

Right-of-Way Permits

Below is the excerpt from the Vermont Regulations for Control of pesticides covering the use of pesticides in Rights-of-way:

a. No person, including utilities as defined in Section I., shall use herbicides for the purpose of clearing or maintaining a right-of-way without first obtaining a permit from the Commissioner for each application as provided in this section.

(1) A request for permission to use an herbicide on a right-of-way shall be made before April 1 of the year of the proposed spray application.

(2) Application shall be made on a form provided by the Commissioner. In the case of utilities, as defined in Section I., the application shall be signed by an officer of the utility and who shall agree to conditions to be set forth by the Commissioner in the permit. Final action by the Commissioner will be taken only after the submitted application form has been forwarded to the Vermont Pesticide Advisory Council (VPAC) members for review and recommendation in accordance with 6 V.S.A. Section 1102(d)(1).

(3) The application form shall be accompanied by two sets of geodetic maps marked with the right-of-way. With the assistance of the Department of Health, the Department of Agriculture, Food and Markets, shall mark the public water supplies along the right-of-way and return one set of maps to the permit applicant. The other set shall be retained by the Department on permanent file. Subsequent requests for permits to treat the same right-of-way shall require re-submission of the permit applicant's set of maps for update.

b. After applying for a permit to use herbicides on a right-of-way, the permit applicant shall publish a notice of the intent to use herbicides which satisfies the following criteria. A copy of the notice shall be supplied to the Department prior to publication. The notice shall:

(1) be published not less than 25 days nor more than 60 days before the commencement of spraying;

(2) be published for one (1) day a week for two (2) consecutive weeks in each of two (2) newspapers prescribed in Appendix B, for every county to be affected by the right-of-way spraying. If the notices are printed in a daily newspaper, the notice shall be published on Thursdays. If notices are printed in a weekly newspaper, the notices shall be published on whatever day the paper is published;

(3) be at least two (2) columns wide by three (3) inches high;

(4) set forth the name and address of the permit applicant; a reasonable identification of the affected right-of-way; the names of the towns where the spraying is to be done; the approximate date of the herbicide application; that a permit has been requested

from the Commissioner; the method by which the herbicide is to be applied; the chemicals to be used; the name, position, address and telephone number of a person from the permit applicant to contact for further information; the address and phone number of the Department of Agriculture, Food and Markets, identifying it as the appropriate place to contact with comments and/or complaints; a warning to residents along the right-of-way that water supplies and other environmentally sensitive areas near the right-of-way should be protected from spray and that it is the resident's responsibility to notify the contact person of the existence of a private water supply near the right-of-way.

c. Applicants conducting vegetative management along rights-of-way shall submit a long-term vegetative management plan which should include:

(1) A general statement of policy and goals;

(2) Identification of a biologically sound schedule to achieve long-term objectives including a specified time interval between original control and subsequent scheduled control;

(3) Description and identification of the species to be eliminated or controlled versus the species to be left in various types of vegetative settings;

(4) List and description of techniques and conditions under which given mechanical, chemical and other methods would normally be considered appropriate;

(5) Procedure for identifying, evaluating, reporting and responding to right-of-way maintenance problems;

(6) Establishment of clearance standards sought, based on kilowatt of transmission line and the part of the right-of-way to be controlled; i.e., central strip, side strip, high visibility, other;

(7) Establishment of standards and practices for:

(a) Wetlands;

(b) Wildlife;

(c) Erosion control;

(d) Aesthetic considerations.

(8) Establishment of right-of-way inspection and monitoring standards including frequency of inspection, manner of inspections and what is to be taken note of;

suggested list -- heights of road crossing screens or ideal clearance level, danger trees, evidence of tree-conductor contact, species identification, conditions of sensitive areas, notation of condition of specially or experimentally treated areas;

(9) Retention of records to coincide with maintenance cycle of company including right-of-way inspection dates, maintenance schedules, maintenance activities;

(10) Provisions for periodically reviewing, evaluating and revising long-range plans and the time interval for such revisions;

d. In addition to newspaper advertisements, further notification by one of the following methods containing the information set forth in 4.b.(4) shall be provided by:

1) three (3) spot messages per day on each of two (2) radio stations in the area of spraying on two (2) consecutive days during the two-week period prior to the commencement of spraying.

(2) U.S. mail to residents adjacent to the right-of-way during the calendar year of spray application, at least two weeks prior to such application.

(3) a personally delivered printed statement to residents of property adjacent to the right-of-way during the calendar year of spray application, at least ten (10) days prior to such application.

e. The permit applicant shall notify the Department of the option used and the dates implemented. The text of this notice shall be supplied to the Department prior to implementation.

(1) Upon notification by the landowner or water supply user, the permit applicant shall mark private water supplies on their maps.

(2) Prior to spraying, the permit applicant shall flag all public and private water supplies marked on their maps as well as other sensitive areas as designated by the Commissioner in the permit.

(3) The permit applicant shall furnish the certified applicator with a copy of the right-of-way maps showing flagged areas and a copy of the approved permit.

(4) The applicator shall not spray near the flagged areas.

f. All right-of-way clearing or maintenance by the use of herbicides shall be conducted by certified applicators or persons working under the direct supervision of certified applicators.

- g. All uses of herbicides on rights-of-way shall be conducted by the certified applicator in a manner that minimizes the extent and duration of foliar brownout.
- h. Right-of-way spraying operations shall be conducted in a manner and under weather conditions which prevent deposits of pesticides to areas outside the rights-of-way.
- i. The clearing of brush, trees and other vegetation from rights-of-way shall be conducted in accordance with other applicable provisions of state and federal laws and regulations.
- j. All operations conducted prior, during or subsequent to the aerial application of pesticides to rights-of-way, including, but not limited to, gaining access, landing of aircraft, refilling operations and the like, shall not be conducted on private lands near the right-of-way without the owner's prior written permission. Written permission shall be maintained by the permit applicant for one (1) year following completion of the operations and shall be available to the Commissioner upon request.
- k. All permits issued by the Commissioner shall establish buffer strip distances to protect the waters of the state. Buffer strip distances shall be determined according to the type of spray operation, properties of chemicals to be used and the characteristics of the areas to be treated.