

Caution:

This draft regulation is provided solely to facilitate public consultation under section 16 of the Environmental Bill of Rights, 1993. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the draft regulation are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel. Note: several of the amendments proposed in this draft regulation are contingent on proposed amendments to the Pesticides Act being passed by the Legislature.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

PESTICIDES ACT

Amending O. Reg. 63/09

(GENERAL)

1. (1) Paragraph 3 of the definition of “agricultural operation” in subsection 1 (1) of Ontario Regulation 63/09 is amended by striking out “and milk” at the end and substituting “or milk”.

(2) The definition of “fumigant” in subsection 1 (1) of the Regulation is amended by striking out “produces a gas” and substituting “produces or evolves a gas”.

(3) The definition of “fumigant gas” in subsection 1 (1) of the Regulation is revoked and the following substituted:

“fumigant gas” means a fumigant that,

- (a) is a gas at a temperature of 20° C and standard pressure, or
- (b) produces or evolves a gas at a temperature of 20° C and standard pressure and functions as a pesticide exclusively or primarily by the action of the gas; (“fumigant gazeux”)

(4) Subsection 1 (1) of the Regulation is amended by adding the following definition:

“listed active ingredient” means an active ingredient that is listed by the Director in the document prescribed for the purpose of paragraph 2 of subsection 7.1 (1) of the Act; (“French”)

s (5) Clause (a) of the definition of “manufacturer” in subsection 1 (1) of the Regulation is amended by striking out “Class 1” and substituting “Class A”.

(6) The definitions of “Pest Assessment Guideline” and “pest assessment report” in subsection 1 (1) of the Regulation are revoked.

(7) Subsection 1 (1) of the Regulation is amended by adding the following definitions:

“Pest Risk Assessment Guideline” means the document entitled “Conducting a Pest Risk Assessment for Use of Class E Pesticides”, as amended from time to time, that is published by the Minister and available through a website of the Government of Ontario and that sets out,

- (a) with respect to the pests referred to in the document,
 - (i) the number of the pests, determined in accordance with the Pest Risk Assessment Guideline, that must be detected during an inspection of soil in order to use a Class E pesticide for the purposes of an agricultural operation,
 - (ii) the percentage of stand loss, determined in accordance with the Pest Risk Assessment Guideline, that must be detected during an inspection of a crop in order to use a Class E pesticide for the purposes of an agricultural operation, and
 - (iii) the pest risk criteria that must be met during an inspection in order to use a Class E pesticide for the purposes of an agricultural operation, and
- (b) the methods to be used to determine the number of pests mentioned in subclause (a) (i) and the percentage of stand loss mentioned in subclause (a) (ii); (“French”)

“pest risk assessment report” means a report described in section 3; (“French”)

(8) The definitions of “pest threshold” and “stand loss threshold” in subsection 1 (1) of the Regulation are revoked.

(9) The definition of “technician” in subsection 1 (1) of the Regulation is revoked and the following substituted:

“technician” means a person who is at least 16 years of age and who has, within the previous 24 months,

- (a) successfully completed a course approved by the Director for technicians concerning basic pesticide safety, or
- (b) satisfied the Director that he or she has equivalent qualifications to the qualifications described in clause (a); (“technicien”)

(10) The definition of “treated seed sales representative” in subsection 1 (1) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”.

(11) Subsection 1 (1) of the Regulation is amended by adding the following definition:

“unlisted pesticide” means a pesticide that is not a listed active ingredient; (“French”)

(10) Subsections 1 (3.1), (4) and (4.1) of the Regulation are revoked.

(11) Subsection 1 (4.2) of the Regulation is amended by striking out “Class 12” and substituting “Class E”.

(12) Items 3 and 5 of the Table to subsection 1 (5) of the Regulation are revoked and the following substituted:

3.	C	Notice — Residential area land extermination	[date tbd]
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5.	E	Notice — Non-residential area land extermination	[date tbd]
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2. (1) Section 1.1 of the Regulation is amended by striking out “the Committee” in the portion before clause (a).

