# HB 195

<TARGET><BILL>HB 195</BILL><SUBJECT>HB 195</SUBJECT><COMM>HRES27</COMM></TARGET>

REPRESENTATIVE
ERIC FEIGE
House District 12

House Resources Committee Co-Chair
Education Committee
Transportation Committee
Joint Armed Services Committee

Alaska State Legislature

House of Representatives

During Session:
State Capitol Room 126
Juneau, Alaska 99801-1182
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## Sponsor Statement

## *An Act relating to the regulation and use of pesticides and broadcast chemicals*

The application of pesticides and broadcast chemicals safely and effectively controls invasive species, unwanted plants, insects, fungus, and other diseases and provides other benefits to humans and animals. Rigorous testing and application standards protect the environment and the public.

Products are developed and tested first to meet safety standards established by the Environmental Protection Agency, and then registered for use on a state-by-state basis.

Commercial applicators are trained, tested, and certified by the State of Alaska before they can use pesticides. These certified applicators apply many of the same products available to the general public at retail stores, but must be more knowledgeable than the average consumer before they can use the product.

The state of Alaska requires agencies to obtain a permit from the Department of Environmental Conservation (DEC) before they apply pesticides and broadcast chemicals on public land, or where public funds are used. The DEC permit requires collection of unnecessary information, delays application of the product, increases costs to the state and other government agencies, and does not increase safety related to product application. This permit is not required for application on private property.

Alaska Statute allows the Department of Environmental Conservation to create regulations that are specific to application of pesticides and broadcast chemicals on public land or with public funds. However, DEC created this permit procedure that is not risk-based and that is an unnecessary burden to itself and other state agencies.

This bill repeals the authority of the Department of Environmental Conservation to regulate application of pesticides and broadcast chemicals on public land or with public funds in a different manner than it requires of commercial applicators working on private property. It will not change the safety or licensing requirements for the application of pesticides or broadcast chemicals.

Email: Representative.Eric.Feige@legis.state.ak.us

# LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
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**MEMORANDUM** March 23, 2011

**SUBJECT:** Sectional summary of HB 195 (Work Order No. 27-LS0635\B)

**TO:** Representative Eric Feige
Attn: Michael Paschall

**FROM:** Alpheus Bullard TLAB
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Sections 1 and 2.** Conform statutory citations in two statutory sections with the deletion of a paragraph in sec. 3 of the bill.

**Section 3.** Removes a paragraph from AS 46.03.320(a) that specifically permits the Department of Environmental Conservation (department) to "regulate and supervise the distribution, application, or use of pesticides and broadcast chemicals in any state project or program or by a public agency under the jurisdiction of the state[.]"

**Section 4.** Changes the meaning of "public place" in AS 46.03.320(c).

**Section 5.** Amends a provision in uncodified law to conform a statutory citation in that provision with the deletion of a paragraph in sec. 3 of the bill.

**Section 6.** Deletes AS 46.03.330 (Public pesticide programs).

TLAB:plm
11-176.plm

# FISCAL NOTE

**STATE OF ALASKA**
**2011 LEGISLATIVE SESSION**

Fiscal Note Number
Bill Version **27-LS0635\B**
() Publish Date

Identifier (file name) HB195-DEC-SWM-03-18-11
Title Pesticides and Broadcast Chemicals
Sponsor Representative Feige
Requester House Resources Committee

Dept. Affected Environmental Conserv
Appropriation Environmental Health
Allocation Solid Waste Management
OMB Component Number 2344

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| | Appropriation Required | Information | | | | | |
|---|---|---|---|---|---|---|---|
| **OPERATING EXPENDITURES** | **FY 2012** | **FY 2012** | **FY 2013** | **FY 2014** | **FY 2015** | **FY 2016** | **FY 2017** |
| Personal Services | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Travel | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Services | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Commodities | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Capital Outlay | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Grants | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Miscellaneous | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **TOTAL OPERATING** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** |
| **CAPITAL EXPENDITURES** | | | | | | | |
| **CHANGE IN REVENUES** | | | | | | | |

**FUND SOURCE** (Thousands of Dollars)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 1002 Federal Receipts | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1037 GF/Mental Health | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other (please identify) | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **TOTAL** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** |

**Estimate of any current year (FY2011) cost**

**POSITIONS**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Full-time | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Part-time | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Temporary | 0.0 | | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Not applicable, initial version.

Prepared by Kristin Ryan, Director — Phone 907-269-7645
Division Environmental Health — Date/Time 3/24/11 5:00 PM
Approved by Dan Easton — Date 3/25/2011
Deputy Commissioner

(Revised 1/27/2011 OMB)

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. HB 195

**Analysis**

This bill would have no fiscal impact on DEC.

(2) establish procedures for processing, reviewing, and approving or disapproving applications for the siting and operation of privately owned hazardous waste management facilities.

(c) The department may authorize the siting and operation of privately owned hazardous waste management facilities in accordance with factors and requirements established under this section.

(d) The department shall hold public hearings in each house district in which a hazardous waste management facility site is proposed to be located. The department shall give reasonable public notice of the time, date, and place of each public hearing at least 30 days before the hearing. The public shall be afforded an opportunity at each hearing to submit written and oral testimony concerning a potential site.

(e) In this section, "intrinsic suitability" of a site means that, based on existing data on the inherent and natural attributes, physical features, and location of the site, there is no known reason why a waste management facility that may be located in the site could not reasonably be expected to qualify for a permit under AS 46.03.302 .

*Sec. 46.03.314. Reports on management sites and facilities. [Repealed, Sec. 62 ch 21 SLA 1991].*

Repealed or Renumbered

*Sec. 46.03.316. Hazardous waste reduction and recycling program. [Repealed, Sec. 4 ch 88 SLA 1990].*

Repealed or Renumbered

Sec. 46.03.317. Hazardous waste reduction matching grants.

(a) A hazardous waste reduction grant account is established in the general fund. It consists of appropriations made to it.

(b) The department may issue matching grants from money in the account to businesses, local governments, industry trade associations, labor organizations, or nonprofit organizations for the purpose of feasibility analysis and evaluation of ways to implement hazardous waste reduction.

(c) Grants under this section

(1) must be matched on a dollar-for-dollar basis by the grantee in cash or in kind;

(2) may not exceed $10,000 for any single proposal or project.

(d) The department shall establish an advisory committee, consisting of five members, to assist the department in reviewing and evaluating grant applications under this section. The advisory committee must include

(1) an officer or employee of the department;

(2) a representative of the University of Alaska;

(3) a professional civil or chemical engineer with experience in environmental engineering;

(4) an owner or representative of a small business; and

(5) a public member.

Article 05. PESTICIDE CONTROL

Sec. 46.03.320. Regulation of pesticides and broadcast chemicals.

(a) The department may

(1) regulate the transportation, testing, inspection, packaging, labeling, handling, and advertising of pesticides and broadcast chemicals offered for sale or placed in commerce for use in the state;

(2) regulate and supervise the distribution, application, or use of pesticides and broadcast chemicals in any state project or program or by a public agency under the jurisdiction of the state;

(3) regulate or prohibit the use of pesticides and broadcast chemicals;

(4) register pesticides and broadcast chemicals for sale or distribution.

(b) The department may provide by regulation for the licensing of or temporary license waiver for private applicators of restricted-use pesticides, for persons engaged in the custom, commercial, or contract spraying or application of pesticides and broadcast chemicals, and for other persons engaged in the spraying or application of pesticides and broadcast chemicals in public places. A person engaged in the custom, commercial, or contract spraying or application of pesticides and broadcast chemicals may, by regulation, be required to secure a surety bond or liability insurance.

