

Memo



Date: February 3, 2010
File: 5280-05
To: City Manager
From: Todd Cashin, Environment and Land Use Manager
Subject: Pesticide Bylaw Update

Report Prepared by: Michelle Kam, Sustainability Coordinator

Recommendation:

THAT Council receive, for information, the Report of the Environment and Land Use Manager dated February 3, 2010 with respect to an update regarding the Pesticide Bylaw;

AND THAT Council direct staff to complete the *Provincial Response Form for the Cosmetic Use of Pesticides in British Columbia* to indicate City of Kelowna support for Provincial legislation to:

1. Prohibit the sale and use of cosmetic pesticide products by homeowners, except for excluded "least toxic" pesticides as defined in Schedule 2 of the Provincial Integrated Pest Management Regulation;
2. Require that all persons applying cosmetic pesticides, except excluded pesticides, be licensed applicators;
3. Require that all companies applying cosmetic pesticides, except excluded pesticides, be accredited by PlantHealthBC, or similar program;
4. Require pre-posting of signage by licensed applicators prior to the application of cosmetic pesticides, except excluded pesticides;
5. Require non-cosmetic and excluded pesticides be sold "behind the counter" to ensure consumers are appropriately advised prior to purchasing products;
6. Prohibit the use of pesticides inside and outside child care centres and schools, except for excluded pesticides; and
7. Prohibit the sale and use of pesticide-fertilizer combination products (such as weed and feed type products) for lawns.

Background:

The purpose of this report is to provide an update on the Pesticide Bylaw as well as seek Council direction that will inform staff as to our response to a Provincial survey on actions the Province should consider.

Pesticide Bylaw Update Report

On March 12th, 2008 Council endorsed the Pesticide Regulation Bylaw, No. 9920 which went into effect on January 1st, 2009.

City of Kelowna's "Be Pesticide Free" education campaign:

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Staff enhanced and implemented the “Be Pesticide Free” education campaign. A telephone survey was conducted in August 2009 to determine the level of awareness. The survey indicated there is a high level of awareness of the Pesticide Bylaw as eight-in-ten (78%) Kelowna residents with yards/outside areas they maintain are aware of the Pesticide Regulation Bylaw.

Over 43% of those who are aware of the bylaw previously used pesticides on their property. Of these previous users, 37% have eliminated their pesticide usage since the bylaw came into effect and an additional 37% have reduced their pesticide usage. Of those aware of the bylaw, who previously used pesticides and have eliminated their pesticide use, 31% reported that the bylaw encouraged them to be pesticide free while 18% attributed eliminating their pesticide usage to understanding the harm they can cause the environment. 20% of respondents report that the bylaw has not changed their use of pesticides.

The survey indicated a high level of success in the first year of the bylaw coming into effect. With continued public education the numbers of pesticide users should be further reduced. Residents are looking to understand what alternatives are available and how pesticides may negatively impact the environment.

Education Campaign

The education campaign targets retailers and residents through marketing and interaction at public events. This comprehensive education program is delivered through media releases, television commercials, videos, internet, radio ads, newspaper ads, the Living Greener calendar as well as the City’s website. A seasonal Environmental Technician was hired in April 2009 to increase awareness of the Pesticide Bylaw, as well as provide residents with information regarding the “Be Pesticide Free” campaign. Public events attended included Farmer’s Markets, the Mayor’s Environmental Expo, Mardi Gras, Family Fun Day, and Family Environment Day. Nearly 38,700 people were indirectly exposed to the “Be Pesticide Free” education program; while over 4,370 people were directly addressed.

Another component of the education program was designed for pesticide retailers. All retailers were provided with several educational options including staff presentations, point of sale materials including posters and brochures (topics regarding how residents can manage their yards without pesticides and how to read a pesticide label), as well as a red/green dot program to educate the consumer about which products were permitted (green dot) and not permitted (red dot). The majority of the retailers participated in some or all of the educational opportunities offered to them by City staff. Two large national retailers, Home Depot and Rona, voluntarily removed their cosmetic pesticides from their shelves across Canada. Other retailers in Kelowna reduced traditional pesticides and increased excluded, least toxic pesticides. Lastly, only a few retailers did not make a change in their products or participate in the educational opportunities provided by City staff.

The 2010 program will again focus on the retailer’s campaign and “Be Pesticide Free” campaign with homeowners.

Pesticide Exemptions, Complaints:

In 2009, there was only one homeowner exemption application. This application was denied as pesticides would not properly address the issues. Several recommendations were outlined for the resident including horticultural practices such as overseeding, aerating and proper watering.

In 2009, there were hundreds of telephone inquiries regarding the Pesticide Bylaw but only five complaints regarding pesticide usage. All complaints were followed up by City staff, information was provided, and an educational package was sent out to the residents.

Pesticide Round Up:

In October 2009, residents were encouraged to bring their pesticides for proper disposal to the annual Household Hazardous Waste Round Up. A marketing campaign promoted this information to residents. 4040 equivalent litres of pesticides were collected at the Household Hazardous Waste Round Up, a 215 litre increase from 2008.

Provincial Pesticide Consultation

The Province has engaged a consultant to seek input from residents and stakeholders, including municipalities. The questionnaire (attached) must be responded to by February 15, 2010.

In review of options, staff considered the results of the City's efforts to date as well as what is occurring in other communities and provinces. There is recognition that there is a need for leadership at a Provincial level with regard to cosmetic pesticide usage. We note that without consistent legislation there are considerable differences in requirements between communities and regional districts which generate confusion for business and residents. More importantly, the municipalities lack the legislative ability to prevent the inappropriate sale of these products where the jurisdiction, such as Kelowna, has enacted bylaws to prevent their use. This also generates the need for local jurisdictions to educate their citizens. The recommendations proposed for Council approval build on our experience to date and will help to ensure that pesticides are used in a safe and appropriate way. The focus is to ensure that only cosmetic pesticides are used by trained professionals in appropriate locations and only when necessary.