(2) Clause 1.1 (c) of the Regulation is amended by striking out “or” at the end of subclause (i), by adding “or” at the end of subclause (ii) and by adding the following subclause:

- (iii) the person shall submit the document by such other means as may be specified by the Director in writing in cases where, after the Director has taken into consideration the circumstances of the person, the Director has specified an alternate means of submission by the person.

3. The heading before section 2 and sections 2 to 8.2 of the Regulation are revoked and the following substituted:

CLASSIFICATION OF PESTICIDES

Classification of Pesticides

2. (1) A pesticide is a Class A pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pesticide of the Manufacturing class.

(2) A pesticide is a Class B pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pesticide of the Restricted class.

(3) A pesticide is a Class C pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pesticide of the Commercial class.

(4) A pesticide is a Class D pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pesticide of the Domestic class or if it is registered under the *Fertilizers Act* (Canada).

(5) A pesticide is a Class E pesticide if it is a corn seed or soybean seed that is treated with a pesticide that contains imidacloprid, clothianidin or thiamethoxam.

TREATED SEEDS

Pest risk assessment report

3. (1) A pest risk assessment report must contain the following with respect to one or more farm properties that are used for an agricultural operation and in respect of which a Class E pesticide is intended to be used:

1. The location of each farm property in respect of which the report is prepared, identified by one of the following:
 - i. The municipal address of the farm property including, where applicable, the street number or other assigned property address number, street name, street direction, unit number, rural route number, town or city and postal code.
 - ii. If there is no municipal address, the legal description of the farm property including, where applicable, every assessment roll number or property identifier number that relates to the farm property.
2. The acreage of each farm property in respect of which the report is prepared.
3. Subject to subsection (2), a confirmation of one of the following with respect to each farm property in respect of which the report is prepared:
 - i. An inspection of the soil was conducted at the farm property in accordance with the Pest Risk Assessment Guideline and the presence of one or more of the pests referred to in the Guideline was detected in a number that was equal to or greater than the applicable number required to be detected under the Guideline in order to use a Class E pesticide.
 - ii. An inspection of a crop was conducted at the farm property in accordance with the Pest Risk Assessment Guideline and the inspection detected a

percentage of stand loss caused by one or more of the pests referred to in the Guideline that was equal to or greater than the applicable percentage required to be detected under the Guideline in order to use a Class E pesticide.

- iii. An inspection was conducted at the farm property and one or more of the pest risk criteria set out in the Pest Risk Assessment Guideline were met.
4. If an inspection confirmed under paragraph 3 was an inspection of soil in respect of a farm property, the following information:
 - i. An identification of the pest or pests detected.
 - ii. A sketch of the farm property showing each location, identified in accordance with the Pest Risk Assessment Guideline, in which the pest or pests were detected.
 - iii. The number of pests detected in each location referred to in subparagraph ii.
5. If an inspection confirmed under paragraph 3 was an inspection of a crop in respect of a farm property, the following information:
 - i. An identification of the pest or pests that caused the stand loss.
 - ii. The rationale for determining that the stand loss was caused by one or more of the pests referred to in the Pest Risk Assessment Guideline.
 - iii. A sketch of the farm property showing each location, identified in accordance with the Pest Risk Assessment Guideline, that was inspected for stand loss and each location, identified in accordance with the Guideline, in which there was no stand loss evident.
 - iv. The number of plants unaffected by crop damage in each location referred to in subparagraph iii, determined in accordance with the Pest Risk Assessment Guideline.
 - v. The average number of plants per acre unaffected by crop damage, determined in accordance with the Pest Risk Assessment Guideline.
 - vi. The percentage of stand loss determined in accordance with the Pest Risk Assessment Guideline.
6. The method used in the inspection confirmed under paragraph 3.
7. The date on which the inspection confirmed under paragraph 3 was conducted.

8. The name of the person who conducted the inspection confirmed under paragraph 3.
9. The name of the person who prepared and signed the report.
10. The name of the owner or operator of the agricultural operation for which each farm property referred to in paragraph 1 is used.

