



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Western Regional Office • 436 Dwight Street, Springfield MA 01103 • 413-784-1100

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

RICHARD K. SULLIVAN JR.  
Secretary

KENNETH L. KIMMELL  
Commissioner

David J. Cotton  
Cotton Tree Service, Inc.  
248 Hatfield St.  
Northampton, MA 01060

Re: **NOTICE OF NONCOMPLIANCE: NON-WE-12-4011**

Noncompliance with 310 CMR 16.00

At: Dodge Maple Grove Farm  
Northwest Road  
Westhampton, MA 01027

DEP Facility FMF # 533435  
SWM File # 12-331-900

Dear Mr. Cotton:

Massachusetts Department of Environmental Protection ("MassDEP") personnel have observed or determined that on May 18, 2012 and August 3, 2012, activity occurred at Dodge Maple Grove Farm located across from 315 Northwest Road, Westhampton, Massachusetts in noncompliance with one or more laws, regulations, orders, licenses, permits, or approvals enforced by MassDEP.

Enclosed please find a Notice of Noncompliance, an important legal document describing the activities that are in noncompliance.

If you have any questions regarding this matter, please contact Charles Clines of this office at (413) 755-2120.

Sincerely,

Date: 8/6/12

Daniel Hall  
Section Chief  
Bureau of Waste Prevention

DH/CAC/cac  
Enclosures

Certified Mail 7007 0710 0003 2181 0434  
ecc: Board of Health, Westhampton

### **NOTICE OF NONCOMPLIANCE**

THIS IS AN IMPORTANT NOTICE; FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

Based on the Department of Environmental Protection's ("MassDEP") ongoing investigation on May 18, 2012 and August 3, 2012, noncompliance occurred or was observed at Dodge Maple Grove Farm located across from 315 Northwest Road, Westhampton, Massachusetts, in violation of one or more laws, regulations, orders, licenses, permits or approvals enforced by MassDEP.

This Notice of Noncompliance describes (1) the requirement violated, (2) the date and place on which MassDEP asserts the requirement was violated, (3) either the specific actions which must be taken in order to return to compliance or direction to submit a written proposal describing how and when you plan to return to compliance, and (4) the deadline for taking such actions or submitting such a proposal.

If the required actions are not completed by the deadlines specified below, an administrative penalty may be assessed for every day after the date of receipt of this Notice that the noncompliance occurs or continues. MassDEP reserves its rights to exercise the full extent of its legal authority in order to obtain full compliance with all applicable requirements, including, but not limited to, criminal prosecution, civil action including court-imposed civil penalties, or administrative action, including administrative penalties imposed by MassDEP.

#### **NAME OF ENTITY IN NONCOMPLIANCE:**

Cotton Tree Service, Inc.  
248 Hatfield St.  
Northampton, MA 01060

#### **LOCATION WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED:**

Dodge Maple Grove Farm  
Located across from 315 Northwest Road, Westhampton, Massachusetts  
Facility FMF # 533435

#### **DATE WHEN NONCOMPLIANCE WAS OBSERVED:**

May 18, and August 3, 2012

#### **DESCRIPTION OF NONCOMPLIANCE:**

On May 18, 2012, Westhampton Board of Health representative visited Dodge Maple Grove Farm, Westhampton, Massachusetts. On August 3, 2012 MassDEP staff visited Dodge Maple Grove Farm, Westhampton, Massachusetts. Test pits were excavated and it was confirmed that clean wood waste was present in the excavated area ("stockpile"). Some of the wood waste had been

generated offsite and transported to the property. Some of the woodwaste had been onsite greater than 90 days.

MassDEP acknowledges that it appears from interviewing the previous property owners that some of the existing woodwaste was historically placed there by the previous property owners as part of land clearing and forestry activity related to operation of a family farm.

The Solid Waste Regulations allows for the processing of woodwaste under 310 CMR 16.05(5)(e) which states:

*"(e) Wood Chipping and Shredding Operations. Wood chipping and wood shredding operations when:*

- 1. only brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood, which are not mixed with other solid wastes, are processed;*
- 2. no wood containing or likely to contain asbestos, glues, or chemical preservatives such as creosote, pentachlorophenol, paints, stains or other coatings is processed;*
- 3. there is no speculative accumulation of wood or wood chips prior to or after processing. For purposes of 310 CMR 16.05(5)(e), the accumulation time period that determines if speculative accumulation is occurring shall be 90 days; and*
- 4. at least 30 days prior to commencement of operations, the operator notifies the Department and the board of health, using a form as may be supplied by the Department."*

On May 2, 2012, MassDEP received a Notification Form for On-Site Wood Chipping at Dodge Maple Grove Farm. Prior to the submittal of the Notification, you had acknowledged that woodwaste had previously been transported to the property for chipping and had been stockpiled.

The conditions observed at Dodge Maple Grove Farm in Westhampton, Massachusetts indicated that Cotton Tree Service, Inc. was in violation of 310 CMR 16.05(5)(e), sections 3 and 4.

ACTION(S) TO BE TAKEN AND THE DEADLINE FOR TAKING SUCH ACTION(S):


The following action(s) to be taken have individual deadlines associated with them. MassDEP's regulations at 310 CMR 5.09 presume that you receive this Notice of Noncompliance, if delivered by regular mail, three business days after it was issued (i.e., the date of the cover letter).

1. On May 23, 2012, MassDEP received a Notification Form from Cotton Tree Service, Inc. for a wood chipping operation at Dodge Maple Grove Farm. Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC shall comply with conditions of the exemption allowed for under 310 CMR 16.05(5)(e) unless otherwise approved by MassDEP in writing.
2. Not later than October 1, 2012, Cotton Tree Service, Inc. shall submit for MassDEP's review and approval a proposed schedule for grinding the woodwaste presently stockpiled at the Northwest Road property.

3. Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC. shall process all new (received after the date of this Notice) woodwaste delivered to Dodge Maple Grove Farm in accordance with 310 CMR 16.05(5)(e)(3), unless otherwise approved by MassDEP in writing.

Please address any questions regarding this Notice of Noncompliance to Charles Clines of this office at (413) 755-2120.

Date: 8/6/12

  
\_\_\_\_\_  
Daniel Hall  
Section Chief,  
Bureau of Waste Prevention

DH/CAC/cac