(c) A person may not apply a pesticide or broadcast chemical in a public place unless licensed by the department or otherwise authorized under a regulation of the department. The department shall by regulation provide for reasonable public notification, including written notice posted on the application site, when pesticides and broadcast chemicals are applied in a public place. In this subsection, "public place" means (1) common areas of an apartment building or other multi-family dwelling; (2) that portion of a government office or facility to which access is not ordinarily restricted to employees; and (3) plazas, parks, and public sports fields.

(d) In this section, "multi-family dwelling" means a building that includes more than four single-family dwellings.

Sec. 46.03.330. Public pesticide programs.

(a) An officer, agent, or employee of the state, or of a borough or city of any class, may not direct, carry out, or participate in the spraying or application of a pesticide or broadcast chemical in any program or project involving funds, materials, or equipment of the state, borough, or city, except in accordance with regulations adopted by the department under AS 46.03.320 .

(b) Before a public project that would affect land owned separately by two or more persons is initiated, the person directing the program shall give public notice of the program in the manner required by regulations of the department. The department shall conduct a public hearing on the proposed program if a hearing is requested by the governing body of the affected borough or city, or by a petition signed by at least 50 residents. The requirement for public notice or public hearing may be waived if the commissioner determines that a public emergency exists.

(c) The provisions of this section apply to home rule municipalities.

Article 06. UNDERGROUND STORAGE TANK SYSTEMS

*Sec. 46.03.360. , 46.03.363l Board of storage tank assistance; Reports. [Repealed, Sec. 2 ch 102 SLA 2006].*

Repealed or Renumbered

Sec. 46.03.365. Regulation of underground petroleum storage tank systems.

(a) The department shall develop a program to abate and prevent pollution from underground petroleum storage tank systems through the adoption of regulations under AS 44.62 (Administrative Procedure Act). Consistent with other provisions in AS 46.03.360 - 46.03.450, the regulations may govern

(1) notification and registration;

(2) inspection and record keeping;

(3) construction, installation, and performance;

(4) maintenance, operation, and repair;

(5) technical standards, including standards for spill and overfill control, corrosion prevention, and release detection and reporting;

(6) financial responsibility;

(7) certification of underground petroleum storage tank system workers;

(8) corrective action and cost recovery;

(9) closure and abandonment;

(10) enforcement of regulations; and

# Questions & Answers About Pesticides

## The Need for Pesticides

**Why do we use pesticides?**

Pesticides (the generic term for insecticides, herbicides and fungicides) control weeds, insect pests and fungal and other diseases. The benefit of pesticides lies in their ability to manage a pest (weed, insect or disease) problem that potentially could become out of control and could endanger your health or the health of your family, pets and plants, or threaten the quality of your home, lawn, school or business.

## Professional Applicators

**Who are professional applicators?**

Professional applicators are people trained to apply or direct the application of pesticides as part of their jobs, generally for a fee. Professional applicators are those who apply pesticides to property other than their own.

**What type of license or certification is required to apply pesticides?**

There are two types of pesticides: general use pesticides and restricted use pesticides. General use pesticides are those purchased by the public in garden centers and retail outlets, which can be applied by homeowners without special training, just by following directions on the product label. General use pesticides are also applied by professional applicators, although professionals may have a greater choice of products or quantities from which to choose and more sophisticated application equipment.

Restricted use pesticides can be applied only by certified applicators or individuals operating under the supervision of certified applicators. To become certified, professional applicators must demonstrate, through testing, practical knowledge of pests related to the category of certification for which the individual is applying.

These minimum standards for certification are established by the U. S. Environmental Protection Agency (EPA) and each state's lead agency for pesticides is responsible for enforcement. A state may establish more stringent requirements for certification, according to needs within that particular state. Generally, it is the Cooperative Extension Service that is responsible for training and testing pesticide applicators. Training classes are usually offered in individual counties throughout a state. Certified applicators must also renew their training regularly by attending approved continuing education programs.

## Professional Products

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**Do professional applicators use products that are different than those used by the homeowner?**

Most people are surprised to find that the pesticides regularly used by professionals are often the same as general use products available to homeowners. Licensed professionals may occasionally use restricted-use products (materials not available to the general public) to solve pest problems that are not responsive to general use products and which may require more sophisticated application technology. These few restricted-use products require extra care and precaution by those who handle the concentrated material when preparing application mixes. Therefore, only certified applicators may purchase and use or supervise the application of restricted-use products.

# Are there risks associated with pesticide use?

**How safe are the pesticides used by professionals and homeowners?**

If pesticides are handled and applied with care according to label directions, they do not represent an unreasonable risk to people, non-target organisms or the environment. Each pesticide has met the safety testing standards set by EPA.

**What can I do to minimize any risks to me or to my family?**

The simplest way to minimize risk is to read the entire product label and follow all instructions, especially protective clothing requirements. Be sure to store all pesticides securely and out of the reach of children and pets. Regardless of whether you or a professional applies the pesticide, keep people and pets away from the treated area immediately following application.

If the product requires that you stay off or away from the treated area after application, it will be stated on the label. Although many products used on home lawns have no specific reentry recommendations prescribed by the product label, a good rule of thumb is to stay off a treated area until it has thoroughly dried or settled (for granular products) following pesticide application.

**Do pesticide applications harm dogs and cats?**

No, not if label instructions are followed. All pesticides are carefully tested before they can be registered by the EPA and are sold. Part of this testing includes determining possible effects on non-target organisms, such as pets.

**When can pets return to pesticide-treated areas?**

If there are any requirements regarding when pets can return to treated areas, these instructions will be on the label. Remember, some pesticides are developed and formulated for use on pets.

**Are golfers at risk from pesticides when playing on a golf course?**

No. There is no scientific evidence that golfers face any health risks from the pesticides used to maintain golf courses. Once a liquid or dry product is applied and the turfgrass is dry or the product has been watered in, there is very little chance of exposure to golfers or others who enter the area.

**How do we know that these products aren't harmful to humans or wildlife?**

The pesticide industry is one of the most highly regulated industries in the United States. Before a product is registered by the EPA, it must be rigorously tested for human health and environmental safety. This process can take up to 10 years and involve up to 120 different tests and studies. Today, manufacturers may invest as much as $150 to $185 million or more in product safety testing before a new pesticide ever comes to the market. These safety tests are required, designed and reviewed by EPA scientists and are conducted according to EPA standards.

**How can an insecticide control insects and not be harmful to people and pets?**

It is a well-established medical and scientific principle that the amount of a substance used determines whether it is harmful. With pesticides, the amount of product needed to control insects is many orders of magnitude lower than an amount that would affect mammals, such as humans and pets. Remember, exposure alone does not equal risk or harm.

**Do pesticides cause cancer in people exposed to low doses of pesticides over a period of time?**

No. As used, pesticides do not cause cancer. Before a pesticide product can be registered and marketed, it must first be evaluated as to its potential risks, including any risk of causing cancer. Only products determined by EPA to have met the Agency's rigid testing requirements can be registered by the EPA. There is no specialty pesticide on the market known to cause cancer in humans.

The American Medical Association's Council on Scientific Affairs states that there is only conjectural evidence at best that pesticides may be carcinogenic. Dr. Bruce Ames, University of California at Berkeley, states, "There is no convincing evidence from either epidemiology or toxicology that pesticides are of interest as causes of human cancer."