(2) An inspection referred to in paragraph 3 of subsection (1) shall be conducted by a person referred to in clause 45.1 (1) (a) and the person shall prepare and sign the pest risk assessment report.

(3) A pest assessment report that has been prepared and signed under this Regulation no later than the day Ontario Regulation [*insert reg #*] made under the Act comes into force is deemed to be a pest risk assessment report and to have met the requirements in respect of a pest risk assessment report.

4. Clause 9 (1) (a) of the Regulation is revoked and the following substituted:

- (a) classified under this Regulation as a Class A, B, C or D pesticide; or

5. (1) Subsections 9.1 (1) and (2) of the Regulation are revoked.

(2) Subsection 9.1 (3) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”.

(3) Subsection 9.1 (4) of the Regulation is amended by striking out “Class 12” and substituting “Class E”.

6. (1) Section 13 of the Regulation is amended by adding the following paragraphs:

- 0.1 A pesticide that is exempt from the application of the *Pest Control Products Act* (Canada).
- 0.2 A pesticide that is exempt from subsection 6 (1) of the *Pest Control Products Act* (Canada).

(2) Paragraph 2 of section 13 of the Regulation is revoked and the following substituted:

2. A pesticide that is an algaecide, slimicide, bactericide, cleanser or disinfectant that meets the following criteria:
 - i. It is registered under the *Pest Control Products Act* (Canada).

- ii. Its label does not indicate use in, on or over land or surface water.
- iii. Its label only indicates use for the extermination of micro-organisms.

(3) Paragraph 3 of section 13 of the Regulation is amended by striking out “and that is not registered under the *Pest Control Products Act* (Canada)” at the end.

(4) Paragraph 4 of section 13 of the Regulation is amended by striking out “Class 12” and substituting “Class E”.

7. Section 13.1 of the Regulation is revoked and the following substituted:

Exemptions, Class E pesticides

13.1 (1) Sections 9, 107 and 114 do not apply with respect to the use, storage and transportation of a Class E pesticide.

(2) The Act and the regulations do not apply with respect to the use, sale and transfer of a Class E pesticide that is to be used in accordance with a seed production contract for the purpose of producing a soybean seed crop of certified status, as defined in subsection 2 (2) of the Seeds Regulations made under the *Seeds Act* (Canada).

(3) Every person who uses, sells or transfers a Class E pesticide for the purpose described in subsection (2) shall keep a copy of the seed production contract for a period of at least two years from the date of the expiry of the contract.

8. The heading before section 16 and sections 16 to 33 of the Regulation are revoked and the following substituted:

USE OF PESTICIDES FOR COSMETIC PURPOSES — SECTION 7.1 OF THE ACT

Definitions of terms used in Act

16. For the purposes of subsection 7.1 (2) of the Act,

“agriculture” means an agricultural operation as defined in subsection 1 (1) that is carried out in, on or over land; (“agriculture”)

“forestry” means forestry as defined in subsection 1 (1); (“activités forestières”)

“golf courses” means the areas used or intended to be used as playing surfaces in the game of golf, including tees, fairways, greens and rough; (“terrains de golf”)

“promotion of public health or safety” means,

- (a) the destruction, prevention or control of animals that bite, sting, are venomous or carry disease, including wasps, mosquitoes and ticks,
- (b) the destruction, prevention or control of plants that are poisonous to humans by touch, including poison ivy, poison sumac and giant hogweed, or
- (c) the destruction, prevention or control of plants, fungi or animals that affect public works and other buildings and structures, including carpenter ants and termites.
 (“promotion de la santé ou de la sécurité publiques “)

Listed active ingredients, cosmetic purpose

17. (1) For the purposes of paragraph 1 of subsection 7.1 (1) of the Act, the Director shall apply the following rules for the purpose of determining whether an active ingredient is appropriate for use for a cosmetic purpose:

- 1. An active ingredient is appropriate for use for a cosmetic purpose only if it is contained in a Class B, C or D pesticide with a label that indicates at least one use that is not mentioned in subsection 7.1 (2) of the Act.
- 2. An active ingredient is appropriate for use for a cosmetic purpose only if the Director is satisfied that,
 - i. the active ingredient is a biopesticide, or
 - ii. based on consideration of the following factors, the active ingredient poses a low risk to human health and the environment:
 - A. The active ingredient has a low inherent toxicity to non-target organisms.
 - B. The products in which the active ingredient is contained are unlikely to be used in a manner that is likely to cause significant exposure to humans.
 - C. The active ingredient is not persistent in the environment.
 - D. The active ingredient is widely available to the public and has a history of safe use.
 - E. The active ingredient has a non-toxic mode of action.

