

Amendments to the Pesticide Regulation (63/09 General)

ERO (Environmental Registry of Ontario) number	019-0601
Notice type	Regulation
Act	Pesticides Act, R.S.O. 1990
Posted by	Ministry of the Environment, Conservation and Parks
Notice stage	Proposal
Proposal posted	October 28, 2019
Comment period	October 28, 2019 - December 12, 2019 (45 days) Open
Last updated	October 28, 2019

This consultation closes at 11:59 p.m. on:
December 12, 2019

Proposal summary

We are proposing amendments to *O. Reg. (Ontario Regulation) 63/09: General* made under the *Pesticides Act* to reduce complexity and modernize pesticide management in Ontario while ensuring protection of human health and the environment.

This proposal is related to **proposed amendments** (<https://ero.ontario.ca/notice/019-0481>) to the *Pesticides Act*.

Proposal details

Overview of proposal

We are proposing to remove duplication and update Ontario's pesticides regulation.

To achieve this objective, we are proposing to end Ontario's duplicative application process for the classification of pesticides and align with the federal government's application process, as all other provinces do. This proposal would harmonize Ontario's pesticides classes with the federal categories. Health Canada's Pest Management Regulatory Agency (PMRA), under the authority of the Pest Control Products Act, registers pesticides after completing a rigorous review of scientific studies on potential impacts on human health and the environment. Health Canada's PMRA (Pest Management Regulatory Agency) is resourced and equipped to review and register pesticides for all of Canada and is something all other provinces have recognized. Ontario would continue to maintain Ontario's general regulatory requirements, including licensing and permitting realigned to the federal categories. See below for more details on revised classification.

However, Ontario will continue to deviate from the federal government in two key ways. Ontario will maintain its cosmetic pesticide ban and restrictions on the sale and use of neonicotinoid (NNI)-treated corn and soybean seeds.

Ontario recognizes that Health Canada's PMRA (Pest Management Regulatory Agency) is currently reviewing Canada's historic approval of the use of neonicotinoid pesticides and looks forward to the results of that review as early as next year.

As stated, Ontario remains committed to its cosmetic pesticides ban, including existing exceptions. Ontario believes this province-wide ban prevents a patchwork of varied municipal bans. However, Ontario proposes to add cemeteries to the list of current exceptions to the ban, alongside golf courses, sporting fields and agricultural operations. While exempted, these uses will continue to include requirements to help ensure they are used appropriately. After 10 years of experience with the cosmetic pesticide ban exemptions, a few existing requirements, such as the need for advertising in newspapers and hosting community meetings (which have had limited attendance) will be removed from some exempted uses, such as at golf courses. However, other public notification requirements will remain. Lastly, due to the alignment with the federal government's registration system and categories, Ontario will need to replace its existing cosmetic classes of pesticides with a new list, as the federal government currently does not restrict the use of pesticides for cosmetic use. This new list will ensure that the same pesticides currently restricted for cosmetic use will continue to be restricted. Rules associated with the current classes of cosmetic pesticides would be written into the regulation. See below for more details on cosmetic pesticides.

As stated, Ontario will also continue to deviate from the federal government and Health Canada's PMRA (Pest Management Regulatory Agency) by continuing its restrictions on sale and use of NNI (neonicotinoid)-treated corn and soybean seeds. Today, Ontario remains one of only two provinces that restricts the use of NNI (neonicotinoid)-treated corn and soybean seeds. After 5 years of these restrictions, Ontario is proposing to adjust administrative requirements on farmers and seed vendors to ensure that the necessary information is collected and retained and appropriate training is completed, while reducing duplication. Key restrictions would remain in place to help ensure NNI (neonicotinoid)-treated seeds are not used unless there is a risk of infestation and used only by trained farmers. See below for more details on NNI (neonicotinoid)-treated seeds.

Ontario believes these adjustments will reduce complexity and modernize pesticide management in Ontario, a system developed in 1990, while ensuring protection of human health and the environment. Ensuring continued environmental protection is a key part of our Made-in-Ontario Environment Plan commitment to maintain a healthy environment.

