spill with absorptive clay or other absorptive material or, for large spills, building clay or soil dikes to impede spill progress. Until completely remediated, the spill area will be protected by the placement of barriers and by the delineation of the spill area by crew members. If a fire is involved, care will be taken to avoid breathing fumes from any burning chemicals.

Minor spills will be remedied by soaking up the spill with adsorption clay or other adsorptive material and placing it in leak proof containers, removed from the site and disposed of properly. Dry herbicides, such as granulars, will be swept up or shoveled up directly in leak proof containers for proper disposal. All contaminated soil will be placed in leak proof containers, removed from the site and disposed of properly. Activated charcoal will be incorporated into the soil at the spill location per label instructions. Any minor spill will be reported to the Pesticide Bureau.

Major spills will be handled in a similar manner as minor spills, except in cases where the spill cannot be contained and/or removed by the crew. In this case the MassDEP Incident Response Unit and the Pesticide Bureau must be contacted.

Emergency first responders (including but not limited to fire and police) will be immediately notified of a major spill and/or any size incident deemed a potential risk to public health, safety and the environment.

MassDEP will be contacted when there is a spill of a regulated quantity, regardless of major or minor spill status and in accordance with 310 CMR 40.0000 Massachusetts Contingency Plan.

10.0 Emergency Contacts

In the event of a spill, information on safety precautions and clean up procedures may be gathered from the following sources:

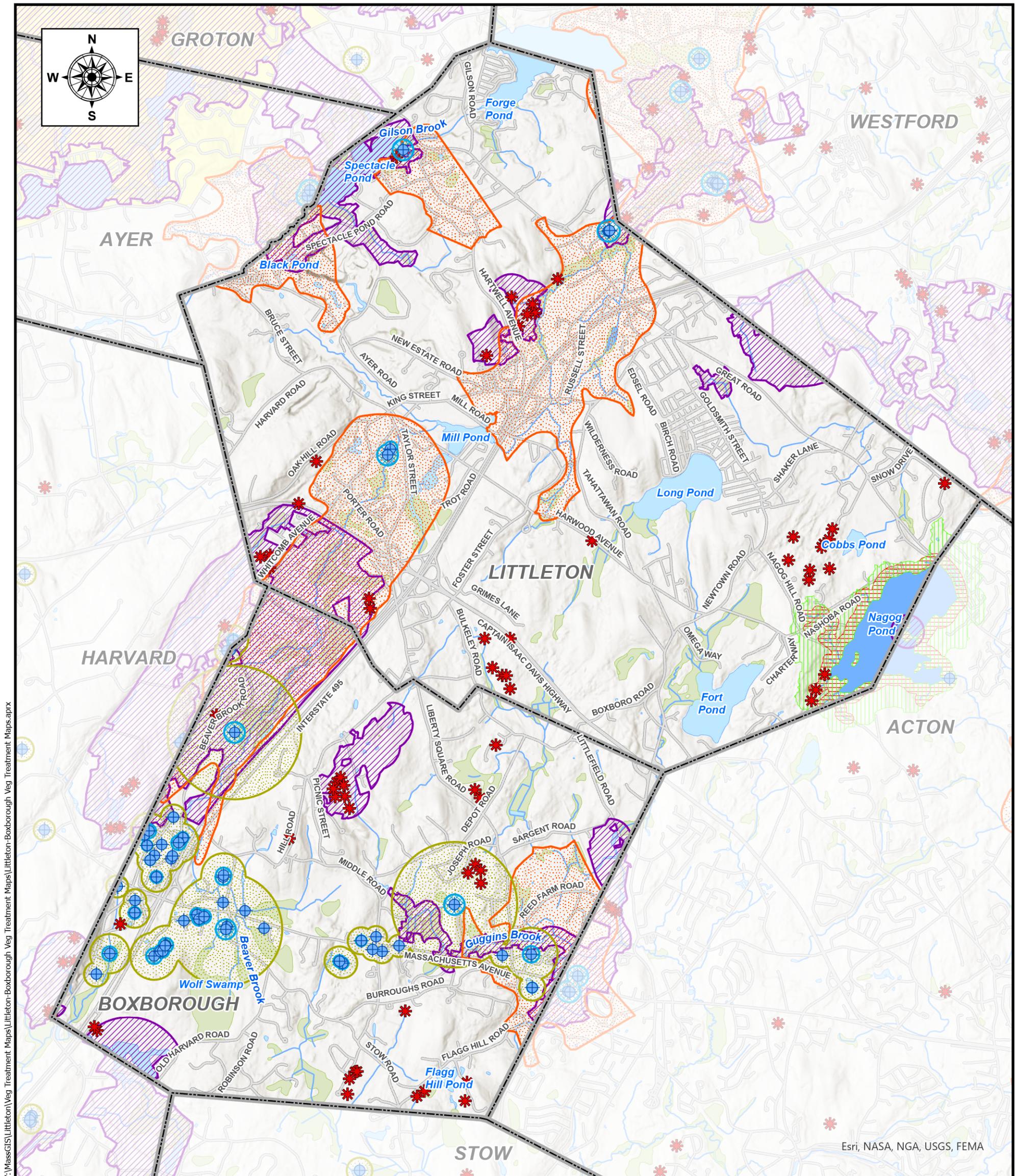
Table 3. Emergency Resources	
Resource	Location/Phone #
Herbicide Label	Approved YOP
Herbicide Safety Data Sheet (SDS)	Approved YOP
Herbicide Manufacturer <ul style="list-style-type: none">• Corteva Agriscience (formerly Dow/Dupont)• NuFarm• Bayer	(800) 992-5994 (877) 325-1840 (866)-99-BAYER
MDAR, Division of Crop & Pest Services Clayton Edwards	(617) 626-1700
Massachusetts Department of Environmental Protection Emergency Response	(888) 304-1133
Department of Public Health Environmental Toxicology Program	(617) 624-5286
Massachusetts Poison Control Center 24-Hour Hotline	(800) 222-1222
Littleton Electric Light & Water Department	(978) 540-2222
Littleton Fire Department	(978) 540-2302 – non-emergency or 911
Boxborough Fire Department	(978) 264-1770 – non-emergency or 911
Littleton Police Department	(978) 540-2300 – non-emergency or 911
Boxborough Police Department	(978) 264-1750 – non-emergency or 911
Littleton Health Department (via Nashoba Associated Boards of Health 12 hour hotline)	(800) 698-3307
Boxborough Health Department (via Nashoba Associated Boards of Health 12 hour hotline)	(800) 698-3307
Chem-Trec	(800) 262-8200
National Pesticide Information Center	(800) 858-7378
National Animal Poison Control Center	(800) 426-4435