Pesticide Bylaws in Canada

Six Canadian provinces have enacted or announced regulations governing cosmetic pesticides. These regulations vary in degree. Details of these regulations are outlined in the attached *Cosmetic Use of Pesticides in British Columbia* Public Consultation Paper.

Cosmetic Use of Pesticides in British Columbia

As indicated, most provinces have enacted or announced regulations governing cosmetic pesticides. However, British Columbia has not yet enacted any regulations.

There are over twenty separate (unique and distinct) municipal Pesticide Bylaws in BC which protect approximately 34% of BC's population. Additionally, there are several other municipalities that have drafted a bylaw or are considering a bylaw.

In 2009, the Delegates at UBCM passed Resolution B38: Provincial Cosmetic Pesticide Ban which states "Therefore be it resolved that the Province of British Columbia enact provincial legislation that will ban the sale and use of cosmetic pesticides province-wide".

In August 2009 the British Columbia's Lieutenant Governor's Throne Speech stated "British Columbians will be consulted on new statutory protections to further safeguard our environment from cosmetic chemical pesticides" (Speech from the Throne, Honorable Steven L. Point, August 25, 2009, pg. 13). A provincial consultation paper and website was created to gather input from residents and stakeholders, including municipalities.

PlantHealthBC

PlantHealthBC helps to accredit, audit and educate municipalities and private companies to ensure that these practitioners are utilizing best management practices and meeting a high standard. The City of Kelowna became the first municipality in BC accredited under the new PlantHealthBC

program. The City of Kamloops, District of North Vancouver and City of Richmond are also fully accredited. Other municipalities that are working towards full accreditation include City of Burnaby, Corporation of Delta, City of Nanaimo, City of New Westminster and City of Surrey.

This Pest Management Accreditation Program is intended to:

- facilitate and support environmentally sound pest management practices (integrated pest management) by BC's landscape maintenance and lawn care industry, municipal parks and recreation staffs and related sectors;
- make it possible for both the public and municipalities to identify companies with the knowledge and skills to use integrated and environmentally-sound pest management practices in the management and maintenance of landscapes and grounds;
- reduce risk to the environment, and to public health and safety associated with the use of restricted pesticides in urban/suburban landscapes;
- support British Columbia's Integrated Pest Management Act and Regulation.

Staff's recommendation is consistent with City bylaws and best management practices based upon our experience and location specific circumstances. An Alternate Recommendation is provided below should Council believe that the Province needs to go further in controlling the use of cosmetic pesticides.

CONCLUSION:

In conclusion, staff recommends the City's Pesticide Regulation Bylaw continue as adopted until the Province adopts uniform legislation. In addition, staff recommends that Council direct staff to complete the *Provincial Response Form for the Cosmetic Use of Pesticides in British Columbia* on the basis of the recommendation of this report.

Internal Circulation to:

General Manager of Community Sustainability, Director of Community and Media Relations, Director of Policy and Planning, Director of Civic Operations, Parks Services Manager, Sustainability Coordinator.

Legal/Statutory Authority:

Community Charter – Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation: Municipalities can regulate, prohibit and impose requirements in relation to the application of pesticides, except excluded pesticides, for the purpose of maintaining outdoor trees, shrubs, flowers, other ornamental plants and turf on residential properties, or on land vested in the municipality.

Existing Policy:

Pesticide Bylaw, No. 9920

External Agency/Public Comments:

The Pesticide Reduction Strategy Council Memo (November 27, 2007) outlines pesticide-related issues from Parks Services Branch, stakeholders and the public.

Financial/Budgetary Considerations:

Staff does not anticipate that the recommendation to the Province would create additional costs to the City of Kelowna.

Communications Considerations:

The 2010 pesticide education program will focus on the retailer's campaign and the Be Pesticide Free education campaign with homeowners.

Alternate Recommendation:

If Council wishes to support a more wide-ranging restriction on the use of pesticides, the following alternate recommendation could be considered:

The City of Kelowna recommends the Province enact legislation to restrict the sale and use of pesticides and implement the following:

1. Prohibit the sale and use of cosmetic pesticide products by licensed applicators, except for excluded "least toxic" pesticides as defined in Schedule 2 of the Provincial Integrated Pest Management Regulation; (alternate recommendation)
2. Prohibit the sale and use of cosmetic pesticide products by homeowners, except for excluded pesticides; (original recommendation)
3. Require non-cosmetic and excluded pesticides be sold "behind the counter" to ensure consumers are advised prior to purchasing products; (original recommendation)
4. Prohibit the use of pesticides inside and outside child care centres and schools, except for excluded pesticides; and (original recommendation)
5. Prohibit the sale and use of pesticide-fertilizer combination products (such as weed and feed type products) for lawns. (original recommendation)

The Alternate Recommendation is different from the Recommendation in that it does not recommend exempting licensed applicators from restrictions on the application of cosmetic pesticides.

The Alternate Recommendation goes further towards environmental protection, however would come at a higher financial cost to the City. This was extensively discussed during Bylaw discussions in 2007.

The Parks Services Branch has eliminated most cosmetic use of pesticides in recent years through a process of extensive Integrated Pest Management (IPM) practices, public education and increasing tolerance thresholds. Parks Services is actively piloting measures to increase maintenance and continue to reduce the use of cosmetic pesticides. However, Parks Services note that the judicious amount of cosmetic pesticides they use are essential to maintain current maintenance standards within the available budget. Parks Services advise that they receive considerable negative feedback from sports field users, tourists, and local residents when weed infestations and 'high quality' turf conditions are not maintained.