(2) The following persons may submit to the Director a request that the Director determine whether an active ingredient is appropriate for use for a cosmetic purpose:

1. A person who has registered a pesticide that contains the active ingredient under the *Pest Control Products Act* (Canada).
2. The Canadian agent of a person mentioned in paragraph 1.

Prescribed document, listed active ingredients

18. For the purposes of paragraph 2 of subsection 7.1 (1) of the Act, the document entitled “List of Active Ingredients Authorized for Cosmetic Uses” is the prescribed document in which the Director must list the active ingredients determined under section 17 of this Regulation to be appropriate for use for a cosmetic purpose.

Annual reports

19. (1) The following persons shall ensure that an annual report is prepared in accordance with this section:

1. The owner or operator of a golf course on which an unlisted pesticide is used.
2. The owner or operator of a public work with respect to which an unlisted pesticide is used.
3. The owner or operator of specialty turf mentioned in subsection 24 (1) on which an unlisted pesticide is used.
4. The owner or operator of a cemetery within the meaning of section 27 on which an unlisted pesticide is used.

(2) The annual report shall cover the use of unlisted pesticides during the period from January 1 to December 31 in a year and shall be prepared before January 31 in the following year.

(3) The annual report shall be in a form approved by the Director.

(4) The annual report shall set out the following information with respect to the use of unlisted pesticides in land exterminations during the year:

1. The name of each active ingredient used.
2. The quantity in kilograms of each active ingredient used.
3. The reason for using each active ingredient.
4. Except in the case of the owner or operator of a golf course, the method of use for each active ingredient.

5. A map or plan showing the location of all application areas.
6. Except in the case of the owner or operator of a golf course, an explanation of how future use of each active ingredient used will be minimized.
7. The signature of the integrated pest management agent or another person who is certified by an integrated pest management body approved by the Director and who used, supervised the use or provided any written instructions on the use of the pesticides.

(5) In the case of the owner or operator of a golf course, in addition to complying with subsection (4), the annual report shall set out the following additional information with respect to the use of unlisted pesticides on the golf course:

1. If an annual report was prepared previously,
 - i. the information provided under paragraphs 1 and 2 of subsection (4) in the most recently prepared annual report, and
 - ii. an explanation of any differences between the information provided in the current annual report and the information mentioned in subparagraph i.
2. An explanation of how the employment of integrated pest management principles and maintaining accreditation by the integrated pest management body has minimized the use of the active ingredients on the golf course during the year covered by the report and how it will minimize the use during the year in which the report is prepared.
3. The name, contact information, registration number and signature of the golf course's integrated pest management agent or another person approved in writing by the integrated pest management body for the purposes of this section.
4. Confirmation by the owner or a representative of the owner of the golf course that the report is complete.
5. Any other information that, in the opinion of the Director, is relevant to the use of pesticides and with respect to which the Director has notified the owner or operator of the golf course.

(6) For a period of at least five years after an annual report is prepared, a copy of the annual report shall be,

- (a) kept at the head office of the applicable owner or operator mentioned in subsection (1);

- (b) on request, given immediately to a provincial officer or the Director; and
 - (c) on request, given to any person free of charge within seven days after the request.
- (7) In the case of an owner or operator of a golf course,
- (a) the annual report shall be posted on a website approved by the Director for a period of at least five years; and
 - (b) for a period of at least one year after an annual report is prepared, a copy of the annual report shall be displayed in a prominent place on the property where the golf course is located,
 - (i) in a building that is accessible to the public, if such a building exists, or
 - (ii) if no building that is accessible to the public exists, in a building to which members and guests of the golf course have access.