Sensitive Area Restrictions 333 CMR 11.04 CONTROL STRATEGIES FOR SENSITIVE AREAS			
Sensitive Area	Minimum Buffer Zone (feet)	Control Method	Time Restriction Code
Public Ground Water Supplies	400'	Mechanical Only	None
Primary Recharge Area	Designated buffer zone or 1/2-mile radius	Mechanical, Recommended Herbicides*	1
Public Surface Water Supplies (Class A & Class B)	100' 100'-400'	Mechanical Only Recommended Herbicides	None 1
Tributary to Class A Water Source, within 400' upstream of water source	100' 100'-400'	Mechanical Only Recommended Herbicides	None 1
Tributary to Class A Water Source, greater than 400' upstream of water source	10' 10'-200'	Mechanical Only Recommended Herbicides	None 1
Class B Drinking Water Intake, within 400' upstream of intake	100' 100'-200'	Mechanical Only Recommended Herbicides	None 1
Private Drinking Water Supplies	50' 50'-100'	Mechanical Only Recommended Herbicides	None 2
Surface Waters	10' 10'-100'	Mechanical Only Recommended Herbicides	None 2
Rivers	10' from mean annual high-water line 10'-200'	Mechanical Only Recommended Herbicides	None 2
Wetlands	100' (treatment in wetlands permitted up to 10' of standing water)**	Low-pressure Foliar, CST, Basal Recommended Herbicides	1
Habitated Areas	100' (for high-pressure foliar only)	Recommended Herbicides	2
Agricultural Area (Crops, Fruits, Pastures)	100' (for high-pressure foliar only)	Recommended Herbicides	2
Certified Vernal Pools	10'	Mechanical Only	None
Certified Vernal Pool Habitat	10'-outer boundary of habitat	As recommended by NHESP in their permit process, no treatment without written permission	
Priority Habitat	As recommended by NHESP in their permit process, no treatment without written permission		

Restriction Code #1: A minimum of twenty-four months shall elapse between applications

Restriction Code #2: A minimum of twelve months shall elapse between applications