We are also proposing amendments to O. Reg. (Ontario Regulation) 681/94: Classification of Proposals for Instruments made under the Environmental Bill of Rights to require that a proposal to amend the document entitled "List of Active Ingredients Authorized for Cosmetic Uses" be posted to the Environmental Registry for public comment.

Attached for your comment are the following:

- Proposed amendments to O. Reg. (Ontario Regulation) 63/09: General made under the Pesticides Act
- Proposed amendments to O. Reg. (Ontario Regulation) 63/09: General made under the Pesticides Act - A version with proposed amendments incorporated into O. Reg. (Ontario Regulation) 63/09
- Proposed Guide to Pesticide Classes, including the proposed document entitled "List of Active Ingredients Authorized for Cosmetic Uses" (referred to as the Allowable List)
- Proposed Pest Risk Assessment Guideline, Report and Instructions

- Proposed amendments to *O. Reg. (Ontario Regulation) 681/94: Classification of Proposals for Instruments made under the Environmental Bill of Rights*

Overview of current pesticide management

In Canada, the federal government, through the PMRA (Pest Management Regulatory Agency), is responsible for registering pesticides. The registration process considers risks to human health and the environment from the use of pesticides.

The Ministry of the Environment, Conservation and Parks is responsible for regulating the sale, use, storage, transportation and disposal of pesticides in Ontario.

Ontario currently has twelve classes of pesticides. The Ontario Pesticides Advisory Committee (OPAC) advises on the classification of pesticides in Classes 1 to 6. Classes 7-11 relate to the classes of pesticides associated with the cosmetic pesticides ban. Use of prescribed pesticides in, on or over land for non-essential cosmetic purposes is banned in Ontario, except for certain uses, including agriculture, playing fields, golf courses and health and safety purposes. Rules around Class 12 pesticides relate to the use of NNI (neonicotinoid)-treated corn and soybean seeds, which are restricted to farms where the need for their use is demonstrated.

Revised classification

We are proposing to reduce Ontario Classes 1 to 7 to four classes in order to align with the federal pesticide categories as designated under the *Pest Control Products Act* (PCPA). These are Class A (manufacturing), B (restricted), C (commercial), and D (domestic). Using the federal categories would eliminate the need for OPAC (Ontario Pesticides Advisory Committee), whose primary function is to provide advice on the classification of pesticides. Class 12 pesticides, related to NNI (neonicotinoid)-treated seeds, would be replaced with Class E, a stand-alone class specific to NNI (neonicotinoid)-treated seeds.

Rules related to Classes 7-10 would be retained and written into the regulation such that the classes would no longer be needed. Class 11, which is related to active ingredients allowed for cosmetic use, would instead be addressed through a list of active ingredients that meet low risk criteria set out in the regulation. See below for more details related to cosmetic pesticides.

Where there is a direct relationship between the current class and the new class, the current class would be renamed and replaced with the new class. For example, a pesticide in Classes 5, 6 or 7 would become a Class D (domestic) pesticide in the regulation.

Where there is a less direct relationship between the current class and the new class, amendments are proposed to maintain protection of human health and the environment, including requirements for training, permits and storage corresponding with associated risks. For example, a rule that currently governs restricted and commercial pesticides in Classes 2,3, and 4 would now apply to two classes, Class B (restricted) and C (commercial) to align with the federal designation.

Generally, proposed classification-related amendments would maintain current requirements. If this is not possible with reclassification, the requirements would be aligned with new classes, such that safe use can be maintained.

See attached proposed amendments to *O. Reg. (Ontario Regulation) 63/09* and the Guide to Pesticide Classes for more details, including vendor information related to the sale of pesticides

based on the new classification of pesticides. More information can also be found below under the licensing and permits sections.

Licensing

Generally, licensing requirements would be maintained to ensure safe sale and use of pesticides. Proposed amendments associate licensing requirements with the new classification. This results in some modified requirements.