(8) For the purposes of this section, the operator of a golf course is a person who is responsible for managing or supervising the golf course and includes a golf course superintendent or manager.

Golf courses

20. (1) If an unlisted pesticide is used on a golf course, the owner or operator of the golf course must ensure that the golf course is accredited by an integrated pest management body that has been approved by the Director for the purposes of this section.

(2) If a golf course is registered by an integrated pest management body mentioned in subsection (1) before the first day unlisted pesticides are used on the golf course and the registration is maintained, the owner and operator of the golf course are exempt from subsection (1) until the second anniversary of the first day unlisted pesticides are used on the golf course.

(3) If the owner or operator of a golf course has taken steps to be registered as described in subsection (2) and the Director is of the opinion that undue hardship would be caused to the owner or operator of the golf course in obtaining registration before the first day unlisted pesticides are used on the golf course, the Director may, in writing, specify a later date by which the golf course must be registered by an integrated pest management body mentioned in subsection (1) for the purposes of the exemption in subsection (2).

(4) For the purposes of this section, the operator of a golf course is a person who is responsible for managing or supervising the golf course and includes a golf course superintendent or manager.

Public works

21. (1) No person shall use an unlisted pesticide in an extermination with respect to a public work to destroy, prevent or control plants, fungi or animals, including carpenter ants and termites, that affect the public work, unless,

- (a) the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under the written instructions of a person who is so certified; and
- (b) the extermination is performed,
 - (i) to prevent damage to the structural integrity of the public work, if the potential damage caused to the public work by the plant, fungus or animal would place the health or safety of a person at risk,
 - (ii) to facilitate essential maintenance of the public work, if the plant, fungus or animal would interfere with or prevent the maintenance,
 - (iii) to allow for emergency access to the public work, if the plant, fungus or animal would interfere with or prevent the access, or
 - (iv) to ensure the security of the public work, if the plant, fungus or animal would place the security at risk.

(2) The person mentioned in subsection (1) shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued by the integrated pest management body.

(3) Despite subsection (1), no person shall use an unlisted pesticide on a portion of a highway that is intended for pedestrian access or other portions where the public is invited to stop, including a rest area or picnic area.

Other buildings, structures

22. No person shall use an unlisted pesticide in an extermination with respect to a building or structure that is not part of a public work to destroy, prevent or control plants, fungi or animals, including carpenter ants and termites, that affect the building or structure, unless,

- (a) the extermination is performed to prevent damage to the structural integrity of the building or structure and the potential damage caused to the building or structure by the plant, fungus or animal would place the health or safety of a person at risk; and
- (b) if the pesticide is an herbicide, it is a Class B or C herbicide with a label that indicates that its only active ingredient is glufosinate ammonium or glyphosate or both.

Poisonous plants

23. (1) No person shall use an unlisted pesticide to destroy, prevent or control plants that are poisonous to humans by touch, including poison ivy, poison sumac and giant hogweed, unless the person only uses a Class B, C or D herbicide with a label that indicates that its only active ingredient is glufosinate ammonium or glyphosate or both.

(2) No person shall use a Class D pesticide mentioned in subsection (1) for a use mentioned in that subsection if its label indicates that mixing or dilution is required in order for the pesticide to be used.

Specialty turf

24. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in an extermination to maintain specialty turf is a prescribed use if,

- (a) the specialty turf is used for lawn bowling, cricket, lawn tennis or croquet; and
- (b) the specialty turf is the same kind of turf that is used on golf course greens.

(2) No person shall use an unlisted pesticide on specialty turf described in subsection (1) unless the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under the written instructions of a person so certified.

(3) The person using the pesticide shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued by the integrated pest management body.

Arboriculture

25. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, use of the following pesticides is prescribed:

1. A Class D pesticide that is an injection into a tree and that is an unlisted pesticide.
2. A Class B or C pesticide that is an injection into a tree and that is an unlisted pesticide.
3. Any pesticide that is not an injection into a tree and that is an unlisted pesticide, if the pesticide is used to maintain the health of a tree.