**Does use of aquatic herbicides present a problem with fish, swimmers and drinking water quality?**

No, the testing requirements for registration of an aquatic herbicide are even more restrictive than those applied to products for use on crops and ornamentals, because EPA recognizes the added sensitivity of aquatic ecosystems and the diversity of water uses. The label provides information on the chemical compound(s) comprising the active ingredient(s) of the herbicide, directions for correct use on target plant species, warnings and use restrictions. Selection of the appropriate herbicide requires consideration of the temporary restrictions on water use that may

be required following treatment. The label will specify timing of any use restrictions to assure protection of people, animals and the environment.

# Regulation of Pesticides

**Who regulates pesticides and their uses?**

EPA is the primary pesticide regulatory agency. Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), all products that contain pesticides must be registered with EPA before they can be lawfully sold or distributed. EPA registration means that pesticide registrants have submitted required scientific research data concerning the risks associated with the use of the pesticide, that EPA has reviewed the data and that EPA finds the data acceptable. In fact, it is illegal for EPA to grant registration to any pesticide product until the Agency is satisfied, by scientific data, that the product can be used safely.

Before EPA approves the use of a pesticide product, it must make a finding, based on sufficient scientific data, that the product can be used safely according to the proposed use instructions. Any new information that comes to light subsequently on possible or actual adverse effects of the product, whether to health or the environment, must be reported promptly to EPA. Furthermore, EPA must reevaluate the safety finding each time a new use is approved or a change is made to the use instructions for the product.

The Federal Trade Commission (FTC)
The FTC has regulatory powers covering advertising in any medium, whether transmitted orally or in written form. The FTC requires that all advertising materials and claims, including sales presentations, must be scientifically accurate and not deceptive to the consumer.

State Governments
The designated state agency is usually the Department of Environmental Protection or Conservation or the Department of Agriculture. Virtually all states require licensing, testing and certification before a company can apply pesticides commercially. Many states also regulate pesticide advertising within their borders. The designated state agency also registers all pesticides to be used within the state. Pesticide companies and most professional applicators have stringent product stewardship programs to ensure the responsible use of their products. As a consumer, as with any contractor, make sure your professional applicator is properly certified and licensed. Each product must meet the EPA testing standards.

**Are EPA registrations a statement of product safety?**

EPA registrations are granted only after exhaustive review of the test data required for the registration process. As part of the registration process, a product label is developed. When the label is followed, the product can be used without unreasonable risk to the applicator, the public and the environment.

**Are product labels adequate to allow users to use the products safely?**

Product labels provide adequate information to the users about how to use these products safely. The U.S. EPA also has an ongoing Label Improvement Program that allows the Agency to require new labeling information or to require updates and revisions that make the label as user friendly as possible.

# Testing Products

**How extensively tested are pesticides?**

Pesticide production is one of the most highly regulated industries in the United States. Before a product is registered by the EPA, it must be rigorously tested for potential human health and environmental effects. This process can take up to 10 years and involves up to 120 different tests and studies.

Today, manufacturers may invest $150- 185 million or more in product testing before a new pesticide ever comes to the market.

Most pesticides have registrations for multiple uses, many include uses on various food crops. This means even more testing has been done to satisfy the requirements of multiple registrations.

**Are pesticides fully tested before they are used?**

Yes. And, the process of pesticide registration is ongoing. Even though a pesticide is fully tested at the time it is registered, this is not the end of the process. As science advances, testing abilities change, and as new tests are developed, it is necessary to upgrade the information base on pesticides. In addition, it is not uncommon for additional tests to be required by EPA to maintain a registration or to register a product for additional uses.

The public should not be alarmed to hear that additional tests are performed for products already on the market. Rather, they should be reassured that the registration process is an ongoing effort to ensure that the information supporting the registration is always state-of-the-art.

# Movement of Pesticides from Application Site

**What is the likelihood that pesticides applied to lawns will get into groundwater?**

There is very little likelihood that pesticides applied to lawns will end up in groundwater. Well-managed turf prevents runoff into water. In studies at The Pennsylvania State University for the U.S. Geological Survey, researchers found that the impact of well-managed turfgrass on water quality is so positive that the potential for water pollution from lawn pesticides and fertilizers is considerably less than other urban pollutants not associated with well-managed turfgrass areas.

An Ohio State University study found that thatch and other underlying soil residues retained nearly all the applied pesticides during the first two weeks after application. Residues in the soil were less than one part per million over 34 weeks of sampling. This means virtually all the

applied pesticide was staying in the thatch layer and surface residues rather than moving into underground water.

Presence of pesticides in well water is minimal. There are no known reported cases of adverse health effects from pesticide-contaminated water. Even in areas where pesticide use is most heavily concentrated, the presence of pesticides in wells has been found to be minimal or nonexistent.

"Present" does not mean harmful. Advances in analytical chemistry have made it possible to detect the presence of substances at levels never thought possible. The ability to detect chemicals at parts per million has virtually been replaced by measurements at parts per billion, parts per trillion and parts per quadrillion. As a comparison, a part per million is analogous to one second in 12.5 days, part per billion is analogous to one second in 32 years, and a part per trillion is analogous to one second in 32,000 years. To find a substance present in water has more to do with the ability to detect its presence, not a determination of risk.

**Isn't the wind drift a problem with pesticide application?**

Drift is a concern only if proper precautions are not taken by the applicator.

Two types of drift may cause chemicals to move off target. Particle drift occurs when the wind scatters small spray droplets off the intended application site. Vapor drift occurs when chemicals evaporate and move with air currents to other sites. Vapor drift is not common among specialty products. In either case, an applicator should be aware of wind conditions that could cause drift..

If pesticides are applied to my lawn, is there risk to people in my house?

Even if there was drift or tracking, the amount of pesticide that could get into the house is very low.

In addition, maximum exposure is at the site of application, the lawn. The maximum application rates for the lawn has already been determined through required EPA testing, including the determination that this maximum rate of application will not result in unreasonable risk to humans.

Any amount of product that might get into the house will be far less than the amount allowed on the lawn. Therefore, any potential risk will be far less, or non-existent.

# Notification of Pesticide Application

**How can I find out when pesticide applications have been made or will be made?**

Upon request by the customer, professional applicators should voluntarily provide information to the homeowner regarding the pesticides used and the application schedule. Most companies will provide copies of product information at the time of sale or upon request. If you have not received such information, ask your professional.

Some states require posting following application. Several states offer a registry, which is a listing of persons who wish to be notified when adjacent properties will be treated with pesticides. Even in areas where a registry does not exist, good professional companies are willing to provide notification to individuals upon request.

# Integrated Pest Management

**What is IPM, and how does it work?**

Integrated pest management (IPM) is a continuous system of controlling pests (weeds, diseases, insects or others) in which pests are identified, action thresholds are considered, all possible control options are evaluated and selected control(s) are implemented. Control options—which include biological, chemical, cultural, manual and mechanical methods—are used to prevent or remedy unacceptable pest activity or damage. Choice of control option(s) is based on effectiveness, environmental impact, site characteristics, worker/public health and safety, and economics. The goal of an IPM system is to manage pests and the environment to balance benefits of control, costs, public health and environmental quality. IPM takes advantage of all appropriate pest management options.

IPM System Components
IPM systems rely on accurate determination of optimum control timing and selection of appropriate method(s). Implementation requires current comprehensive information on pests and control options. As a system, IPM programs include a series of three steps:

1. **Monitor the site for presence of pest.** Critical components of monitoring include accurately identifying the pest, the presence of the pest, level of infestation and acquiring knowledge of requirements and life cycles of the pest.
2. **Determine the action threshold below which the pest can be tolerated.** Action thresholds are determined by factors such as severity of the problem caused by the pest, health or property concerns related to the pest, and user needs for the site where the pest is found.
3. **Initiate preventive or curative action to avoid surpassing the established threshold by selecting the appropriate control method(s):** biological, chemical, cultural, manual, mechanical. The selected method(s) of protection must balance considerations of economics, efficacy, worker/public health and safety, and potential hazards to property and the environment. Following applications, the continuous IPM process begins again.

