

VERMONT AGENCY OF NATURAL RESOURCES

USE OF PESTICIDES ON ANR LANDS

Purpose

The purpose of this policy is to coordinate the use of pesticides on Agency of Natural Resources' ("ANR") lands. Through the application of this policy, the Agency intends to maintain the integrity of Vermont public lands under its jurisdiction by protecting fish and wildlife habitat and natural communities; maintaining species diversity; protecting human health and safety; controlling invasive plant and insect species; and protecting forest health and the capacity to produce goods and services.

Background

In 1986, Governor Kunin issued a Pesticide Policy Statement, directing state government to "take a leadership role in the use of pesticides". This policy asked the Agency of Environmental Conservation (now ANR) "to develop long-term management plans that incorporate a schedule of pesticide minimization" and to include a Pesticide Use Impact Assessment (PUIA) process as part of management plans. The PUIA was clarified as follows: "This assessment will require the agencies to demonstrate regularly that for each proposed use there is no reasonable non-chemical alternative available and that the environmental and public health impact of pesticide use is negligible. The Agriculture Department will be responsible for reviewing the management plans and these assessments". The statement also directed that in carrying out these policies, "economic impacts shall be assessed and considered".

In 1987, the Office of the Vermont Attorney General determined that managers of state lands could choose to permit agricultural lessees to use pesticides, even if other uses are prohibited.

In 1991, the Department of Forests, Parks and Recreation (FPR) adopted Policy #9 regarding pesticides, stating that chemical pesticides would only be used when there was no reasonable non-chemical alternative. An exception was allowed for agricultural leases. A Fish and Wildlife Department (FWD) policy for Wildlife Management Areas allowed the use of pesticides when alternative methods were proven to be ineffective, and required Vermont Pesticide Advisory Council (VPAC) review when pesticide treatments were "considered extraordinary or experimental".

The initial FPR policy prohibited the use of herbicides for right-of-way maintenance. Subsequently, a formal review and permitting process for this use was developed by the Agency of Agriculture, Food and Markets (AAFM).

In 2005, FPR and FWD policies were superseded by a policy for Use of Pesticides on ANR Lands. In addition to the agricultural exception, other uses conducted under a permit from AAFM, with approval from the ANR department with land management jurisdiction, were also excepted.

The purpose of this revision is to update the 2005 policy. Principal changes are:

- Removal of exceptions for AAFM permitted uses other than right-of-way maintenance, and added exceptions for structural pest control and rapid response to emergencies.
- A process that differentiates between a new pest and/or pesticide use, requiring a new or revised PUIA, and project-level planning for pesticide applications under an existing PUIA.
- A clearer description of PUIA content, and clearer procedure for PUIA review, revision, and expiration.
- Clearer accountability, including review of work plans and recordkeeping.

Definitions

Pesticide: An “economic poison” as defined in 6 V.S.A. Chapter 81 Section 911 and the Vermont Regulations for Control of Pesticides:

(A) Any substance produced, distributed, or used for preventing, destroying, or repelling any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the secretary shall declare to be a pest;

(B) Any substance produced, distributed, or used as a plant regulator, defoliant, or desiccant.

PUIA: A “Pesticide Use Impact Assessment” to determine whether or not there is a reasonable non-chemical alternative and to evaluate the environmental and public health impacts of a proposed pesticide use/application.

Policy

Pesticides may be used on ANR land(s) only when:

1. A PUIA has been developed, reviewed, and approved in accord with this policy.
2. The PUIA includes a determination that non-pesticide alternatives will not reasonably achieve management objectives consistent with the purposes of this Policy.
3. Each project meets all PUIA requirements.

Exceptions

1. Pesticide use that is being conducted under a Right-of-Way Permit from the Agency of Agriculture, Food & Markets with approval by the appropriate ANR Department with land management jurisdiction.
2. Pesticide use by agricultural lessees/licensees on state land(s), on their crops, in compliance with all applicable rules and laws.

3. Structural pest control, defined as pesticide use in, on, or around structures and adjacent areas for the protection of stored, processed, or manufactured products or of the structure itself.
4. Emergency pesticide applications, after review by the ANR Department with land management jurisdiction of the parcel and approval by the ANR Secretary or a designee.
5. Response to public health emergencies, as declared by the Commissioner of Health.

Implementation

Programmatic Planning: Pesticide Use Impact Assessments

A PUIA will be prepared for any proposed use of pesticides on ANR Lands that is not already covered by an approved PUIA. PUIAs will be prepared or amended using the outline in the Appendix.

PUIAs may be regional or statewide in scope, covering a wide range of potential projects to be implemented over a long timeframe. They may cover individual pests or categories of pests.

PUIA review is a stepwise process of consultation and review/revision. Agency staff who prepared the PUIA will participate in all steps of the review, as follows:

1. A PUIA Review Work Group composed of technical staff, designated by the Commissioners from the three ANR Departments, to ensure potential impacts to resources under each ANR Department's jurisdiction have been considered.
2. The Vermont Agency of Agriculture, Food and Markets for review as required by the Pesticide Policy Statement.
3. The Vermont Pesticide Advisory Council to advise the ANR Secretary or designee, and, where necessary, make recommendations for increased public health and environmental protection.
4. The FPR Director of Lands Administration and Recreation (or their designee), to ensure that the recommendations of reviewers have been addressed and that the requirements of this and other relevant policies have been met, as well as review of applicable deeds, leases and any rights held by other parties, on state lands only, to ensure compliance with any such restrictions.

Approval is by the ANR Secretary or a designee, and may be for up to ten years.

