



AGENCY OF AGRICULTURE, FOOD & MARKETS

Public Health and Agricultural Resource Management Division

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Right-of-Way Permit Public Comment Response Summary

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The Agency of Agriculture, Food & Markets (Agency) requires an approved permit for all right-of-way pesticide applications. Permits are required prior to treating all transmission lines, highways, airport approaches, pipelines, and railroads. Permits are not required to treat electric power substations, pole yards, storage yards, pipeline substations, highway garages and storage areas, and airport runways, taxi-strips, and storage areas. Pursuant to the Vermont Rule for Control of Pesticides, all right-of-way permit applications received by the Agency were posted for 30 days for public review on the Agency [right-of-way permit website](#). Comments received during the 30-day posting period were compiled and evaluated by Agency staff.

The public comment response summary provides responses from the Public Health and Agricultural Resource Management (PHARM) Division to the questions and comments that were received during the public comment period on right-of-way draft permits and applications.

Summary of Comments / Questions

This response summary groups the comments/questions received by permit applicant and provides the PHARM Division's responses. Comments and questions have been quantified, summarized and combined into common themes. The summarized comments are in bold below, with the PHARM Division's response in plain text following.

Vermont Electric Power Company (VELCO) (0 comments received)

No public comments were received during the public comment period referencing this specific application.

Vermont Electric Coop (0 comments received)

No public comments were received during the public comment period referencing this specific application.

Green Mountain Power (0 comments received)

No public comments were received during the public comment period referencing this specific application.

Vermont Agency of Transportation (VTRANS) (4 comments received)

- 1) The Agency of Transportation did not include a list of towns in their permit application and did not identify the ROW boundary in the accompanying maps.**

The Agency of Transportation's right of way is unique in that it touches the entirety of the state highway system and therefore their permit application is for state-wide guardrail treatment and select locations for worker protection. The 750 acres is calculated from the length and width of these areas of anticipated treatment.

The width, or boundary, of the right of way is indicated on the permit application as varying from 50 to 500 feet. However, the permit application also provides that the area within this right of way to be treated is a 4-foot width from the road surface where guardrails are present. Treatments within this 4-foot width at guardrails will adhere to all required no-spray buffer distances. VTRANS maintains both an internal detailed application map with all the required areas identified and a public facing map with limited data layers due to the extensive proposed treatment areas and data complexity. We have requested that they include all required data layers in their publicly accessible map.

2) Clarification needed for map annotations and legend regarding no-treatment areas around source protection areas.

The circles indicated on the map are community drinking water sources/wells with the required no-spray buffer zone indicated in a radius around them. This buffer is for the protection of community water sources as required by the Vermont Rule for Control of Pesticides in conjunction with the Agency's of Natural Resources Wastewater System and Potable Water Supply and Water Supply Rules.

3) Concern over planned applications within drinking water source protection area at the Middlebury airport.

Because the Middlebury Airport is a state-owned property, this area does not fall within the definition of a right of way under the Vermont Rule for Control of Pesticides and thus, will not be included in the VTRANS right-of-way permit. We have asked VTRANS to remove state airports as an area of treatment under the requested permit that is referenced in their public notifications. Nonetheless, any pesticide application made within this area must be in compliance with the Vermont Rule for Control of Pesticides and the pesticide product label. For example, the red circles indicated within the Middlebury Airport property area on the provided maps are community drinking water sources/wells with the required no-spray buffer zone shown in a radius around them. This buffer is for the protection of community water sources as required by the Vermont Rule for Control of Pesticides in conjunction with the Agency's of Natural Resources Wastewater System and Potable Water Supply and Water Supply Rules.

4) Insufficient notice to residents along the proposed ROW treatment area.

Permit holders are required to notify residents by newspaper of the intent to use herbicides according to the Vermont Rule for Control of Pesticides Section 6.01(e) (1)-(4). The notification must be published in two newspapers per county of proposed treatments. The VTRANS newspaper notification includes contact information for all District Transportation Administrators throughout the state.

In addition permit holders are required to notify residents of the intent to use herbicides in one of the following ways:

- three spot messages per day on each of two radio stations in the area of application on two consecutive days during the two-week period prior to the commencement of application;
- written communication to residents adjacent to the right-of-way during the calendar year of application, at least two weeks prior to such application, by U.S. Mail or electronic mail; or
- a hand-delivered, printed statement to residents of property adjacent to the right-of-way during the calendar year of spray application, at least ten days prior to such application.

According to their application materials, the Vermont Agency of Transportation has chosen to fulfill this requirement by having messages broadcast on seven radio stations throughout the state.

5) Agency of Transportation permit application does not include a Integrated Vegetative Treatment Plan.

The integrated vegetation management plan is required to be submitted at least every five years. The Agency of Transportations submitted their updated plan in 2022. Commenters were provided with a copy the Vegetative Treatment Plan on file.

Vermont Rail Systems [includes Vermont Railway, Clarendon & Pittsford Railroad, Green Mountain Railroad, Washington County Railroad – CT River Division, Washington County Railroad – Barre Division] (0 comments received)

No public comments were received during the public comment period referencing this specific application.

New England Central Railroad (NECR) (0 comments received)

No public comments were received during the public comment period referencing this specific application.

St. Lawrence & Atlantic Railroad (0 comments received)

No public comments were received during the public comment period referencing this specific application.

Canadian Pacific Kansas City Railroad (0 comments received)

No public comments were received during the public comment period referencing this specific application.

Town of Addison (0 comments received)

No public comments were received during the public comment period referencing this specific application.

Village of Old Bennington (0 comments received)

No public comments were received during the public comment period referencing this specific application.

City of Vergennes (0 comments received)

No public comments were received during the public comment period referencing this specific application.

National Grid (0 comments received)

No public comments were received during the public comment period referencing this specific application.

General Comments / Questions (0 comments received)

No general public comments were received during the public comment period of any posted permit.

Final issued 2024 permits are available on the Public Health and Agricultural Resource Management Division webpage: [Right-of-Way Permit Applications | Agency of Agriculture Food and Markets \(vermont.gov\)](#)