# IPM in Schools

Pests pose serious risks to children's health in schools. At the same time, the use of pesticides in schools can be challenging because of heightened concerns and misinformation. It is important to remember pesticides can be used safely and responsibly to control pests such as insects, rodents and weeds as part of a balanced integrated pest management program.

Cockroaches, ants, wasps, head lice and rats are the pests most commonly found in schools, and they do more than disrupt the learning environment. These pests pose increasing health and safety risks to children. Children, just by nature of their size, are more vulnerable to vector-borne diseases (carried by insects) because their immune systems are still developing. Consider some of the problems with pests in the school environment:

- Cockroaches can live and breed by the thousands in classrooms and cafeterias. They carry germs from filthy surfaces to cafeteria tables and classroom desks. Cockroaches are the leading cause of asthma incidents in urban youth. The more children are exposed to cockroaches, the more allergic they become.
- Mosquitoes carry deadly diseases. West Nile Virus, a deadly encephalitis virus that is transmitted to people, birds and horses by virus-carrying mosquitoes, is rampaging across the country. The number of cases of West Nile Virus continues to escalate as the spread of the disease marches across the country and into Canada. The CDC reported that for the year 2004 there were 2539 total human cases of West Nile virus reported in the United States. Of these, 100 were fatal.
- Rats and mice are often found living in and under school buildings. Rodents contaminate stored food with their droppings and urine, and spread the deadly hantavirus pulmonary syndrome (HPS), an infectious disease. The American Lung Association reports that "[a]s of September 2004, a total of 379 laboratory-confirmed cases of HPS have been reported in the United States, including 32 retrospectively identified cases that occurred before 1993. Thirty-six percent of all reported cases have resulted in deaths."
- Fire ants build their nests and routinely forage on school grounds, lawns, parks and even in schools, homes, health care facilities and nursing homes. These nests often contain more than 100,000 ants. During recess and physical education classes, children are often stung when they step into nests while playing. Fire ants can infl ict hundreds of painful stings to children. Scientists reported at the 2005 Imported Fire Ant Conference that 80 human deaths have been attributed to anaphylactic shock from bites. Five of these deaths occurred in nursing homes. More than half of the U.S. population, including children, are allergic to poison ivy, poison oak and poison sumac. Contact with each of these plants causes severe skin irritation, intense itching and burning, as well as blistering. A Wisconsin school district banned the use of herbicides to control poison ivy and other weeds. The decision was later reversed when a student had to undergo a 22-day course of steroids to treat a poison ivy rash. Other weeds, such as crabgrass and dandelions, can cause injury when children trip over them on playgrounds and sports fields.

These types of problems have caused schools to implement pest management programs. Many are turning to Integrated Pest Management or IPM.

Communication Is Key

To be effective, a pest management team has to establish clear lines of communication and designated roles of responsibility. Often, the school board sets the overall pest management policy, provides funding and monitors the results. It is important that the school board have an understanding of IPM . Sometimes school boards are pressured to completely eliminate the use of pesticides by by activists politically opposed to pesticides. School boards try this approach, only to discover that the judicious use of pesticides is needed to economically and effectively

control pest populations found in and around schools. Extensive research and solid science show pesticides pose little or no risk to the health of children or adults when used according to label instructions. Thus, pesticides are an essential component of successful IPM.

Establishing a Program

In addition to effective communications, an IPM program must include a written policy and a knowledgeable coordinator. A written policy is essential. IPM is doomed to fail without broad understanding and commitment by all stakeholders, including faculty, staff, board members and parents. A written policy helps to gain consensus and provides continuity.

Once a policy is in place, a staff person should coordinate the overall program. Whether the entire program is implemented internally or the majority of services are contracted to a pest control professional, it is critical to have a knowledgeable person on staff.

Success of IPM in schools is also dependent upon full cooperation of administrators, faculty, maintenance/custodial staff, parents and students.

*RISE is the national association representing the manufacturers, formulators, distributors and other industry leaders in volved with specialty pesticide and fertilizer products used in turf, ornamental, pest control, aquatic and terrestrial vegetation management and other non-food/fiber applications.*

*Visit our Web sites at http://www.pestfacts.org/; http://www.westnilevirusfacts.org/; and http://www.schoolpestfacts.com/.*

ARR

## AS 46.03.320. Regulation of Pesticides and Broadcast Chemicals.

**(a)** The department may

**(1)** regulate the transportation, testing, inspection, packaging, labeling, handling, and advertising of pesticides and broadcast chemicals offered for sale, or placed in commerce for use in the state;

~~**(2)** regulate and supervise the distribution, application, or use of pesticides and broadcast chemicals in any state project or program, or by a public agency under the jurisdiction of the state;~~

**(2~~3~~)** regulate or prohibit the use of pesticides and broadcast chemicals;

**(3~~4~~)** register pesticides and broadcast chemicals for sale or distribution.

**(b)** The department may provide by regulation for the licensing of or temporary license waiver for private applicators of restricted-use pesticides, for persons engaged in the custom, commercial, or contract spraying or application of pesticides and broadcast chemicals, and for other persons engaged in the spraying or application of pesticides and broadcast chemicals in public places. A person engaged in the custom, commercial, or contract spraying or application of pesticides and broadcast chemicals may, by regulation, be required to secure a surety bond or liability insurance.

**(c)** A person may not apply a pesticide or broadcast chemical in a public place unless licensed by the department or otherwise authorized under a regulation of the department. The department shall by regulation provide for reasonable public notification, including written notice posted on the application site, when pesticides and broadcast chemicals are applied in a public place. In this subsection, "public place" means (1) common areas of an apartment building or other multi-family dwelling; (2) that portion of a government office or facility that is accessible to the general public~~to which access is not ordinarily restricted to employees~~; and (3) plazas, parks, and public sports fields.

**(d)** In this section, "multi-family dwelling" means a building that includes more than four single-family dwellings.

**~~AS 46.03.330. Public Pesticide Programs.~~**

**~~(a)~~** ~~An officer, agent, or employee of the state, or of a borough or city of any class, may not direct, carry out, or participate in the spraying or application of a pesticide or broadcast chemical in any program or project involving funds, materials, or equipment of the state, borough, or city, except in accordance with regulations adopted by the department under AS 46.03.320.~~

**~~(b)~~** ~~Before a public project that would affect land owned separately by two or more persons is initiated, the person directing the program shall give public notice of the program in the manner required by regulations of the department. The department shall conduct a public hearing on the proposed program if a hearing is requested by the governing body of the affected borough or city, or by a petition signed by at least 50 residents. The requirement for public notice or public hearing may be waived if the commissioner determines that a public emergency exists.~~