Farmers are currently exempt from licensing requirements to use certain pesticides. Instead, training and certification are required in order to use certain Class 2 and 3 pesticides for farming operations. Training and certification are currently not required to use Class 4 pesticides, which are lower hazard pesticides. As a result of reclassification, Classes 2, 3, and 4 would now become Classes B and C. It is proposed that farmers would continue to be exempt from the need for a licence to use Class B and C pesticides; however, a farmer would be required to be trained and certified to use Class B and C pesticides because these classes include higher hazard pesticides. A farmer with training but no certification would be able to use these pesticides without a licence if used under the supervision of a certified farmer.

Vendors currently require a licence for the sale of Class 5 pesticides but currently do not require a license for the sale of Class 6 pesticides including some products for use in and around the home. As a result of reclassification, Class D and would include both Class 5 and 6 pesticides. It is proposed that vendors would require a licence for the sale of Class D pesticides, not including personal use insecticides and rodenticides.

Exterminators that hold a Fumigation Commodity Licence are currently not allowed to use Class 2 insecticides. Under this proposal some Class 2 insecticides would now be classified as Class B and C pesticides resulting in a licence holder being able to use more pesticides to control insects in relation to commodities in a building or structure. Training for this licence includes information relevant to insecticides.

Registered apiarists (bee keepers) and Bee Inspectors would continue to be exempt from requiring a licence to use pesticides. Under this proposal, they would also have use of some additional Class B pesticides, previously in Class 2. This would not include fumigant gases. As is currently the case, a Bee Inspector would be allowed to use fumigant gases for an extermination without a licence but would require a permit to do so.

Permits

Generally, permitting requirements would be maintained. Proposed amendments associate permitting requirements with the new classification which results in some modified requirements.

The requirement to have a permit in order to perform a water extermination is maintained. Permit requirements would also continue to be maintained for use of certain pesticides, such as fumigant gases and picloram, and in areas of special concern, such as in relation to forestry, realigned to the new classes of pesticides.

The current requirement for a permit to aerially apply Class 2 pesticides would be changed to a permit requirement to aerially apply Class B pesticides (identified by the PMRA (Pest Management Regulatory Agency) as being of higher concern). However, a permit would not be required with

respect to a land extermination performed aerially by a municipality using *Bacillus thuringiensis* serotype *kurstaki* (Btk) for the purpose of maintaining a tree canopy (i.e. to prevent the injury or death of trees caused by insects). This would maintain the status quo for municipalities that do not need a permit to use these pesticides.

The regulation currently lists some specific Class 3 pesticides (herbicides) that require a permit when aerially applied to land, typically used for the purposes of agricultural operations and rights of way exterminations. Some of these would fall into Class B and continue to require a permit. Those that fall into Class C would not require a permit. The regulation would continue to require persons to abide by PMRA (Pest Management Regulatory Agency) label restrictions and conditions to ensure safe use of these pesticides (e.g. pesticide droplet size to avoid drift to unintended areas, and buffer zones to protect sensitive receptors). Permit conditions and restrictions have typically been consistent with PMRA (Pest Management Regulatory Agency) label restrictions and conditions.

Exemption from requiring a permit is maintained for exterminations in a drainage ditch with no moving water. To align with the PMRA (Pest Management Regulatory Agency) requirement for a provincial permit to use diuron or acrolein, an extermination using a product containing either diuron or acrolein would require a permit.

Other proposed amendments

Some amendments are proposed that are not a direct result of the new classification, but are proposed to provide clarification, address existing regulatory gaps, reduce burden and address out-of-date requirements.

It is proposed that the authority to perform a land extermination of animals that sting, bite, are venomous or carry disease be clarified to enable a licensed exterminator of the Structural class to perform such exterminations, and that they be required to post signs to notify the public of pesticide use for this purpose.

Also, it is proposed that the authority to use herbicides to destroy weeds that are affecting a structure be clarified to enable a licensed exterminator of the Industrial Vegetation class to perform such exterminations.

To reduce burden, this proposal would also provide flexibility related to posting non-residential area signs. Currently, the Director can authorize notification that differs from the requirement to post signs, such as posting a notice in a newspaper to notify the public of pesticide use. This would be maintained. It is also proposed that a person could use this alternative notification without the need for Director approval in certain circumstances such as on rural roads and golf courses.

Additionally, insurance requirements for licensed operators are proposed to be updated for the coverage of death, injury and property damage to better reflect current market products.

