



PERMIT TO CONDUCT RIGHT-OF-WAY TREATMENT

Permit number: ROW 2022-RR01

Effective April 26, 2022

Office of the Secretary, Anson B. Tebbetts

www.agriculture.vermont.gov

116 State Street • Montpelier, Vermont 05620-2901 • (802) 828-5667 • (802) 828-1410 fax

Permittee: Vermont Railway, Inc. 118 Post Street Rutland, Vermont 05701 (802)775-4356
[Contact Person: R.T. Boucher]

Permit conditions:

1. The permittee shall contact the Agency one (1) day prior to initiating this permit.
2. The permittee shall coordinate one (1) use inspection with the Agency.
3. This permit authorizes the use of pesticides in the railroad ballast during this calendar year in the towns of Burlington, South Burlington, Shelburne, Charlotte, Vergennes, Ferrisburgh, New Haven, Middlebury, Salisbury, Leicester, Brandon, Pittsford, Rutland Town, Rutland City, Clarendon, Wallingford, Danby, Dorset, Manchester, Sunderland, Arlington, Shaftsbury, Bennington and Mount Tabor. This permit does not allow for treatment to control terrestrial invasive plant species, if not required to meet the safety and public health needs. This permit in no way authorizes the applicant to use pesticides on real estate where it has no lawful right to do so.
4. Ballast maintenance activities, defined as the mechanical plowing, brooming, tamping or regulating of treated stone ballast, are prohibited for thirty (30) days or until one (1) inch of rain has fallen following application, unless the application is a glyphosate-only application. Ballast maintenance activities are prohibited for five (5) days after a glyphosate-only application.
5. All distances described in this permit are horizontal (lateral) measurements.
6. The spray width shall be no greater than twelve (12) feet from either side of the centerline of the tracks or no greater than the width of the ballast, or as specified below.

Where safe, practical, **and** consistent with other buffers and conditions required by this permit:

- a. The spray width at public and designated private *road crossings* will extend twenty-four (24) feet from centerline on either side for 300 feet preceding and 300 feet proceeding the crossing.
 - b. The spray width for *whistle posts* shall be no greater than twelve (12) feet from centerline on the opposite side of the rail from the whistle post. The spray width may extend out to a maximum width of twenty-four (24) feet on the side of the whistle post. This extended width may begin no farther than twenty (20) feet preceding the whistle post and end no later than twenty (20) feet following the whistle post.
 - c. The spray width for *mile posts* shall be no greater than twenty-four (24) feet from centerline. Applications of up to this twenty-four (24) feet width may begin up to no farther than twenty (20) feet preceding the mile post and end no later than twenty (20) feet following the mile post.
 - d. Applications around signal cases and masts, stored material and railroad yard applications must be in accordance with the product label.
7. At least one certified applicator shall be a member of each application crew. All label recommendations and requirements for protective clothing shall be adhered to for all applicators.

8. Proof of public notification as detailed in the permit application shall be provided to the Agency as proof that the notification occurred (e.g., copies of newspaper tear sheets, invoices).
9. Pesticides shall not enter the waters of the State. Buffers to water are:
- a. Applications made **parallel** to surface water shall have a visible limit of ten (10) feet from the edge of the water when spraying glyphosate-only products, or a visible distance of fifteen (15) feet when spraying any other permitted products or mixture thereof.
 - i. In areas where the parallel water's edge is less than ten (10) feet, but farther than two (2) feet from the shoulder, only aquatically labeled glyphosate-only applications may be within the railroad tie (tie end-to-tie end).
 - b. Applications made at a surface water **crossing** shall have a visible limit of thirty (30) feet from the water's edge.
 - c. Aquatically-labeled glyphosate products may be applied up to two (2) feet from the edge of water crossings, bridge abutments or culverts containing water, by hy-rail application equipment traveling at two (2) miles per hour.
10. Public and private water supplies are to be avoided.
- a. Applications shall not be made within 200 feet of a public drinking water source. For sources supplied by surface water the buffer shall be measured from the shoreline. Surface waters in a source protection area that contribute to the source shall have a buffer of 100 feet.
 - b. Applications shall not be made within 100 feet of private drinking water source; as identified by the Vermont ANR Atlas, through well owner notification to the permittee, or identified in the field.
11. A copy of this permit and current maps identifying both public and private water supplies shall be provided to the applicator for use during application.
12. Spray reports shall be submitted by the pesticide applicator to the Agency of Agriculture on a weekly basis.

Records may be mailed to:

VAAF – Public Health Agricultural Resource Management Division
116 State Street, Montpelier, Vermont 05620

Alternatively, they may be submitted electronically to:

Morgan.Griffith@vermont.gov

13. The following pesticides may be applied at the rates listed below and in accordance with the label:

| Product name | EPA registration number | Rate not to exceed |
|---------------------|--------------------------------|---|
| Aquaneat | 228-365 | 1 qt/acre if tank mixed (2 qt/acre if only product) |
| or Roundup Custom | 524-343 | 1 qt/acre if tank mixed (2 qt/acre if only product) |
| or Diquat SPC 2L | 228-675 | 1 qt/acre |
| Esplanade 200 SC | 432-1516 | 4.0 oz/acre |

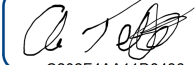
| | | |
|--------------|----------|-------------|
| Method 240SL | 432-1565 | 8.0 oz/acre |
| Oust Extra | 432-1557 | 4.0 oz/acre |

14. Applications between Flynn Avenue and College Street in Burlington shall be made under the following conditions:
- Application shall not occur on a weekend or holiday;
 - Application shall be made prior to 6:00 a.m.; and
 - The permittee shall notify the Agency twenty-four (24) hours prior to application being made.
15. In the event the permittee sub-contracts or assigns any of the applications authorized by this permit, the permittee shall continue to remain responsible for the conditions of this permit. This condition does not relieve any sub-contractor or assignee from compliance.
16. All operations shall be conducted in accordance with the representations made by the permittee in its permit application under these permit conditions unless, and until, the permit is amended.
17. Applications in rail yards and densely populated areas are to be conducted at times of low pedestrian traffic to limit human exposure.
18. The Secretary reserves the right to further limit or restrict the application of pesticides approved under this permit as conditions or circumstances warrant.

This permit was published for public comment and forwarded with recommendation to the Secretary.

Dated April 26, 2022

DocuSigned by:



C202F4AA14D8436...

 Anson B. Tebbetts, Secretary
 Agency of Agriculture, Food & Markets