**~~(c)~~** ~~The provisions of this section apply to home rule municipalities.~~

**ADEC Pesticide Permit Applications from State Agencies or on State-Owned Land – 2006 – 2011**

| Applicant | Location | Date of Application/Date of DEC Decision | Comments |
|---|---|---|---|
| ADOT&PF | Anchorage Airport | Application Date: 4/15/2008<br>DEC Decision: 5/22/2008 (approved) | Use of insecticides and herbicides at state-owned airport. |
| Alaska Railroad | Rail Line Indian to Seward | Application Date: 5/22/2009<br>DEC Decision: 4/30/2010 (approved) | Proposal to use Aquamaster (glyphosate) herbicide for weed control. Public process included 3 public hearings and received over 100 comments. ADEC approved permit and spraying occurred in 2010; however, environmental groups have continued to fight to overturn or stay decision through administrative and legal avenues. |
| Alaska Railroad | Entire Rail Line | Application Date: 6/13/2006<br>DEC Decision: 2/28/2007 – (denied) | Proposal to used Razor Pro (glyphosate), Solution Water Soluble (2,4-D), and Oust Extra (sulfometuron methyl) herbicides. Public process included 7 public hearings and comment deadline was twice extended, with 1,083 comments received. ADEC denied permit due label violations – EPA did not allow application of Oust Extra to water which was proposed by application. |
| Alaska Railroad | Anchorage Yard | Application Date: 10/15/2010<br>DEC Decision: pending | One public hearing, with ongoing public comment period. Proposal to use Aquamaster (glyphosate) for weed control. |
| Alaska Railroad | Fairbanks/Healy Yards | Application Date: 12/16/2010<br>DEC Decision: pending | One public hearing, with ongoing public comment period. Proposal to use Aquamaster (glyphosate) for weed control. |
| ADF&G | Arc Lake – Soldotna Area | Application Date: 7/28/2008<br>DEC Decision: 8/28/2008 (approved) | Use of rotenone to eliminate invasive pike in lake. Permit required due to State agency conducting activity. |
| ADF&G | Cheney Lake - Anchorage | Application Date: 7/16/2008<br>DEC Decision: 9/8/2008 (approved) | Use of rotenone to eliminate invasive pike in lake. Permit required due to State agency conducting activity. |
| ADF&G | Sand Lake – Anchorage | Application Date: 6/8/2009<br>DEC Decision: 8/3/2009 (approved) | Use of rotenone to eliminate invasive pike in lake. Permit required due to State agency conducting activity. |
| ADF&G | Scout Lake – Soldotna Area | Application Date: 6/8/2009<br>DEC Decision: 8/3/2009 (approved) | Use of rotenone to eliminate invasive pike in lake. Permit required due to State agency conducting activity. |
| ADF&G | Yakutat Lakes | Application Date: 01/11/2008<br>DEC Decision: 2/28/2008 (approved) | Use of rotenone to eliminate invasive pike in lake. Permit required due to State agency conducting activity. |
| ADF&G | Kodiak Area | Application Date: Unknown<br>DEC Decision: 3/14/2005 (approved) | Use of herbicide to control invasive weeds on state right of way. |

**ADEC Pesticide Permit Applications from State Agencies or on State-Owned Land – 2006 – 2011**

| Applicant | Location | Date of Application/Date of DEC Decision | Comments |
|---|---|---|---|
| Fairbanks International Airport | Fairbanks | Application Date: 02/23/2006<br>DEC Decision: 04/18/2006<br><br>Application Date: 02/09/2007<br>DEC Decision: 3/8/2007 (approved) | Vegetation control using Roundup. (airport owned by state). |
| Flint Hills | Anchorage Bulk Fuel Terminal | 2008 – Application Date: 01/22/2008<br>DEC Decision: 2/25/2008 (approved)<br><br>2010 –Application Date: 5/25/2010<br>DEC Decision: 6/10/2010 (permit application incomplete) | Vegetation control at bulk fuel terminal (state right of way). |
| Golden Valley Electric | Fairbanks area substations | Application Date: 03/13/06<br>DEC Decision: 4/21/2006 (approved)<br>1/4/2008 (renewal approved) | Herbicide for weed and brush control (state owned land). |
| ADNR | Plant Materials Center - Palmer | 2007 - Application Date: 01/02/2007<br>DEC Decision: 2/15/2007 (approved)<br><br>2008 - Application Date: Unknown<br>DEC Decision: 2/19/2008 (approved)<br><br>2010 - Application Date: 9/24/2009<br>DEC Decision: 5/3/2010 ( renewal approved)<br><br>2011 - Application Date: 2/16/2011<br>DEC Decision: pending | Use of various insecticides and herbicides at State owned/operated experimental agriculture facility. Permit has come under increasing interest from environmental groups, including 2 requests for informal review of ADEC's renewal decision in 2010. |
| ADOC | Point McKenzie Correctional Center | 2007 - Application Date: 01/25/2007<br>DEC Decision: 4/2/2007 (renewal approved)<br><br>2008 - Application Date: 02/01/2008<br>DEC Decision: 2/27/2008 (approved)<br><br>2010 - Application Date: Unknown<br>DEC Decision: 2/2/2010 (renewal approved) | Use of insecticides, herbicides and fungicides related to agricultural production at state-owned and operated facility. |

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| Applicant | Location | Date of Application/Date of DEC Decision | Comments |
|---|---|---|---|
| City of Valdez | Valdez | 2006 - Application Date: 03/17/2006<br>DEC Decision: 5/16/2006 (approved)<br><br>2008 - Application Date: 03/12/2008<br>DEC Decision: 3/28/2008 (renewal approved)<br><br>2010 – Application Date: 3/30/2010<br>DEC Decision: 4/26/2010 (application incomplete – see comment**) | Mosquito Control along roads and in water bodies.<br><br>** 2010 - ADEC determined that the application of insecticide along city-owned rights-of-way only (no application to adjacent land) did not require a permit. ADEC stated that application to water would still require a permit – the application was incomplete, and no permit was issued for water application. |
| Alaska Veterans and Pioneer Home | Alaska Veterans Home - Palmer | Application Date: 03/07/2008<br>DEC Decision: 3/14/2008 (approved) | Application of herbicide to control broadleaf weeds on State-owned land. |

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# FISCAL NOTE

**STATE OF ALASKA**
**2011 LEGISLATIVE SESSION**

Fiscal Note Number
Bill Version **HB 195**
() Publish Date

HB195-DOT-TMS-03-29-11
Title Pesticides and broadcast chemicals
Sponsor Representative Feige
Requester House Resources

Dept. Affected DOTPF
Appropriation Administration and Support
Allocation Transportation, Mgt and Security
OMB Component Number 2607

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| | Appropriation Required | Information | | | | | |
|---|---|---|---|---|---|---|---|
| **OPERATING EXPENDITURES** | **FY 2012** | **FY 2012** | **FY 2013** | **FY 2014** | **FY 2015** | **FY 2016** | **FY 2017** |
| Personal Services | | | | | | | |
| Travel | | | | | | | |
| Services | | | | | | | |
| Commodities | | | | | | | |
| Capital Outlay | | | | | | | |
| Grants | | | | | | | |
| Miscellaneous | | | | | | | |
| **TOTAL OPERATING** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** |
| **CAPITAL EXPENDITURES** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** |
| **CHANGE IN REVENUES** | | | | | | | |
| **FUND SOURCE** | | (Thousands of Dollars) | | | | | |
| 1002 Federal Receipts | | | | | | | |
| 1003 GF Match | | | | | | | |
| 1004 GF | | | | | | | |
| 1005 GF/Program Receipts | | | | | | | |
| 1037 GF/Mental Health | | | | | | | |
| Other (please identify) | | | | | | | |
| **TOTAL** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** | **0.0** |

**Estimate of any current year (FY2011) cost** 0.0

**POSITIONS**

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Full-time | | | | | | | |
| Part-time | | | | | | | |
| Temporary | | | | | | | |

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Prepared by Brenda Hewitt, Legislative Liaison
Division Commissioner's Office
Phone 465-4772
Date/Time 3/29/11 11:00 AM

Approved by Marc Luiken
Commissioner
Date 3/30/11 5pm

**FISCAL NOTE**

**STATE OF ALASKA** **BILL NO.** HB 195
**2011 LEGISLATIVE SESSION**

## Analysis

HB 195 allows the Department of Transportation and Public Facilities (DOTPF) to use EPA approved broadcast herbicide and pesticide chemicals that are available to the general public to maintain state infrastructure such as buildings, roads and rights of way without first securing a permit from the Department of Environmental Conservation.