Parks Services has identified that if the province enacted legislation that does not allow licensed applicators to apply pesticides, there will be a reduction in the quality of the sports fields and parks in Kelowna. During Council deliberations of the Pesticide Reduction Bylaw in 2007, Parks outlined detailed cost implications to maintain current service levels. These costs include \$740,000 in additional annual operating costs and \$2.2 million in capital.

In 2009 Council approved Parks funding increases of \$134,000 for additional costs associated with reducing pesticides. Funding was used to increase mechanical weed control, hand-weeding, aeration and overseeding of turf and staff training. Civic Operations will report back to City Council on pesticide use in the fall of 2010 and update costs based on potential restrictions of cosmetic pesticides by the province.

Considerations not applicable to this report:

Legal/Statutory Procedural Requirements
Personnel Implications

Submitted by:



T. Cashin, Environment and Land Use Manager

for:

Approved for Inclusion:

 JP

cc: all internal circulation

Attachments:

Cosmetic Use of Pesticides in British Columbia Public Consultation Paper; and
Provincial Response Form for the Cosmetic Use of Pesticides in British Columbia.

Cosmetic Use of Pesticides in British Columbia

Public Consultation Paper

Introduction

In the August 25th 2009 *Speech from the Throne*, the Government of British Columbia committed to consult British Columbians on “**new statutory protections to further safeguard the environment from cosmetic chemical pesticides.**”¹

This consultation paper and website are intended to stimulate conversation and gather your input on this topic.

The Ministry of Environment (the ministry) has prepared background information and identified consultation issues for discussion to build understanding about the subject and provide a structure for comments and feedback. Additional comments or suggestions beyond the identified consultation issues are also welcome.

Please – tell us what you think!

This consultation paper and a response form for providing comments to the ministry, and links to related legislation, are posted on the *Cosmetic Use of Pesticides Consultation Forum* website. This information can also be accessed by clicking on the “Cosmetic Use of Pesticide Consultation” button on the Ministry of Environment home page (www.gov.bc.ca/env/).

Discussion comments and responses received by February 15, 2010 will be reviewed by the ministry and a summary posted on the Consultation Forum website. Following this review, the ministry will inform respondents and post information regarding next steps and any intentions for revision of statutory provisions governing the cosmetic use of pesticides.

The paper includes the following sections:

Background information

1. Definition of a pesticide
2. The Integrated Pest Management (IPM) approach to managing pests
3. How pesticides are regulated in British Columbia
4. What is meant by “cosmetic use of pesticides”
5. What other provinces are doing

Consultation issues for discussion

1. Ministry objectives in regulating the cosmetic use of pesticides
2. Potential regulatory restrictions on “cosmetic use of pesticides”
3. Creating classes of pesticides that may or may not be used for cosmetic purposes
4. Limiting use to qualified applicators and encouraging IPM
5. Notification and signage requirements
6. Conditions under which pesticides may be sold or purchased
7. Public awareness, education, compliance and enforcement
8. Additional comments

Providing comment – with contact information for responses and next steps in the consultation process

¹ See: www.leg.bc.ca/39th1st/4-8-39-1.htm

Cosmetic Use of Pesticides in British Columbia

Public Consultation Paper

Background Information

1. Definition of a pesticide

A *pesticide* is anything that is intended to prevent, destroy, repel, attract or manage a pest. Pesticides used to kill insects are known as *insecticides*; those that kill weeds are *herbicides*; and those that kill rodents are called *rodenticides*.

2. The Integrated Pest Management (IPM) approach to managing pests

In 2004 B.C. became the first jurisdiction in North America to require the use of Integrated Pest Management (IPM) on all public land and by all commercial pesticide applicators. IPM is a systematic decision-making process that aims to prevent pests from becoming problems, and to determine what actions to take if pest problems occur.²

In IPM programs, all available information and treatment methods are considered in order to manage pest populations effectively, economically and in an environmentally sound manner. IPM does not try to eliminate all pests. Instead, it attempts to reduce pest numbers to levels that minimize damage while protecting human health and the environment.

IPM provides important advantages to the pest manager, the environment and to society. Effective IPM programs:

- ◆ Provide long-term solutions to pest problems
- ◆ Reduce pesticide use
- ◆ Protect the environment and human health
- ◆ Minimize harm to beneficial organisms that help control pests
- ◆ Provide pest control options when pesticides cannot be used
- ◆ Reduce the development of pesticide resistant pests

3. How pesticides are regulated in British Columbia

Important federal legislation

All pesticides used in Canada must be accepted for use (registered under the federal *Pest Control Products Act*) by the Pest Management Regulatory Agency (PMRA) of Health Canada.³ Before a pesticide is registered, the manufacturer must provide scientific data and information on:

- ◆ Product effectiveness in Canadian conditions
- ◆ Toxicity to humans, animals and plants

² For additional information about IPM, see links under publications and guides on the [Ministry of Environment IPM website](#). Recent (2009) publications include a [lawn and landscape and lawn care brochure](#) and a comprehensive [Home & Garden Pest Management Guide for British Columbia 2009 Edition](#) prepared by the Ministry of Agriculture and Lands.

³ For more information regarding pesticide regulation in Canada see: www.hc-sc.gc.ca/cps-spc/pest/index-eng.php. Health Canada provides a fact sheet that outlines federal, provincial and municipal responsibilities at: www.hc-sc.gc.ca/cps-spc/pubs/pest/fact-fiche/reg-pesticide/index-eng.php

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- ◆ Food and feed residues
- ◆ Product fate in the environment
- ◆ Chemistry of the pesticide

The PMRA makes a registration decision after a complete review of the scientific data, safety, effectiveness and merits of the product. When a pesticide is registered, it is given a unique *Pest Control Products Act* (PCP) registration number. This registration number appears on the pesticide label.