(2) No person shall use a pesticide that is mentioned in paragraph 2 or 3 of subsection (1) with respect to a tree unless the person has obtained a written opinion described in subsection (3) from a person mentioned in that subsection or is working under the written instructions of such a person who has provided such an opinion.

(3) A written opinion referred to in subsection (2) shall be an opinion from one of the following persons stating that the use of the pesticide is necessary to maintain the health of the tree:

1. A person certified as an arborist by the International Society of Arboriculture.
2. A person registered as a member under the *Professional Foresters Act, 2000*.
3. A person who has been issued a certificate of qualification as an arborist or a utility arborist under the *Ontario College of Trades and Apprenticeship Act, 2009* or another certificate of qualification that, in the opinion of the Director, is equivalent to those certificates.
4. A person who, in the opinion of the Director, has qualifications that are equivalent to those of a person mentioned in paragraph 1, 2 or 3.

(4) The written opinion shall specify the maximum number of applications of the pesticide in respect of a tree over a period ending on December 31 in the year in which the opinion is given.

(5) The person who provides the written opinion shall apply integrated pest management principles in determining whether the use of the pesticide is necessary to maintain the health of the tree and shall refuse to provide an opinion if he or she determines that the use of the pesticide is not necessary to maintain the health of the tree.

(6) At least 24 hours before but not more than seven days before performing an extermination by means of a pesticide mentioned in paragraph 2 or 3 of subsection (1), the person using the pesticide shall give written notice setting out the information listed in subsection 80 (1) to the occupants of all properties in a residential area that about the application area and comply with subsections 80 (2) and (3).

(7) The person using the pesticide shall carry or have readily available at the extermination site the opinion or a copy of the written opinion.

(8) The person mentioned in subsection (2) who uses the pesticide shall retain the written opinion or a copy of the opinion for at least 24 months following the completion of the extermination.

Specified sports fields

26. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide for the purpose of maintaining a sports field for a national or international sporting event is prescribed.

(2) If the pesticide is used for the purpose mentioned in subsection (1), the following conditions apply:

1. The Minister must approve in writing the use of the pesticide for the event.
2. The use of the pesticide must stop when the event concludes.
3. The person who uses the pesticide must comply with any conditions or limitations imposed by the Minister under subsection (4).

(3) A request for approval of the use of the pesticide for the event, including a description of the application area, the purpose of the use and the expected duration of the use, must be submitted to the Minister at least six months before the intended use, or by such other time as may be approved by the Minister.

(4) In approving the use of a pesticide for an event under this section, the Minister may impose any conditions or limitations that the Minister considers appropriate.

(5) No person shall use a pesticide for an event under this section unless the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under written instructions of a person so certified.

(6) The person mentioned in subsection (5) shall carry or have readily available at the extermination site the Minister's approval mentioned in paragraph 1 of subsection (2) or a copy of the approval.

(7) The Minister may approve the use of a pesticide for an event under this section only if he or she is of the opinion that,

- (a) the use of the pesticide is necessary for the hosting of the event; and
- (b) the use of the pesticide is in the public interest.

Cemeteries

27. (1) For the purpose of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in an extermination to maintain lawn on a lot in a cemetery is a prescribed use.

(2) No person shall use an unlisted pesticide in a cemetery unless the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under written instructions of a person so certified.

(3) The person mentioned in subsection (2) who uses the pesticide shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued by the integrated pest management body.

(4) In this section,

“cemetery” has the same meaning as in the *Funeral, Burial and Cremation Services Act, 2002*; (“cimetière”)

“lot” means an area of land in a cemetery containing interred human remains and includes a tomb, crypt or compartment in a mausoleum and a niche or compartment in a columbarium and any other similar facility or receptacle. (“sépulture”)

Natural resources

28. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act and subject to subsection (7), the use of an unlisted pesticide that is a Class B or C pesticide to manage, protect, establish or restore natural resources is prescribed if,

- (a) the person who uses the pesticide is,
 - (i) an employee of, or a person who is providing a service to, the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks who is using the pesticide in the course of their employment,
 - (ii) an employee of, or a person who is providing a service to, a body responsible for managing a natural resources management project who is using the pesticide in the course of their employment, if the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks has entered into a written agreement with the body respecting the project,
 - (iii) an employee of, or a person who is providing a service to, a conservation authority established under the *Conservation Authorities Act* who is using the pesticide in the course of their employment; or
- (b) the person who uses the pesticide is a person other than a person mentioned in clause (a) and a Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks has provided a written opinion stating that the use of the pesticide meets the criteria set out in subsection (2).

