



Cape Alliance for Pesticide Education

PO Box 631

West Barnstable, MA 02668

(508) 362-5927 info@GreenCAPE.org

Non-Toxic Strategies for a Sustainable Cape Cod

NAY TO THE SPRAY! (NSTAR/EVERSOURCE)

Massachusetts Department of Agricultural Resources (MDAR) approved the 2015 Eversource (formerly NSTAR) Yearly Operational Plan (YOP) for pesticide treatment of PRIVATE and MUNICIPAL lands on Cape Cod and throughout Massachusetts despite serious and widespread objections from Cape residents, and other concerned MA residents and tourists. If you vacation on Cape Cod, you should know that electric utility rights-of-ways (ROWs) in the following towns have been targeted for herbicide spraying as part of the NSTAR/Eversource plan: Barnstable, Bourne, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Sandwich, Truro, Wellfleet, & Yarmouth. Many towns throughout the Commonwealth will be sprayed as well. To find NSTAR's plan for your town, see: Vegetation Management & Yearly Operation Plans on www.Mass.gov.

MDAR and the MA State Pesticide Bureau have failed to inspect and enforce the implementation of previous YOPs and the related state and federal regulations. There is evidence on day 1 of implementing their 2013 and 2014 YOPs that NSTAR/Eversource operated outside of the law. NSTAR/Eversource admitted to spraying on Monday November 18, 2013 (and appears to have done so on subsequent days) when conditions did NOT meet label regulations with regard to wind velocity during spraying, notification of land owners, as well as false statements about the safety of pesticide exposure for residents.

In the fall of 2014, NSTAR/Eversource contractors –again, without notice--sprayed residents and animals in Harwich even after the resident property owner requested them to stop. They refused to tell the property owner what chemicals they had sprayed on her property, person, and animals. The MDAR inspector did not sample the area for 3 weeks—and after two major storm events—and then reported the samples showed no evidence of overspray. In addition, the pesticide that was applied in the highest volume was never included in the analysis!

The herbicide spraying needs to be abandoned in favor of cutting, mowing, or other non-chemical alternatives. These rights-of-way (ROWs) are already clear and only shrubby undergrowth remains which can never reach the elevation of the power lines. The utility contractors going down the rights of way to spray could just as easily cut down small saplings instead of spraying them with harmful pesticides. Many communities have been willing to work with NSTAR/Eversource and the state agencies to develop a non-chemical vegetation management plan that is suitable for residential/public properties and water supplies.

The utility NSTAR/Eversource continues to ignore the federal law on pesticides and label on the pesticide container with the accompanying instructions which are a key part of federal and state pesticide regulation. The label provides critical information about how to handle and safely use the pesticide product and avoid harm to human health and the environment. EPA has said that, *"The label is the law"* and *"No person shall use a registered pesticide in a manner that is inconsistent with its labeling or other restrictions imposed by the department"*. This means that using a pesticide in a manner that is inconsistent with the use directions on the label is a violation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and can result in enforcement actions to correct the violations. In addition NSTAR/Eversource employees and spokespersons frequently refer to the "safety" of the spraying practice. The claim by NSTAR/Eversource or anyone else describing the pesticides as "safe" is false and misleading. Pesticides are not regulated to be safe but are rather are registered (not approved) by the EPA based on a risk/benefit analysis taking into account the economic, social, and environmental costs and benefits of the use of the pesticide. This risk/benefit criteria does not ensure "safety" and was never intended to do so. The Code of Federal Regulations

notes as "*False or misleading statements*" the following: "Claims as to the safety of the pesticide or its ingredients, including statements such as "safe," "nonpoisonous," "noninjurious," "harmless" or "nontoxic to humans and pets" with or without such a qualifying phrase as "when used as directed". In a Cape Cod Times newspaper article it has been reported -"NSTAR/Eversource officials say their vegetation management program accounts for less than 1 percent of the total herbicide use on the Cape"(though more than 2,000 gallons a year is sprayed on 150 miles of rights-of-way a few hundred feet wide), "that **it's safe**, and that, combined with other measures, it's the most effective..." This is not the first time that NSTAR/Eversource officials have attempted to mislead their customers and the general public that their herbicide program is safe. Generally NSTAR/Eversource officials refer only to the acute lethal dose and claim that the pesticides are less toxic than caffeine or nicotine, implying that the lethal dose of the pesticide is the only toxicological concern. Potential endocrine disrupting effects are never acknowledged. Their arborist reports in public and private discussion that the herbicides are safe enough for his children to drink! However, the pesticides sprayed on utility rights-of-way in back yards, gardens, children's play sets, public hike and bike paths have not been proven safe. Krenite sprayed in the highest volume of all the herbicides is not allowed for residential use (even though NSTAR/Eversource sprays it on residential property) because it has not undergone thorough health testing as it was not anticipated to be used on residential properties. California and Arizona do not allow any use of the product in their state. The other herbicides used by NSTAR/Eversource have evidence of potential impacts on the nervous system and the endocrine system among other effects. Since the IARC (International Agency for Research on Cancer) recently reported glyphosate as a "probable human carcinogen", the entire NSTAR/Eversource vegetation management scheme and the MDAR approval of the YOP should be given deeper scrutiny before spraying commences. A high percentage of the ingredients in the 5 herbicide formulations sprayed by the utility in back yards and public spaces remain undisclosed as trade secrets but they are biologically active. Neither pesticide companies nor the EPA should be able to keep us in the dark about the identity and toxicity of these chemicals.

Approval of the YOP is DEPENDENT on it being implemented within the parameters of the law. If the subcontractor violates the law it follows that the YOP has been violated and the operation should be suspended. Because FIFRA, the MA Pesticide Control Act, and the YOP have been violated in several instances, it is reasonable to request the Attorney General who enforces state law to suspend the spraying operation and investigate the infractions.

NSTAR/Eversource's current YOP is clearly not meeting its current VMP (Vegetation Management Plan) Goals and Objectives which demand that they "maintain the flexibility necessary to accommodate unique situations and the need for more appropriate techniques in accordance with new regulations, scientific advances, operational experience and/or comments from municipalities, state agencies and contractors" or that they "promote positive public relations with landowners, state and municipal officials, contractors, and the public". The utility refuses to notify property owners in any meaningful way so exposures can be avoided or minimized. The state regulator-MDAR-does not enforce the pesticide laws.

NSTAR/Eversource has disregarded the firmly expressed opposition of communities to chemical maintenance, but in addition their contractor is now putting these same communities at further risk by its reckless and illegal behavior on the rights-of-way. Firm and decisive action needs to be taken now to stop the spraying of pesticides and to discipline NSTAR/Eversource for label violations and their false and misleading statements to the public. **We are requesting Attorney General Maura Healey to investigate these questionable practices that threaten our health and water and to suspend this careless operation.** Please make the "people's lawyer"-Attorney General Maura Healey-aware of your concerns today and send a copy of your objections to your town officials and state representatives (and GreenCAPE) as well. See previous MBCC newsletter articles at www.MBCC.org or www.GreenCAPE.org for more background on the spraying of ROWs in electric utility service areas throughout New England.

Maura Healey, Attorney General
Commonwealth of Massachusetts
One Ashburton Place
Boston, MA 02108 -1518
617-727-2200
maura.healey@state.ma.us; ago@state.ma.us