Pesticide applicators have specific responsibilities under the federal *Pest Control Products Act*. Those responsibilities include:

- ◆ Possessing and using only registered pesticides
- ◆ Following the instructions contained on the pesticide label
- ◆ Ensuring that the pesticide is used, stored and disposed of safely

B.C. legislation – the Integrated Pest Management (IPM) Act and regulation

The mandate of the Ministry of Environment (the ministry) is to protect human health and safety, and maintain and restore the diversity of British Columbia's native species, ecosystems and habitats.⁴ The ministry administers the *Integrated Pest Management (IPM) Act* and regulation, the primary regulatory tools governing the sale and use of pesticides in the province.⁵

The ministry relies on the federal *Pest Control Products Act*, and the expertise of the PMRA of Health Canada, to evaluate and determine acceptable uses for pesticides registered for sale in B.C.

The *IPM Act* and regulation establish conditions for the sale and use of pesticides in the province through a classification system and regulatory provisions for licences, certification, permits, Pest Management Plans and ministry responsibilities. The regulation also contains public notification, consultation, reporting and record keeping provisions – as well as standards for IPM programs and use of pesticides aimed to ensure protection of human health and the environment.⁶

The *IPM Act* and regulation require that:

- ◆ Pesticides used on public land (e.g., schools, parks, boulevards), and those used by pest control services (e.g., lawn-care or tree-care companies), be applied under the direct supervision of a person trained in the safe use of pesticides and that they be used in an IPM program – under the IPM process a pesticide can be used only when it is determined to be critical to control a pest and when no practical alternatives are available
- ◆ Notification signs be posted when pesticides are used on public land or multi-residence properties
- ◆ Vendors selling pesticides have staff trained in IPM to assist customers who request advice about purchasing a pesticide

⁴ See the “ministry service plan” and “annual service plan report” links on the Ministry of Environment homepage: www.gov.bc.ca/env

⁵ For legislation, search links under: www.bclaws.ca

⁶ For a summary of the *IPM Act* and regulation see: www.env.gov.bc.ca/epd/ipmp/regs/pdf/leg_summary.pdf

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Municipal powers to regulate the use of pesticides

Under provisions of the *Community Charter* municipalities may choose to restrict the use of pesticides for maintaining outdoor trees, shrubs, flowers, other ornamental plants and/or turf – on municipal land and on land used for residential purposes.

Approximately twenty B.C. municipalities have bylaws that restrict pesticide uses in their communities. Some municipalities prohibit all pesticide uses under their jurisdiction. Others allow certain uses under a municipally-issued permit. One municipality allows applications by licensed service companies but not by untrained pesticide applicators.

Municipalities do not have the authority to ban the sale of pesticides.

4. What is meant by “cosmetic use of pesticides”

Cosmetic use of pesticides can be considered as the use of pesticides for non-essential or aesthetic purposes. For example, a pesticide may be used in an outdoor situation to improve the appearance of lawns, gardens, landscapes or other green spaces and/or to control unwanted or undesirable organisms.⁷

Some indoor uses, such as use of a pesticide to control spiders, can also be considered as cosmetic or aesthetic.

Non-cosmetic use of pesticides includes use to prevent economic damage or health impacts, such as reducing pest damage to crops or buildings or reducing spread of disease. Exclusions to regulatory provisions addressing the cosmetic use of pesticides have been made to allow the use of pesticides for such activities as public health and safety (including the protection of public works structures), agriculture and preventing impacts to agriculture, forestry, research and scientific purposes, and to protect natural resources.

Regulations that address the cosmetic use of pesticides generally focus on urban landscapes and residential areas.

Challenges in regulating cosmetic use of pesticides include:

- ◆ Defining potentially subjective terms such as “non-essential” or “aesthetic”
- ◆ Addressing indoor and/or outdoor cosmetic use of pesticides
- ◆ Addressing use of pesticides in food gardens and/or fruit trees in or near residential areas
- ◆ Use of pesticides on business or commercial properties with public access or use – such as commercial gardens, retail businesses or landscaping of businesses in residential areas

⁷ See, for example, the Health Canada information note titled “Cosmetic Pesticide Bans and the Roles of the Three Levels of Government” available at: www.hc-sc.gc.ca/cps-spc/pubs/pest/_fact-fiche/gov-roles-gouv/index-eng.php

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5. What other provinces are doing

Six Canadian provinces have enacted or announced some form of regulation governing the cosmetic use of pesticides within their jurisdiction. This section of the consultation paper summarizes key aspects of the approaches and current status of these efforts for each of the provinces – Newfoundland and Labrador, Prince Edward Island, New Brunswick, Québec, Ontario and Alberta.

A. Newfoundland and Labrador

Newfoundland and Labrador regulates pesticides under the Pesticides Control Regulation of the *Environmental Protection Act*.⁸ The provincial regulation:

- ◆ Bans the sale of pesticide-fertilizer combination products to unlicensed people (while still permitting purchase by commercial applicators)
- ◆ Limits broadcast application⁹ of a pesticide-fertilizer combination product containing the herbicide 2,4-D by licensed applicators to one application per lawn per year

B. Prince Edward Island

The Government of Prince Edward Island in December 2009 announced its intention to “implement changes to how lawn-care pesticides will be managed in the province.”¹⁰ Changes are planned to take effect on April 1, 2010 and include:

- ◆ A ban on the sale and use of specified domestic lawn care pesticides, including pesticide-fertilizer combination products, concentrates requiring dilution before use, granular products and products containing the active ingredient 2,4-D – with criteria and a list of identified products set out in an “Over-the-Counter Products banned list” of over 240 products
- ◆ Lawn care companies (and individuals working for these companies) who apply pesticides are required to have completed a training course, submit an annual record of pesticide use, and not use pesticides containing the ingredient 2,4-D on lawns