Cosmetic pesticides

The cosmetic pesticides ban will be maintained, including existing exceptions. Cemeteries are proposed to be added to the current exceptions to the ban, with requirements to help ensure cosmetic pesticides are used appropriately. Rules associated with the cosmetic ban would be integrated into the regulation such that a classification process is not needed. For example, Class 10 ingredients such as glyphosate or glufosinate ammonium used to control poisonous plants would

now be written into the regulation with associated rules.

It is proposed that the regulation refer to a document entitled “List of Active Ingredients Authorized for Cosmetic Uses” (Allowable List). The Director would be able to add an active ingredient to the list if it were assessed to be low risk (a similar process to currently adding an active ingredient to Class 11). Low risk pesticides allowed for cosmetic use would be assessed by the Director using criteria set out in the regulation. Pesticide vendors would determine sales restrictions that apply using label information and vendor guidance provided by the Ministry.

It is proposed that use of pesticides to maintain the lawn of a burial lot in a cemetery be added as a use that is excepted from the cosmetic ban if certain requirements are met, including Integrated Pest Management (IPM) certification and the preparation of an annual report of pesticide use.

Some amendments are being proposed to reduce unnecessary administrative requirements for excepted uses under the ban. This includes eliminating the requirement for golf courses to hold annual public meetings to present an annual report of pesticide use, and associated notifications. Changes to the dates for annual reporting are also being proposed. Consistent with the policy intent, the arboriculture exception would only require a written opinion once per year to carry out an extermination (e.g. injection into a tree) that requires multiple applications of a pesticide.

See attached proposed List of Active Ingredients Authorized for Cosmetic Uses associated with the cosmetic ban.

NNI (neonicotinoid)-treated seeds

We are proposing to reduce regulatory burden associated with the sale and use of NNI (neonicotinoid)-treated corn and soybean seeds by eliminating some requirements for users and vendors of NNI (neonicotinoid)-treated seeds while retaining requirements to ensure they are only used where there is a risk and by trained persons. As in other provinces, the government relies on Health Canada to evaluate pesticides to protect human health and the environment. The federal government is contemplating restrictions on NNI (neonicotinoid)s in order to protect aquatic species. When Health Canada makes a decision on neonicotinoid pesticides, Ontario would consider further amendments at that time in order to align with any action the federal government takes. We will continue to protect human health and the environment, including pollinator health, by continuing environmental monitoring of neonicotinoids and promoting best management practices to the agricultural sector.

Farmers would continue to be required to have completed a Pest Assessment Report (PAR) or complete the new Pest Risk Assessment Report (PRAR) which includes new options to demonstrate risk of pests. This is proposed to now be a one-time requirement. Farmers would also only be required to complete IPM (Integrated Pest Management) training once.

The need for a Professional Pest Advisor to complete the PAR (Pest Assessment Report) once every three years would be eliminated. Farmers would be required to keep some records, such as extermination records (use of NNI (neonicotinoid)-treated seeds), PAR (Pest Assessment Report)/PRAR (Pest Risk Assessment Report) and other relevant documents.

NNI (neonicotinoid)-treated seed vendors would continue to require a Treated Seed Vendor's Licence to sell NNI (neonicotinoid)-treated seeds to farmers who demonstrate they have a risk of pests and are IPM (Integrated Pest Management)-certified. The requirements to retain certain sales

records would be maintained for NNI (neonicotinoid)-treated seed vendors, including the pesticide name, the quantity sold, and key information related to the purchaser.

NNI (neonicotinoid)-treated seed vendors would no longer be required to retain copies of farmers' PAR (Pest Assessment Report)/PRAR (Pest Risk Assessment Report)s and IPM (Integrated Pest Management) declarations. Vendors would also no longer be required to submit to the government a list of Class 12 pesticides for sale, Annual Sales Data Report of NNI (neonicotinoid)-treated and non-treated corn and soybean seeds, and copies of PAR (Pest Assessment Report)s received by farmers. The Ministry would no longer be required to post sales data related to NNI (neonicotinoid)-treated seeds.

See the proposed Pest Risk Assessment Guideline, Report and Instructions attachment for details on new options to demonstrate risk of pests.