Safety is a high priority at DOTPF. Vegetation, if left alone will grow out of control, blocking visibility (signs, traffic, wildlife) that could endanger motorists. Vegetation management is also important to maintain the integrity of the paved surface; to prevent erosion; to maintain drainage; to protect wildlife, and to enhance the beauty of the roadside. DOTPF currently spends approximately $5 million dollars annually on vegetation management statewide. Currently, vegetation management is conducted using mechanical (heavy equipment) and manual methods. The DOTPF's goal is to cut most vegetation on a 3 to 5 year cycle. However, in some areas, brush is cut annually and in some areas, grass is mowed multiple times per summer. In some cases, shoulders under guardrails have been paved over in order to inhibit the growth of plants that destabilize roadbeds. This adds to the cost of construction and would be unnecessary should this bill become law.

The addition of herbicides to the DOTPF vegetation management toolbox would allow the department to utilize herbicides under a detailed vegetation management. Utilizing herbicides in certain areas would reduce and/or eliminate the amount of mechanical cutting required, thereby allowing maintenance crews to concentrate their efforts on other important safety issues. The use of herbicides immediately adjacent to our asphalt pavements will protect the pavement and help to minimize damage caused by erosion and vegetation growing through the pavement.

Herbicides can be used in the control of invasive plant species within the right-of-way. This is a growing concern in Alaska. It is difficult and at times impossible to control invasives by mechanical brush cutting alone. Another use of herbicides is in the treatment of fast growing willows along the roadside. These willows attract moose and increases the likelihood of vehicle crashes with wildlife.

Allowing the DOTPF to utilize safe and targeted broadcast chemicals reduces the amount of labor and equipment required to manage our vegetation on state owned property, department maintenance crews can accomplish other vital maintenance activities that are currently being deferred.

We do not see the need for additional fiscal resources to implement this bill.

Zaumseil Letter

From: Imlorijean@aol.com
Sent: Friday, March 04, 2011 11:26 AM
To: sean.parnell@alaska.gov; mead.treadwell@alaska.gov
Cc: Sen. Lyman Hoffman
Subject: Regarding HB97

We are Troy and Lori Zaumseil and are writing to request that you support the passage of HB97 which will allow the Division of Ag to retain the statewide coordinator position, addressing noxious weeds and invasive plants. The bill is set to be heard in the House Resources Committee on Monday and move forward from there. Alaska is at such a critical place in preventing/managing the economic and ecological impact from invasive threats and maintaining the continuity of efforts is imperative.

Troy and I became involved in this issue several years ago when we found a Canada Thistle growing in a plant we purchased at a local box store. This extremely noxious and invasive plant was covered by Alaska statute (albeit a very old and outdated one), and yet when we tried to make a report to the Division of Agriculture, we were disturbed to find that they had neither staff nor funding to follow up on this serious situation. That began a journey for us as concerned citizens, property owners, gardeners, outdoors people and voters. After contacting the legislative body, we also began speaking--first to community councils then to state conventions (Alaska Forum on the Environment, CNIPM, Master Gardeners, etc) and eventually we were invited to address the opening session of the National Invasive Weeds Awareness Week in Washington D.C. to talk about Alaska's fight to protect valuable resources from invasion. During that first year, HB330 was introduced by Rep Craig Johnson and later passed unanimously by the Alaska Legislature in a demonstration of how the system CAN work for ordinary citizens who ask their representatives to protect their interests and then those elected officials take action. Troy and I have spoken about our involvement and pride in our Alaska system in presentations we have given all over Alaska and Outside, not only in D.C., but in Nevada, Oregon and Florida as well. We were asked by US Fish and Wildlife Service to speak in Allakaket, Bettles and Coldfoot this past summer and were able to educate residents of interior Alaska on the threats to their way of life posed by invasive species. Without an organized statewide program, Alaska will not be eligible for federal funding and the individual efforts of state and federal agency staffers will be far less effective. We ask you, once again, to protect the citizens you serve by voting for HB97 and allowing this work to continue uninterrupted. Prevention and Early detection are the most economical and efficient method to address the problem. Delay or disruption would certainly result in higher cost to the state's taxpayers.

In addition, we are asking that you request action be taken by the State Department of Transportation.

Travel corridors are the proven vector for invasive species to move through and into an area, and Alaska is extremely vulnerable to this scenario. It is imperative that DOT take positive action to PREVENT the spread of invasives and no longer be the passive conduit to ALLOW the spread. Roadways all over the state have noxious plants growing in the right of ways and airports also have infestations, and all of these are allowing noxious weeds to be spread into pristine areas that are defenseless when these seeds and plant parts are transported through or onto them. The Department needs to be given a mandate to address this issue so that their budget allocations can be made accordingly. The DEC approval process to treat noxious weeds is so cumbersome as to be nearly ineffective and needs to be streamlined to allow effective and efficient treatment. While Troy and I are not versed in the workings of state bureaucracy, we are confident that those in receipt of this e-mail will be able to take the necessary steps to bring DOT and DEC into step with assisting in the problem and not adding to it.

Thank you so much for your time and attention

Lori and Troy Zaumseil
9015 Dewberry St
Anchorage, AK 99502
907-602-3604

# Alaska Railroad Corporation
# Vegetation Control Cost Overview – March 2011

*Compiled by Tom Brooks, Alaska Railroad Chief Engineer*

## Cost Comparison: Herbicide vs. Manual/Mechanical Methods

The Alaska Railroad Corporation (ARRC) has used a combination of mechanical methods (using heavy equipment such as a brush cutter and ballast regulator) and manual methods (workers using weed-eaters, small mowers, hand-pulling, etc.) to control vegetation since the early 1980s. In 2010, ARRC included chemicals in the mix, having obtained a permit to apply herbicides in the Seward Rail Yard and along about 30 miles of the track between Seward and Indian. Herbicides are not appropriate for all vegetation control situations, and the railroad will always need to employ a combination of mechanical, manual and chemical methods to adequately control vegetation.

*A Railroad track maintenance worker manually controls weeds in the Seward yard. Herbicides are far more effective for controlling vegetation within the rail yards.*

*A brushcutter provides mechanical vegetation control along the track and shoulder. Vegetation in this area is more effectively controlled with herbicides.*

*The herbicide AquaMaster is applied by a licensed contractor using a low-volume, low-pressure equipment to direct the herbicide only where it is intended.*

If ARRC were able to increase the use of herbicides in appropriate areas, safety improvements could be realized at substantially lower cost. The following comparison takes into account the costs of vegetation control such as track crew labor, equipment use (fuel/maintenance), herbicide contractor fees, etc. It does not include regulatory costs, such as herbicide permitting expenses, regulatory fines, etc.

The Alaska Railroad's Engineering and Maintenance of Way departments estimate the railroad could save more than $250,000 per year – or nearly a quarter (24%) of the vegetation control budget – by increasing its use of herbicides from 7% of the budget to 14% of the total.