C. New Brunswick

New Brunswick conducted a public consultation “lawn care and landscape pesticide use” in 2008¹¹ and introduced regulatory changes to the provincial *Pesticides Control Act* in the fall 2009 legislative sitting¹² including:

- ◆ A ban on the sale and use of more than 200 over-the-counter lawn care pesticide products, including the use of products containing 2,4-D for domestic lawn care
- ◆ As of February 2010, requirements for Integrated Pest Management (IPM) accreditation (involving training and certification) will be included in all operating permits for professionals and companies (such as golf courses and other businesses) companies and individuals carrying out lawn care services involving commercial grade pesticides

⁸ See: www.assembly.nl.ca/Legislation/sr/Regulations/rc030057.htm

⁹ The term “broadcast application” refers to spreading over an entire surface area (e.g., a lawn or field).

¹⁰ See: www.gov.pe.ca/envengfor/index.php3?number=1030236&lang=E.

¹¹ See: www.gnb.ca/cnb/Promos/Pest/index-e.asp

¹² See New Brunswick government News Release of June 2009 at: www.gnb.ca/cnb/news/env/2009e0865ev.htm

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D. Québec

Québec regulates pesticide use under a *Pesticides Management Code* instituted in 2003.¹³ The code, among other provisions:

- ◆ Prohibits the sale and use of about 20 “active ingredients” present in some 200 lawn pesticide products registered under federal legislation – listed in a Schedule of the code
- ◆ Requires pesticides to be sold “behind-the-counter”
- ◆ Prohibits the use of most pesticides inside and outside child care centres and schools
- ◆ Lists 14 “low or reduced risk” pesticides (such as borax, silicon dioxide and acetic acid) that are explicitly authorized for sale and use in public places such as schools and child care centres – under a specific Schedule of the code
- ◆ Prohibits the sale and use of pesticide-fertilizer mixtures for lawns
- ◆ Allows use of prohibited pesticides by golf course operators and requires operators to submit a “pesticide reduction plan” to the ministry every three years¹⁴
- ◆ Prohibits the application of pesticides less than three metres from a body of water

E. Ontario

Ontario passed legislation implementing a “cosmetic pesticides ban” that took effect April 22, 2009. The requirements of the ban are detailed in Ontario Regulation 63/09 and the *Pesticides Act*, which was amended by the *Cosmetic Pesticides Ban Act*, 2008.¹⁵ The legislation:

- ◆ Generally prohibits the sale and use of pesticides for cosmetic (i.e., “non-essential”) purposes – excluding golf courses, some sports fields, specialty turf, forestry and agriculture
- ◆ Established 11 classes of pesticides:
 - One class of pesticide may not be sold or used
 - Another class may be sold and used according to label directions without any additional restrictions
 - Another class of products have both “cosmetic and non-cosmetic” uses, with specific rules provided for vendors to follow when dealing with potential purchasers (intended to ensure that purchasers do not use these products for cosmetic purposes)

F. Alberta

In November 2008,¹⁶ the Government of Alberta announced an intended “ban on herbicide-fertilizer combination products.” Under provincial legislation:

- ◆ As of January 1, 2010 a list of over 100 products containing a combination of fertilizer and herbicide (2,4-D) will no longer be sold in Alberta
- ◆ Herbicide-only products (including those containing 2,4-D) will still be available for sale and use

¹³ See: www.mddep.gouv.qc.ca/pesticides/permis-en/code-geste-en/index.htm

¹⁴ See: www.mddep.gouv.qc.ca/pesticides/permis-en/code-gestion-en/guide-golf/index.htm

¹⁵ See: www.ene.gov.on.ca/en/land/pesticides/news.php

¹⁶ See: www.environment.alberta.ca/3613.html

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Consultation Issues for Discussion

This section of the consultation paper outlines some key issues in considering regulation of cosmetic use of pesticides in British Columbia.

Please review the following information and consultation questions – and let us know what you think, using the response form available on the *Cosmetic Use of Pesticides Consultation Forum* website or by separate submission. Directions for providing comments to the ministry are provided in the final section of this consultation paper.

1. Current Ministry objectives in regulating the use of pesticides

In regulating pesticides and the cosmetic use of pesticides, the ministry currently considers:

- ◆ Protection of human health and the environment
- ◆ Having a science-based approach
- ◆ Supporting the practice of Integrated Pest Management (IPM)
- ◆ Being appropriate and effective
- ◆ Providing a foundation for understanding and adoption by the public, IPM practitioners and affected interests
- ◆ Cost-effective compliance and enforcement

Consultation Questions:

- 1.1 What are your thoughts about these objectives?**
- 1.2 How should these objectives be applied in developing policy and/or legislation to further safeguard the environment from cosmetic use of pesticides?**

2. Potential regulatory restrictions on “cosmetic use of pesticides”

B.C.’s existing laws governing the sale and use of pesticides that might be used for cosmetic purposes:

- ◆ Require that, for pesticide uses on public land or in and around multi-resident dwellings, the pesticide applicator be trained in the safe use of pesticides and use pesticides according to the principles of IPM
- ◆ Allow private property owners to use pesticides on their own property for any purpose allowed on the pesticide label – if all label directions are followed
- ◆ Do not explicitly define or restrict “the cosmetic use of pesticides”

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In considering new restrictions for the cosmetic use of pesticides, the ministry is considering the following questions related to the scope of the topic:

- ♦ What is and what is not a “cosmetic use” of a pesticide? Can certain pests be considered “cosmetic”? Is there a point at which the management of a pest becomes “not cosmetic”? Is there a difference in using a pesticide to manage pests on a tree used for fruit production in a residential area and a fruit tree that is strictly ornamental?
- ♦ Should the term “cosmetic use of pesticides” apply strictly to outdoor situations (e.g., lawns and/or gardens)? Are there situations where the use of pesticides indoors would be considered to be “cosmetic”? How would this (indoor) use of pesticide for cosmetic purposes be defined?
- ♦ Should the regulation of cosmetic pesticides include uses on residential land, public municipal lands, and/or other private lands?