See the proposed Guide to Pesticide Classes attachment for vendor information related to the sale of NNI (neonicotinoid)-treated seeds.

Complementary amendments to Classification of Proposals for Instruments Regulation (*O. Reg. (Ontario Regulation) 681/94*)

Currently, a proposal notice is required to be posted to the Environmental Registry for the classification of new active ingredients of pesticides in accordance with O. Reg 681/94. This will no longer be relevant in the absence of a classification process. Consequential amendments are proposed to remove this requirement. The regulation would be amended to add a requirement for proposed amendments to the document entitled "List of Active Ingredients Authorized for Cosmetic Uses" to be posted to the Environmental Registry for public comment.

Commencement

The proposed regulations and NNI (neonicotinoid)-related provisions would come into effect on filing. Some provisions, such as those related to the new classification, may require updated programs and awareness of the regulated community before they are brought into effect. As a result, implementation may be staggered by a couple of months for some provisions.

Estimated impacts

There are no financial impacts to Ontarians associated with this proposal.

The proposed legislation and associated regulatory changes are expected to have positive impacts on commercial users and vendors of pesticides who would be able to bring pesticides to market and access pesticides immediately upon federal registration. Eliminating Ontario's classification process would also remove administrative cost and time delays associated with the application and classification process, improving the efficiency in accessing pesticides for sale and use in Ontario. Administrative cost savings are also anticipated by reducing requirements associated with the sale and use of NNI (neonicotinoid)-treated seeds and exceptions to the cosmetic ban.

Positive impacts are also estimated for small businesses and farmers by making pesticides immediately available for sale and use upon federal registration, eliminating the time-lag in pesticides available in Ontario compared to those available in other provinces.

The proposed legislation and regulatory changes are not anticipated to have significant

Supporting materials

Related files

Proposed amendments to O. Reg. 63/09: General made under the Pesticides Act - A version with proposed amendments incorporated into O. Reg. 63/09 (https://prod-environmental-registry.s3.amazonaws.com/2019-10/Pesticide%20Regulation%2063-09_Consultation%20Draft%20-%20Tracked%20Changes.pdf)

pdf (Portable Document Format file) 838.9 KB

Proposed amendments to O. Reg. 63/09: General made under the Pesticides Act - Amending regulation (<https://prod-environmental-registry.s3.amazonaws.com/2019-10/Pesticides%20Regulation%20%28General6309%29%20-Consultation%20Draft.pdf>)

pdf (Portable Document Format file) 171.34 KB

Classification of Proposals for Instruments Regulation - Consultation Draft (https://prod-environmental-registry.s3.amazonaws.com/2019-10/EBR%20Regulation_Consultation%20Draft.pdf)

pdf (Portable Document Format file) 12.17 KB

Proposed Guide to Pesticide Classes, including the proposed document entitled "List of Active Ingredients Authorized for Cosmetic Uses" (referred to as the Allowable List) (<https://prod-environmental-registry.s3.amazonaws.com/2019-10/Guide%20to%20Pesticide%20Classes.pdf>)

pdf (Portable Document Format file) 1.5 MB

Proposed Pest Risk Assessment Guideline, Report and Instructions (<https://prod-environmental-registry.s3.amazonaws.com/2019-10/Pest%20Risk%20Assessment%20Guide%20C%20Form%20and%20Instructions.pdf>)

pdf (Portable Document Format file) 550.12 KB

Related links

Pesticides (<https://www.ontario.ca/page/pesticides>)

Related ERO (Environmental Registry of Ontario) notices


Amendments to the Pesticide Act (/notice/019-0481)

View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

Ministry of the Environment, Conservation and Parks - Environmental Policy Branch
40 St Clair Avenue West
Floor 10
Toronto, ON
M4V1M2
Canada

 [416-326-5976](tel:416-326-5976)

Comment

Let us know what you think of our proposal.

Have questions? Get in touch with the contact person below. Please include the [ERO \(Environmental Registry of Ontario\)](#) number for this notice in your email or letter to the contact.

[Read our commenting and privacy policies. \(/page/commenting-privacy\)](#)


Submit by mail

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