*Massachusetts recommended herbicides for sensitive sites



2024 Herbicide Treatment Locations

Legend

- Public Water Supply (Oct. 2023)
- Certified Vernal Pool (Dec. 2023)
- Areas of Critical Environmental Concern (2009)
- NHESP Priority Habitats of Rare Species (Aug. 2021)
- Wellhead Protection Areas (Oct. 2023)
 - Zone I (No Spray Zone)
 - Zone II
- IWPA
- Surface Water Protection Zones (2023)
 - A
 - B
 - Stream, Brook
 - Lake, Pond
 - Reservoir
 - Wetland

Sensitive Areas Not Readily Identifiable in the Field

**Littleton Electric Light and Water Department
Littleton and Boxborough,
Massachusetts**



Comprehensive
Environmental
Incorporated

0 0.5 1 1.5 2 Miles

Data Sources: MassGIS, MassDEP, NHESP

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

225 Turnpike Road, 3rd Floor, Southborough, MA 01772
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



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Rebecca L. Tepper
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Ashley E. Randle
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, a five year Vegetation Management Plan (VMP) and a Yearly Operational Plan (YOP) must be approved by the Massachusetts Department of Agricultural Resources (MDAR). Littleton Electric Light & Water Department (LEL&WD) 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).

LEL&WD has submitted a YOP to MDAR for 2024 and LEL&WD's YOP identifies the municipalities of Littleton and Boxborough as locations where they intend to use herbicides to treat their electric Rights-of-Way in 2024.

In 2024 LEL&WD will conduct a selective herbicide treatment program on their rights-of-way as part of an Integrated Vegetation Management (IVM) program on transmission and distribution lines.

The intended vegetation control program will be consistent with the guidelines set forth in LEL&WD's VMP and YOP. Herbicides will be selectively applied to target vegetation by licensed/certified applicators carrying backpack or hand held application equipment.

LEL&WD will only use herbicides recommended by MDAR for use in sensitive areas for their IVM program. Pursuant to 333 CMR 11.04, no herbicides will be sprayed within any designated "no spray sensitive sites." Instead, mechanical only methods will be used to control vegetation in these areas.

Public notification will be provided to each "affected" municipality at least twenty-one days prior to any herbicide application and in a newspaper notification at least 48 hours before the beginning of the spray season.

In accordance with 333 CMR 11.06 (2), LEL&WD's YOP includes the identification of target vegetation; methods of identifying, marking and protecting 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 rights-of-way that include mapped sensitive areas, and herbicide fact sheets and labels.

PUBLIC REVIEW

MDAR seeks to verify the location of sensitive areas defined in Section 11.02 and 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 rights-of-way pass. Municipalities have most of this information readily available, and the particular knowledge with which to better certify the 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.

The YOP can be viewed on MDAR's website: <http://www.mass.gov/eea/agencies/agr/pesticides/vegetation-management-and-yearly-operation-plans.html>

MDAR has established the following procedures for this review:

Copies of the YOP and this *Notice* will be sent by the applicant to the Conservation Commission, Board of Health (or designated health agent), the Head of Government (Mayor, City Manager, Chair of the Board of Selectman) and appropriate water suppliers of each municipality where herbicides are to be applied during the calendar year of 2024; 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 "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 who are 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 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 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 Notification Letter may serve concurrently with the forty-five day YOP review period in order to provide public notifications as required by 333 CMR 11.06-7, 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 automatically be considered by MDAR 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, Rights-of-Way Programs
Massachusetts State Pesticide Bureau
225 Turnpike Road,
Southborough, MA 01772

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

Littleton Electric Light & Water Departments
Mr. Matt McFarland
Littleton Electric Light & Water Department
39 Ayer Road, Littleton, MA 01460
Ph: (978) 540-2253

COMMENT PERIOD ENDS AT THE CLOSE OF BUSINESS (5pm) Friday, March 8, 2024

Daily Vegetation Management Report

Date: _____ Weather: _____

Applicator Name: _____ Address: _____

Identification of Site/Work Area: _____

List of Crew Members: _____

Type of Equipment & Hours Used: _____

Method of Application: _____

Target Vegetation: _____

Herbicide Product Name: _____

Total Amount Used: _____ Concentration: _____

Adjuvants/Dilutants: _____

Total Amount Used: _____ Concentration: _____

Unusual Conditions/Incidents: _____

Public Inquiries: _____

Recording/Verification of Sensitive Areas: _____

Lane Miles Treated: _____

Man Hours (actual spray hours) vs. Total Herbicide Used: _____