Consultation Questions:

- 2.1 Do you have any comments regarding new restrictions addressing the cosmetic use of pesticides?**
- 2.2 How would you define “cosmetic use of pesticides”?**
- 2.3 Are there any business sectors or particular uses that you feel should not be subject to restrictions on the “cosmetic use of pesticides”? If yes, what is your rationale for recommending exclusion of these sectors or uses?**

3. Creating classes of pesticides that may or may not be used for cosmetic purposes

B.C.’s existing laws governing the sale and use of pesticides:

- ♦ Group pesticides into classes based on Health Canada’s classification system (that does not distinguish between cosmetic and non-cosmetic use)
- ♦ Have established rules for the selling and use of each class of pesticides using this system
- ♦ State that pesticides may only be used according to label directions

Some Canadian provinces have introduced statutory provisions that create additional classes of pesticides, with accompanying rules governing their sale and use. The following table summarizes some approaches that could be used to establish classes of pesticides used for cosmetic purposes – along with examples associated with each approach, and comments and considerations.

Cosmetic Use of Pesticides in British Columbia Public Consultation Paper

Approach	Examples	Comments and Considerations
A. Create a class of active ingredients to which restrictions <i>do</i> apply	<ul style="list-style-type: none"> ◆ 2,4-D ◆ Permethrin 	<ul style="list-style-type: none"> ◆ An active ingredient is the part of a pesticide formulation that produces the desired effects – many people think of the active ingredient as the generic name for the pesticide ◆ Criteria would need to be developed to assign pesticides to new classes ◆ The time and resources required to categorize pesticides would depend on the criteria used for the review.
B. Create a class of active ingredients to which restrictions <i>do not</i> apply	<ul style="list-style-type: none"> ◆ Corn gluten meal ◆ Soaps 	<ul style="list-style-type: none"> ◆ The ministry currently depends on Health Canada to scientifically assess the risk associated with each pesticide and assign pesticides to classes ◆ Concerns have been raised that products might be assigned to lists based on a perception of risk rather than on a scientific basis ◆ Some active ingredients can be used for more than one purpose – some purposes may be considered cosmetic and others not cosmetic
C. Create a class of product types to which restrictions <i>do</i> apply	<ul style="list-style-type: none"> ◆ Pesticide-fertilizer combinations ◆ Pesticides requiring dilution before use ◆ Herbicides 	<ul style="list-style-type: none"> ◆ A product could be assigned to a restricted list for various reasons (e.g., if the product does not fit well into IPM programs, likelihood of misapplication, types of pests controlled) ◆ Criteria and a fair process for creating a restricted list would need to be developed
D. Create a class of product types to which restrictions <i>do not</i> apply	<ul style="list-style-type: none"> ◆ Insect repellents ◆ Ready-to-use pesticides 	<ul style="list-style-type: none"> ◆ Use of all pesticides could be restricted except for pesticides on an “accepted” list – a product could be assigned to an accepted list for various reasons (e.g., demand for products, likelihood of proper use, quantity likely to be used, where the product is likely to be applied) ◆ Criteria and a fair process for creating an accepted list would need to be developed

Consultation Questions:

- 3.1 **Do you feel that creating additional classes of pesticides would be an effective way to regulate pesticides used for cosmetic purposes? Why or why not?**
- 3.2 **If you do recommend the establishment of new classes of pesticides for regulation, what criteria would you suggest for establishing categories and assigning pesticides to particular categories?**
- 3.3 **What rules would you recommend for the sale and use of pesticides in any new categories?**
- 3.4 **What suggestions or recommendations do you have to address products or product types involving a pesticide that may have both cosmetic and non-cosmetic uses?**

Cosmetic Use of Pesticides in British Columbia

Public Consultation Paper

4. Limiting use to qualified applicators and encouraging IPM

B.C.'s existing laws governing the sale and use of pesticides require:

- ♦ Landscape services, tree care companies, pest control companies and managers of multi-residences to ensure that pesticides are used in Integrated Pest Management (IPM) programs by people trained in the safe use of pesticides
- ♦ People applying pesticides to their own private property to follow all pesticide label directions

Consultation Questions:

- 4.1 If pesticides are to be used, do you feel that people who apply pesticides to their own property for cosmetic purposes require any special training? If so, what training do you think is needed?**
- 4.2 Do you feel that pesticides should only be used if an Integrated Pest Management (IPM) program has been undertaken? Do you have any comments or suggestions for the ministry to improve the effectiveness of IPM training or requirements in relation to the cosmetic use of pesticides?**

5. Notification and signage requirements

B.C.'s existing laws governing the use of pesticides require:

- ♦ Posting of signs informing people of pesticide use when pesticides are used on public land or on multi-residency properties
- ♦ People applying pesticides to public land, multi-residence properties or as a commercial service (e.g., landscapers) to ensure that pesticides do not “drift” onto neighbouring properties

Consultation Questions:

- 5.1 Do you have any comments or suggestions regarding appropriate notification and/or signage when a pesticide has been used (for cosmetic purposes)?**
- 5.2 Would you want to be informed if a neighbour is intending to use a pesticide (for cosmetic purposes)? If yes, how and when should notification be required?**

Cosmetic Use of Pesticides in British Columbia **Public Consultation Paper**

6. *Conditions under which pesticides may be sold or purchased*

B.C.'s existing laws governing the sale of pesticides presently require:

- ♦ A certified dispenser to talk to pesticide purchasers and inform the purchaser that the pesticide may only be used according to label directions – the dispenser must also offer to provide advice on pesticide use and pest management

Consultation Questions:

- 6.1 Do you have any comments or recommendations regarding existing or new requirements governing the sale of pesticides that could be used for cosmetic purposes?**
- 6.2 Do you feel that public access to all or specified classes of pesticides should be restricted or controlled? If yes, in what ways should access be restricted?**
- 6.3 Should vendors be required to provide information to prospective purchasers of a pesticide prior to sale? If yes, what information should be provided and how?**
- 6.4 Do you feel that sales of pesticides intended to be used for cosmetic purposes should be restricted to buyers who hold special authorization or training? If yes, what authorization (e.g., licensing) and/or training would you recommend?**

7. *Public awareness, education, compliance and enforcement*

Public awareness and understanding are essential elements of effective regulation, as is compliance and enforcement. Some restrictions that may be considered to regulate the cosmetic use of pesticides could involve significant resources to effectively implement.

The ministry is seeking advice and examples of awareness, education and enforcement programs addressing the cosmetic use of pesticides that are cost-effective.

Consultation Questions:

- 7.1 Do you have any comments or suggestions regarding public awareness and/or education programs addressing the cosmetic use of pesticides (e.g., examples, target audiences, media campaigns)?**
- 7.2 Do you have any comments or suggestions for supporting compliance and cost-effective enforcement of any new restrictions on the cosmetic use of pesticides?**

Cosmetic Use of Pesticides in British Columbia

Public Consultation Paper

8. Additional comments

Consultation Questions:

- 8.1 Do you have any additional comments or suggestions for the ministry regarding statutory protections to safeguard the environment from the cosmetic use of chemical pesticides?**

Providing Comment

The ministry is interested in hearing your comments concerning the cosmetic use of pesticides. The consultation paper and a response form for providing comments to the ministry, and links to related legislation, are posted on the *Cosmetic Use of Pesticides Consultation Forum* website. This information can also be accessed by clicking on the “Cosmetic Use of Pesticide Consultation” button on the Ministry of Environment home page (www.gov.bc.ca/env/).

Discussion comments and responses received by February 15, 2010 will be reviewed by the ministry and a summary posted on the Consultation Forum website. Following review of comments received through the consultation process, the ministry will inform respondents and post information regarding next steps and any intentions for review or revision of statutory provisions governing the cosmetic use of pesticides.

Comments to the ministry should be made on or before February 15, 2010.

Comments received will be treated with confidentiality by ministry staff and contractors when preparing consultation reports. Please note that comments you provide, and information identifying you as the source of those comments may be made publicly available if a freedom of information (FOI) request is made under the *Freedom of Information and Protection of Privacy Act*.

If you have any questions or comments regarding the consultation process, review the information posted on the ministry’s website, or contact Cindy Bertram of C. Rankin & Associates, who is contracted to manage consultation comments, at:

Email: cindybertram@shaw.ca

Mail: PO Box 28159 Westshore RPO
Victoria, B.C.
V9B 6K8

Fax: (250) 598-9948

Please – tell us what you think...

...and thank you for your time and comments!

Response Form

Cosmetic Use of Pesticides in British Columbia

In the August 25 2009 *Speech from the Throne*, the Government of British Columbia committed to consult British Columbians on “new statutory protections to further safeguard the environment from cosmetic chemical pesticides.”

The Ministry of Environment has prepared a public consultation paper with background information and identified consultation issues for discussion to build understanding about the subject and provide a structure for comments and feedback. Information about the public consultation, including the consultation paper, the response form for providing comments to the ministry, and links to related legislation, are posted on the *Cosmetic Use of Pesticides Consultation Forum* website.

Those interested are invited to submit comments on the consultation issues identified by the ministry using the instructions and questions provided on this response form. Individuals or organizations may also make written submissions to the ministry without following the format set out in the response form.

Comments received will be treated with confidentiality by ministry staff and contractors when preparing consultation reports. Please note that comments you provide, and information identifying you as the source of those comments may be made publicly available if a freedom of information (FOI) request is made under the *Freedom of Information and Protection of Privacy Act*.

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Comments to the ministry should be made on or before February 15, 2010.

Discussion comments and responses received by February 15, 2010 will be reviewed by the ministry and a summary posted on the consultation forum website. Following review of comments received through the consultation process, the ministry will inform respondents and post information regarding next steps and any intentions for review or revision of statutory provisions governing the cosmetic use of pesticides.

Thank you for your time and comments!

Consultation Issues and Questions

The following consultation issues for discussion and questions outline some of the key issues in considering regulation of cosmetic use of pesticides in British Columbia – based on the public consultation paper available from the [Ministry of Environment website](#). Please let us know what you think.

Consultation issues for discussion

1. Ministry objectives in regulating the cosmetic use of pesticides
2. Potential regulatory restrictions on cosmetic use of pesticides
3. Creating classes of pesticides that may or may not be used for cosmetic purposes
4. Limiting use to qualified applicators and encouraging IPM
5. Notification and signage requirements
6. Conditions under which pesticides may be sold or purchased
7. Public awareness, education, compliance and enforcement
8. Additional comments

1. Current ministry objectives in regulating the use of pesticides

In regulating pesticides and the cosmetic use of pesticides, the ministry currently considers:

- Protection of human health and the environment
- Having a science-based approach
- Supporting the practice of Integrated Pest Management (IPM)
- Being appropriate and effective
- Providing a foundation for understanding and adoption by the public, IPM practitioners and affected interests
- Cost-effective compliance and enforcement

Consultation Questions:

1.1 What are your thoughts about these objectives?

- 1.2 How should these objectives be applied in developing policy and/or legislation to further safeguard the environment from cosmetic use of pesticides?