### *Final 2011 Vegetation Control Program – Actual Budget and Plan*
***(Without Permitting Costs)***

| Cost Area | Method Employed | 2011 Budget | % of Budget |
|---|---|---|---|
| Brush further than 12 ft from tracks | Manual & Mechanical | $ 492,000 | 47 % |
| Track and Shoulder Vegetation | Mechanical | $ 282,000 | 27 % |
| Track and Shoulder Vegetation | Manual | $ 200,000 | 19 % |
| Track and Shoulder Vegetation | Chemical | $ 75,000 | 7 % |
| **Total** | | **$ 1,049,000** | **100 %** |

### *Hypothetical 2011 Program*
***(Increased Chemical Control, Estimated):***

| Cost Area | Method Employed | 2011 Budget | % of Budget |
|---|---|---|---|
| Brush more than 12' from tracks | Manual & Mechanical | $ 492,000 | 47 % |
| Track and Shoulder Veg | Mechanical | $ 100,000 | 10 % |
| Track and Shoulder Veg | Manual | $ 50,000 | 5 % |
| Track and Shoulder Veg | Chemical | $ 150,000 | 14 % |
| **Savings **** | | **$ 257,000** | **24 %** |
| **Total** | | **1,049,000** | **100 %** |

** Estimated savings does not include favorable cost results from increased effectiveness of chemical control, including savings from safer railroad operations and reduced regulatory fines from the Federal Railroad Administration.

## Herbicide Permitting Costs

The cost to obtain an herbicide permit from the Alaska Department of Environmental Conservation (ADEC) is substantial in terms of money spent and staff resources dedicated to the task. During previous unsuccessful attempts at obtaining a permit – most recently in 2006 – the public and agencies requested research be conducted to determine how herbicides behave in Alaska's environment. In response, in 2008 the Alaska Railroad commissioned a multi-year herbicide study conducted by the University of Alaska Fairbanks (UAF) Alaska University Transportation Center (AUTC).

With research underway, the Alaska Railroad has since applied for three herbicide permits:

1. **Seward Yard** and 30 miles along the track from Seward to Indian — Permit process began in 2009, with ADEC approving a 2-year permit in 2010.
2. **Anchorage Yard** — Permit process began in late 2010. A public hearing took place February 18, 2011, and the public comment deadline was March 16, 2011.
3. **Fairbanks & Healy Yards** and nearby branch tracks — Permit process began in late 2010. A public hearing took place February 22, 2011, and the public comment deadline ws March 16, 2011.

### *Herbicide Permit Cost Summary (2008 to present):*

| | |
|---|---|
| UAF Study to Evaluate Use of Herbicides in Alaska | $ 189,000 |
| Legal Fees to Defend 2009 ADEC Permit (ongoing [1]) | 87,000 |
| Expert in Toxicology | 46,000 |
| ADEC Permit Public Hearing Related Costs [2] | 12,000 |
| Total Herbicide Permit Costs, to date: | $ 334,000 |

[1] Environmental groups continue to litigate the permit issued to ARRC in 2010 based on procedural arguments.

[2] Hearing costs include advertisements, facility rental and catering, court reporter, etc.

Time spent by Alaska Railroad staff is not included, only third-party costs. However, ARRC staff time has been considerable. For example, ARRC personnel have collectively spent hundreds of hours to compile and submit the permit application, organize and publicize public hearings, oversee and respond to agency requirements, create public information materials and dedicated web site section, respond to public and media inquiries, document the permit process, etc.

## Federal Regulatory Agency Warning and Action

The Federal Railroad Administration (FRA) is the federal agency with authority to regulate the safety of railroads operating within the United States. Annually, FRA regulators inspect ARRC tracks to identify any non-compliance

### *Federal Railroad Administration Assessment and Warning*

In April 2009, the FRA notified ARRC that its vegetation control was inadequate. The FRA's Chief Safety Officer Jo Strang said:

> Persistent vegetation on and around the track structure presents a recognized safety risk. Overgrown vegetation can brush the sides of rolling stock, obstruct the visibility of railroad signs and signals, and interfere with railroad employees performing normal trackside duties. Plant roots growing under the tracks can also undermine the rail bed by preventing proper drainage.
>
> Particularly troublesome is the fact that overgrown vegetation can hinder railroad employees from visually inspecting crossties, fasteners, tie plates, rail bolts and other parts of the track structure. This can lead to track defects that go undetected and result in accidents. Considering that ARRC transports over a half million passengers and 30,000 freight cards containing hazardous materials each year, an accident on the railroad could be catastrophic. Proper track inspections are essential, particularly during the summer months when ARRC's passenger travel is at its peak, and the vegetation problem is at its worst.
>
> Since 1997, FRA has written 947 defects and 74 violations for vegetation safety issues and concerns against the ARRC. However, recent FRA observations have confirmed that the growth rate and location of vegetation along the 500 miles of ARRC track continue to get worse, despite these enforcement actions.
>
> ARRC should be aware that continued violation of FRA requirements will result in significantly increased civil penalties. More violations and defects will likely be taken, and civil penalties may be assessed at the maximum level of $16,000 per violation. If ARRC's vegetation management problems persists or worsens, FRA may use additional enforcement tools… These tools could include the following: … speed restrictions… An emergency order removing affected track from service.

These comments were excerpted from a written warning letter dated April 15, 2009. The entire letter is available on the Alaska Railroad's website, www.AlaskaRailroad.com (click on Environmental, then Vegetation Management).

## *Federal Railroad Administration Fines for Inadequate Control, 2009 and 2010*

Annually, FRA regulators inspect ARRC tracks to identify any non-compliance with federal regulations and recommend civil penalties.

| Year | Total Non-compliant Vegetation Defects | Recommended for Civil Penalty |
|---|---|---|
| 2009 | 728 locations | 97 |
| 2010 | 299 locations | 24 |

Between 2000 and 2008, the ARRC paid about $50,000 in FRA fines for vegetation. Within its April 2009 letter of warning, the FRA indicated that ARRC could expect greater levels of enforcement. During 2009 and 2010, enforcement levels were indeed greatly increased. To date, the ARRC and FRA have not settled the amounts of 2009 or 2010 fines that will ultimately be paid. In 2010, the FRA did favorably note the increase in ARRC control efforts including the use of herbicides. The FRA has put the 2009 fines on hold pending further efforts and evaluation. ARRC estimates the fines for 2009 alone, if enforced, would be between $100,000 and $2 million.

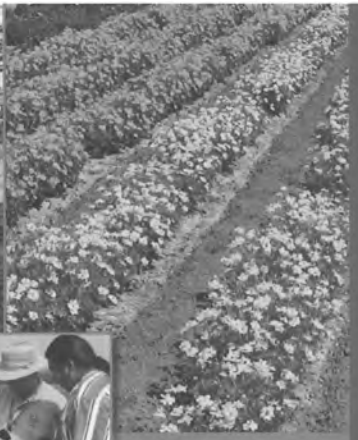
*Track is quickly covered with fast-growing weeds during Alaska's long summer days.*

*The herbicide works effectively on weeds between the ties, without migrating or lingering in the soil.*







NATIONAL PESTICIDE APPLICATOR CERTIFICATION CORE MANUAL

# NATIONAL PESTICIDE APPLICATOR CERTIFICATION

## CORE MANUAL

# CONTENTS

# Additional Applicator Requirements

Applicators for specific categories are responsible for the material covered in the following manuals and guides. Some of these materials are available for free download, while others must be purchased. Manuals can be quite large and can take awhile to download based on your browser connection.