Approved PUIAs will be maintained by the Director of Lands Administration and Recreation and all PUIAs will be kept in a consistent location. Copies of approved PUIAs will be provided to the AAFM.

Review of any PUIA shall be initiated if additional information arises that is relevant to the current approval. At a minimum, the PUIA Review Work Group will review all approved PUIAs after five years to determine if new information requires modifications to the PUIA or the approved use.

Pre-existing PUIAs, approved before this policy revision, will be valid through December 31, 2021.

Project Development: Annual Stewardship Plan

Uses listed on an approved PUIA will be allowed and can be employed by department land managers in accordance with the PUIA Project Requirements and all relevant label specifications.

Planned applications of pesticides, including how PUIA Project Requirements are met, will be reviewed by a designated member of the FPR staff and listed in Annual Stewardship Plans.

Operations: Pesticide Applications

All applications must be conducted in accordance with relevant laws including:

- Vermont Regulations for Control of Pesticides as adopted under 6 V.S.A. Chapter 87
- 10 VSA 2662, requiring that a notice of the proposed control measures be published in “one or more newspapers having general circulation in the area...”, including “a brief description of the location...and the approximate time when control measures will be executed.”
- Act 30 of the 1997 – 1998 Legislative Session. Broadcast application of herbicides in the commercial production of hardwoods and softwoods is not allowed. Broadcast application is defined as general application to an area other than by on-foot application to specific target plants using any of the following application methods: backpack mist sprayer, tree injector, handheld spray bottle, wick, or brush.
- EPA Worker Protection Standards

ANR staff conducting or supervising pesticide applications must have a valid State of Vermont Government Pesticide Applicator Certificate. The applicator must update a Pesticide Use Record for each day of use.

When completed, each application will be recorded in a designated lands management database.

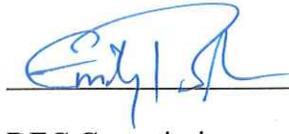
Compliance

ANR land managers at all levels shall ensure compliance with this policy, including on Agency lands leased to third parties, or rights of third parties on Agency lands, such as timber rights, and report alleged violations to the Division Director of the department with jurisdiction of the parcel.



ANR Secretary Date

10/25/19



DEC Commissioner Date

11/22/19



FPR Commissioner Date

12/4/18



FWD Commissioner Date

12/20/18

Appendix: Pesticide Use Impact Assessment (PUIA) Outline

- I. PROPOSED ACTION: *State the pesticide use that is being assessed.*
- II. NEED FOR ACTION: *Describe why this pesticide use is being considered, including the following information:*
 - a. Pest Profile: *Specify the pest(s) covered by this PUIA.*
 - b. Physical Setting: *Specify the habitat(s), jurisdiction(s) and/or land use(s) where the proposed use will occur.*
 - c. Biological Considerations: *Indicate the pest's ecosystem impacts that this use will address.*
 - d. Social/Economic Considerations: *Indicate the pest's social and/or economic impacts that this use will address.*
- III. ALTERNATIVES
 - a. Alternatives Not Assessed: *State alternative approaches, if any, for controlling this pest that were taken into consideration, but whose impacts were not fully assessed because the approach was determined to be unworkable. State why this determination was made.*
 - b. Alternatives Assessed: *At a minimum, these must include the Proposed Action, No Action, and Non-chemical alternatives, if any.*
 - 1) Proposed Action: *Should include at a minimum:*
 1. Pesticide Profile: *Describe the proposed pesticide and why it was selected for this use, including any adjuvants or surfactants.*
 2. VT DEC Preventive Action Level or other relevant benchmark.
 3. Safety Data Sheet (SDS): *Ecotoxicology data from EPA's ECOTOX knowledgebase should be included if not within the SDS sheet.*
 4. Pesticide Label
 5. Potential for Off-site Movement: *Consider potential for drift, groundwater contamination, etc.*
 6. Potential for Reducing Reliance on Chemicals: *Describe long-range plan for minimizing pesticide use under this alternative.*
 - 2) No Action
 - 3) Non-chemical alternative(s): *Describe this alternative, if any*

- 4) *Optional: Other pesticide alternative(s): Describe this alternative, if any, and include pesticide information as for the Proposed Action.*

IV. EVALUATION OF ALTERNATIVES: *Provide an evaluation, as follows, for each of the Alternatives Considered*

- a. Human Health
- b. Environmental
- c. Social/Economic

V. PROJECT PLANNING AND RISK REDUCTION:

- *List the requirements that must be met by each project conducted under this PUIA, to (1) ensure that the pesticide use is appropriate and/or (2) to reduce human, environmental and social risks.*
- *Actions could include but are not limited to: site assessments, permits, project review, pest evaluations, public involvement and/or notification, access restrictions, broadcast method restrictions, buffers, worker protection, weather restrictions, and contingency plans for accidental spills.*
- *At a minimum, the PUIA should consider if any special actions are required, during or prior to implementation, regarding:*
 - a. *Need for treatment: e.g. pest action thresholds, habitat vulnerability, special uses*
 - b. *Human health risk: e.g. voluntary exposure, involuntary exposure, drinking water*
 - c. *Environmental consequences: e.g. non-target species (including rare, threatened and endangered species), sensitive areas, surface water, ground water*

VI. REFERENCES AND OTHERS CONSULTED

VII. LIST OF PREPARERS

VIII. SUMMARY: *Major conclusions from this assessment and critical elements for implementation.*

IX. APPENDIX

- a. *Public Involvement: Indicate any public involvement in the development of the PUIA, including comments received and preparer response.*
- b. *Reviewer Comments and Response: As the review of the PUIA progresses, indicate who participated in the review, comments received and preparer response.*