2. Potential regulatory restrictions on cosmetic use of pesticides

In considering potential restrictions on the cosmetic use of pesticides, the ministry is taking the following questions into view:

- What is and what is not a cosmetic use of a pesticide? Can certain pests be considered cosmetic? Is there a point at which the management of a pest becomes not cosmetic? Is there a difference in using a pesticide to manage pests on a tree used for fruit production in a residential area and a fruit tree that is strictly ornamental?
- Should the term “cosmetic use of pesticides” apply strictly to outdoor situations (e.g., lawns and/or gardens)? Are there situations where the use of pesticides indoors would be considered to be cosmetic? How would this (indoor) use of pesticide for cosmetic purposes be defined?
- Should the regulation of cosmetic pesticides include uses on residential land, public municipal lands, and/or other private lands?

Consultation Questions:

- 2.1 Do you have any comments regarding new restrictions addressing the cosmetic use of pesticides?

- 2.2 How would you define “cosmetic use of pesticides”?

- 2.3 Are there any business sectors or particular uses that you feel should not be subject to restrictions on the cosmetic use of pesticides? If yes, what is your rationale for recommending exclusion of these sectors or uses?

3. Creating classes of pesticides that may or may not be used for cosmetic purposes

Some Canadian provinces have introduced statutory provisions that create additional classes of pesticides, with accompanying rules governing their sale and use. Approaches could include creating a class of:

- Active ingredients to which restrictions do apply;
- Active ingredients to which restrictions do not apply;
- Product types to which restrictions do apply; and/or
- Product types to which restrictions do not apply

Consultation Questions:

- 3.1 Do you feel that creating additional classes of pesticides would be an effective way to regulate pesticides used for cosmetic purposes? Why or why not?
- 3.2 If you do recommend the establishment of new classes of pesticides for regulation, what criteria would you suggest for establishing categories and assigning pesticides to particular categories”?
- 3.3 What rules would you recommend for the sale and use of pesticides in any new categories?
- 3.4 What suggestions or recommendations do you have to address products or product types involving a pesticide that may have both cosmetic and non-cosmetic uses?

4. Limiting use to qualified applicators and encouraging IPM

Consultation Questions:

- 4.1 If pesticides are to be used, do you feel that people who apply pesticides to their own property for cosmetic purposes require any special training? If so, what training do you think is needed?

- 4.2 Do you feel that pesticides should only be used if an Integrated Pest Management (IPM) program has been undertaken? Do you have any comments or suggestions for the ministry to improve the effectiveness of IPM training or requirements in relation to the cosmetic use of pesticides?

5. Notification and signage requirements

Consultation Questions:

- 5.1 Do you have any comments or suggestions regarding appropriate notification and/or signage when a pesticide has been used (for cosmetic purposes)?
- 5.2 Would you want to be informed if a neighbour is intending to use a pesticide (for cosmetic purposes)? If yes, how and when should notification be required?

6. Conditions under which pesticides may be sold or purchased

Consultation Questions:

- 6.1 Do you have any comments or recommendations regarding existing or new requirements governing the sale of pesticides that could be used for cosmetic purposes?
- 6.2 Do you feel that public access to all or specified classes of pesticides should be restricted or controlled? If yes, in what ways should access be restricted?
- 6.3 Should vendors be required to provide information to prospective purchasers of a pesticide prior to sale? If yes, what information should be provided and how?

- 6.4 Do you feel that sales of pesticides intended to be used for cosmetic purposes should be restricted to buyers who hold special authorization or training? If yes, what authorization (e.g., licensing) and/or training would you recommend?

7. Public awareness, education, compliance and enforcement

The ministry is seeking advice and examples of awareness, education and enforcement programs addressing the cosmetic use of pesticides that are cost-effective.

Consultation Questions:

- 7.1 Do you have any comments or suggestions regarding public awareness and/or education programs addressing the cosmetic use of pesticides (e.g., examples, target audiences, media campaigns)?
- 7.2 Do you have any comments or suggestions for supporting compliance and cost-effective enforcement of any new restrictions on the cosmetic use of pesticides?

8. Additional comments

Consultation Questions:

- 8.1 Do you have any additional comments or suggestions for the ministry regarding statutory protections to safeguard the environment from the cosmetic use of chemical pesticides?

Thank you for your time and comments!

Please remember to return this response form to the ministry by February 15, 2010.

If you wish, you may also provide contact information. This information will be compiled separate from responses and used to inform respondents of posting of the summary of comments and subsequent ministry actions to develop and implement the regulatory changes.

(Optional) Contact Information

If you wish to have your name placed on the ministry listserve to receive further information concerning regulatory changes related to the cosmetic use of pesticides, please provide your contact information – **including an e-mail address** – below. Note that all submissions will be treated with confidentiality by ministry staff and contractors however information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

Contact Name:

**Business or Organization Name
(if appropriate):**

E-Mail:

Mailing Address:

Telephone:

Fax:

Background and Area of Interest

Please check "√" in the appropriate boxes if your primary interest in the ministry's intentions relates to your:

Interest as a member of the public:

Work in the private sector:
Please describe (e.g., IPM services, turf manager, retail sales):

Work for a government regulatory agency:

Please describe (e.g., federal, provincial, municipal):

- Work for a public sector organization:**
Please describe (e.g., health authority, education institution, Crown corporation):

- First Nation:**
Please describe:

- Involvement or work for an environmental or community interest group:**
Please describe:

- Other interest:**
Please describe:

Thank you once more for your time and interest in these regulatory changes.

If you have any further questions, please contact cindybertram@shaw.ca.

You may print this form and either:

mail to:

or

fax to:

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PO Box 28159 Westshore RPO
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