| | CATEGORY | MANUAL |
|---|---|---|
| 1. | **Regulatory Pest Control** - State, federal or other governmental employees who apply pesticides to control regulated pests. Example: A city employee who uses rodenticide to control rats. | Michigan State University Regulatory Pest Management E-2055, Jan. 2006.<br><br>Alaska Regulatory Pest Management Supplemental Information<br><br>Rat Control for Alaska Waterfront Facilities |
| 2. | **Demonstration and Research Pest Control** - Government employees, extension agents, or researchers who advise or make recommendations about pesticide use, demonstrate proper use or techniques, or conduct field research on pesticide use. Examples: A cooperative extension agent who makes recommendations to homeowners about which type of pesticide to use, or a university researcher studying the efficacy of pesticides in northern climates. | Oregon Pesticide Safety Education Program Demonstration and Research Pest Control Manual<br><br>Alaska Demonstration and Research Pest Control Supplemental Information |
| 3. | **Private Agricultural Pest Control** - Individuals who want to apply restricted use pesticides to agricultural crops or commodities, greenhouses, nurseries, animals, etc. Example: A farmer who applies a restricted use pesticide to a crop. | Washington State University Agricultural Week Management Principals MISC0167<br><br>Washington State University Introduction to Insect and Disease Management MISC0175<br><br>EPA How to Comply with WPS Manual<br><br>Alaska Agricultural Pest Control Supplemental Information |
| 4. | **Ornamental and Turf Pest Control** - Applicators who use pesticides to control outdoor pests on landscaping lawns or turf. Example: Groundskeepers who use weed and lawn feed products on client's lawn or apply fungus control to ornamental plants, or a tree care company that injects trees to control aphids. | Washington State University Turf and Ornamental Weed Management Principals EM035<br><br>Washington State University Introduction to Insect and Disease Management MISC0175<br><br>Alaska Ornamental and Turf Pest Management Supplemental Information |

| | CATEGORY | MANUAL |
|---|---|---|
| 5. | **Anti-fouling Paint** - Individuals who apply anti-fouling paint that inhibits the growth of algae, barnacles, marine borers, and other aquatic life on boat hulls. | Alaska Anti-Fouling Paint Applicator Manual |
| 6. | **Aquatic Pest Control** - Individuals who apply pesticides to any type of surface water, including lakes, ponds, streams, etc. Example: A Fish and Game employee who applies rotenone to eradicate invasive northern pike. | Michigan State University Aquatic Pest Management E-2437, February 2006<br><br>Alaska Aquatic Pest Management Supplemental Information |
| 7. | **Industrial, Institutional, Structural, and Health-Related Pest Control** - Individuals who apply pesticides to buildings or structures, including homes, restaurants, schools, hospitals, warehouses, storage units, or any other structures. Example: A pest control company that sprays for spiders inside someone's home, a carpet cleaning company that uses anti-bacterial sanitizer, or a mold remediation company that uses anti-fungal products to control mold. | Washington State University Pest Management Study Manual for Pest Control Operators EM019<br><br>Alaska Structural Pest Control Supplemental Information |
| 8. | **Public Health Pest Control** - Individuals in the health care or environmental health field who use or recommend pesticides. Example: A public health nurse who recommends pesticides for bedbug control or an environmental health officer who recommends pesticides for sanitation at a restaurant. | Florida Public-Health Pesticide Applicator Training Manual (all except Chapters 3 & 6)<br><br>Alaska Public Health Manual |
| 9. | **Right-of-Way Pest Control** - Individuals who use pesticides to control unwanted vegetation along rights-of-way for roads, railroads, power lines, pipelines, etc. | Washington State University Rights-of-Way Vegetation Management EM029<br><br>Alaska Right-of-Way Pest Management Supplemental Information |
| 10. | **Mosquito and Biting Fly Pest Control** - Individuals who apply pesticides to control mosquitoes or biting flies. | Florida Public-Health Pesticide Applicator Training Manual, Chapter 3 - Mosquitoes<br><br>Florida Public-Health Pesticide Applicator Training Manual, Chapter 6 - Flies<br><br>Alaska Mosquito and Biting Fly Management Supplement |
| 11. | **Aerial Pest Control** - Individuals who apply pesticides by aircraft, including fixed-wing, rotary-wing, and air cushion vehicles. Aerial applicators must also have a valid pilot's license. | National Aerial Applicator's Manual (Coming Soon!)<br><br>Alaska Aerial Pest Control Manual Supplemental Information |

| | CATEGORY | MANUAL |
|---|---|---|
| 12. | **Forest Pest Control** - Individuals who use pesticides for forestry vegetation management programs, for controlling forest insects, or for maintaining logging roads. | Michigan State University Forest Pest Management<br><br>Insects and Diseases of Alaskan Forests<br><br>Alaska Forest Pest Management Supplemental Information |
| 13. | **Wood Preservatives** - Applicators who apply wood-preservative pesticides on a commercial or contract basis, to public places, on state owned land or rights-of-way, or apply restricted use wood preservative products. | Oregon State University Wood Preservation and Wood Products Treatment Training Manual EM-8403<br><br>Alaska Wood Preservatives Supplemental Information |
| 14. | **Restricted Use Pesticide Dealer** - Individuals who sell or distribute restricted use pesticides to other certified applicators. | Alaska Restricted Use Pesticide Dealer Manual |

From the Alaska Department of Environmental Conservation

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Alaska's Pest Control Experts
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April 1, 2011
Re: HB195

Honorable Co-Chairs, Mr Feige & Mr Seaton
Honorable Vice-Chair Ms Wilson
Honorable Committee Members:

First let me thank the honorable Mr Feige and his staff for the fine work done on preparing and introducing HB195. The major thrust of this bill is clearly defined, and well past due in the opinion of industry. Please except the full support of this Bill from the pest control community here in Alaska, with one concern addressed below (par 3).

For many years, the State Department of Environmental Conservation (ADEC) has maintained a close watch over the safety of pesticide applications in our state. While we have not always seen eye-to-eye on some factors of their oversight, our industry has been blessed with the overall fairness and scientific application of Federal and State regulations on our activities and products. Unfortunately, as this Bill addresses, it has had its hands shackled in its ability to present a united application of these regulations to certain non-commercial applicators. As a result, it has spent large numbers of hours on permitting processes and subsequent required hearings, to be allowed to simply affirm regulation already in place by State Statute and Department Regulation. I will be the first to admit that this has reduced their ability to protect the general public on issues of safety and enforcement in other areas including our idustry's activities. As a result, I can personally attest to some questionable actions, which I will keep private, that have occurred over the years. While I have tried to address these on a personal level where possible, I believe some are a result of unnecessary time spent by ADEC on the permitting and duplicate oversight of a small number of applicators and users that have a very safe record on issues of pesticide choice and application. I believe that the recommendations addressing AS 46.03.320 as written in HB195 are well past due. On a 'housekeeping' note, I do believe, on a matter of documentation, that this action will also negate AS 46.03.330 (as I understand it) and should be included in this action.

I do have a concern about the recommended change per Section 4 to AS 46.03.320 as written in this Bill. When this definition was discussed in its inception, the stakeholders and sponsors sought to find the appropriate language to provide any needed protection of the public, while avoiding unnecessary burdens on the addressed facilities. I believe the language as currently written provides that. The change recommended here adds unnecessary confusion to the definition AND unnecessary cost to the facility. In actuality, there is virtually no area of a facility that is not accessible to the "general public" if an employee or vendor were to escort them there. In that case, the escort would no doubt be present to point out any application concerns that may be present, and other "posting" requirements addressed elsewhere would provide the level of safety sought by previous Legislators. What this change will create, however, is that the facility would be REQUIRED to have a Certified Applicator on staff OR hire at additional expense an outside Commercial Applicator, to apply even the least toxic pesticide (including ADEC governed "green" pesticides and certain cleaning and sanitizing compounds). In my opinion, this section should be removed form HB195.

I remain at your service, via phone or e-mail, to provide any clarification on the matters addressed herein, or any other matter pertaining to pesticide use and safety in our great State.

Respectfully,

Ken (Kenneth J) Perry
President/General Manager
mail@paratex-pp.com