

# Ontario introduces significant amendments to the Pesticides Act and the Pesticides Regulation

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The Ontario government has passed significant amendments to the *Pesticides Act*<sup>[1]</sup> and the *Pesticides Regulation*<sup>[2]</sup> (the "Amendments"). The Amendments to the *Pesticides Act* were introduced through [Bill 132, the \*Better for People, Smarter for Business Act\*](#), which received royal assent on December 10, 2019, while the associated Amendments to the *Pesticides Regulation* were adopted on April 9, 2020.

The stated purpose of the Amendments is to "remove duplication and reduce complexity by ending Ontario's duplicative provincial classification of pesticides and aligning with the federal government's pesticide categories, as other provinces do."

Key aspects of the Amendments are as follows:

- Ontario's classification of pesticides is aligned with the federal regime, which is overseen by Health Canada's Pest Management Regulatory Agency, under the authority of the *Pest Control Products Act* (the "PCPA"). The new classification system, enumerated in subsection 2(1) of the *Pesticides Regulation*, reduces Ontario's former Classes 1 through 7 to four classes – Class A (manufacturing), Class B (restricted), Class C (commercial) and Class D (domestic). The former Class 12 will be changed to Class E in the *Pesticides Regulation*, a stand-alone class specific to neonicotinoid-treated seeds.<sup>[3]</sup> As a result of the Amendments, Ontario's Pesticides Advisory Committee, the primary role of which was to provide advice to support classification, has been eliminated;
- Training, licensing and permitting requirements are established for the new classes, which will:
  - require farmers to be trained and certified to use Class B and C pesticides because these classes include higher hazard pesticides;
  - require vendors to have licenses for the sale of Class D pesticides, with exemptions that would ensure that most products that have previously been available for sale without a license can still be sold without a license (i.e., pesticides that are Class D pesticides that are in a container of less than 1L or 1kg in size and are in ready-to-use formulation); and
  - change the requirement from a permit to aerially apply Class 2 pesticides to a permit to aerially apply Class B pesticides, with the exception of land extermination performed

aerially using *Bacillus thuringiensis* serotype *kurstaki* for the purpose of maintaining a tree canopy (e.g., to prevent injury or death by gypsy moths), which will maintain the status quo for persons who do not currently need a permit to use these pesticides.

- The general cosmetic pesticides ban is retained, including existing exceptions (e.g., golf courses, forestry, health and safety and other prescribed exceptions), but the former classes 7-11, which were previously used to manage the ban, are eliminated. Instead, a single list of allowed pesticides will replace the current classes. The *Pesticides Act* and the *Pesticide Regulation* continue to prohibit the use of pesticides for cosmetic purposes and restrict the sale of cosmetic use products *unless* the Director has determined that the pesticide is appropriate for use for a cosmetic purpose and has listed the active ingredient in the Director's "List of Active Ingredients Authorized for Cosmetic Uses (Allowable List)" (the "Director's Allowable List"). Cemeteries are added as an excepted use to the cosmetic pesticides ban, with conditions such as training in Integrated Pest Management and producing an annual report of pesticide use. The *Pesticide Regulation* also enumerates criteria used to identify active ingredients to be added to the Director's Allowable List, which are consistent with those previously used. O. Reg. 681/94 will now require new pesticides being added to this list to be posted to the Environmental Registry for public comment.

The Amendments are introduced in a phased approach. Restrictions related to the use and sale of neonicotinoid-treated seeds came into effect immediately. Amendments related to Ontario's classification process, exterminator licensing, permitting and the cosmetic pesticides ban, came into effect on May 1, 2020. Changes related to farmer training and certification and vendor licensing, as well as increasing operator insurance coverage to reflect current market productions, will come into effect on January 1, 2021.

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[1] [RSO 1190, c P.11.](#)

[2] [O. Reg. 63/09: General](#)

[3] Classes 7 through 10 were retained and written into the regulation such that the classes would no longer be needed. Class 11, which was related to active ingredients allowed for cosmetic use, is instead addressed through a list of active ingredients that meet low risk criteria set out in the regulations (described below).