(2) A Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks may provide an opinion mentioned in clause (1) (b) only if he or she is of the opinion that the following criteria are met:

1. The purpose for which the pesticide is to be used is,

- i. to control an invasive species that may be detrimental to the health of persons or the environment or economy of Ontario,
- ii. to benefit a species of flora or fauna that is native to Ontario through the protection of the species or its habitat, or the establishment, restoration or management of the species' habitat, or
- iii. to protect or restore a rare ecosystem or its components.

2. The use of the pesticide would be in accordance with integrated pest management principles.

(3) A Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks may refuse to provide an opinion mentioned in clause (1) (b) if, in his or her opinion, it would not be in the public interest to do so.

(4) A person may apply to the Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks for an opinion mentioned in clause (1) (b) and the application must be in writing.

(5) In providing an opinion mentioned in clause (1) (b), the Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks shall set out,

- (a) the name of the person authorized to use the pesticide;
- (b) the street address or legal description of the property or properties that contain the application area;
- (c) the purpose for which the pesticide is to be used; and
- (d) the time period, not exceeding five years, during which the opinion is valid.

(6) A person who uses a pesticide under clause (1) (b) shall,

- (a) use the pesticide for the purpose identified in the written opinion; and
- (b) carry a copy of the written opinion or have it readily available at the extermination site.

(7) Subsection (1) applies only if the use of the pesticide is not otherwise authorized under subsection 7.1 (2) of the Act.

Other legislative requirements

29. For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide that is a Class B or C pesticide for the purpose of complying with a requirement under an Act of Canada or Ontario is prescribed if the use of the pesticide is the only effective and practical means of complying with the requirement.

Uses integral to structural extermination

30. For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in, on or over land is prescribed if the use is integral to a structural extermination.

Scientific purposes

31. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide for the purpose of research, a test or the preservation of a germplasm collection is prescribed.

(2) Subject to subsection (3), no person shall use an unlisted pesticide for the purpose of research or a test unless,

- (a) the person uses the pesticide on the premises of a research centre, university or other institution of learning, or on experimental properties used for the purpose of the research or test; and
- (b) the person who uses the pesticide is,
 - (i) a person affiliated with a research centre, university or other institution of learning,
 - (ii) a professional researcher from industry, the Government of Ontario or the Government of Canada, or
 - (iii) a person under the supervision or authority of a person mentioned in subclause (ii).

(3) If a person does not meet the requirements mentioned in clauses (2) (a) and (b), the person shall obtain a written approval to use the pesticide from the Director at least seven days before using the pesticide for the purpose of research or a test.

(4) In providing an approval under subsection (3), the Director shall specify the time period, not exceeding five years, during which the approval is valid.

(5) No person shall use an unlisted pesticide for the purpose of preserving a germplasm collection unless he or she obtains from the Director a written approval issued in accordance with subsection (6).

(6) The Director may provide an approval mentioned in subsection (5) only if he or she is of the opinion that the following criteria are met:

1. The purpose for which the pesticide is to be used is in the public interest.
2. The purpose for which the pesticide is to be used is to preserve a germplasm collection.
3. The use of the pesticide is the only effective and practical means of preserving the germplasm collection.

(7) In providing an approval mentioned in subsection (5), the Director shall set out,

- (a) the name of the person authorized to use the pesticide;
- (b) a description of the application area;
- (c) the reason the use of the pesticide is the only effective and practical means to preserve the germplasm collection; and
- (d) the time period, not exceeding five years, during which the approval is valid.

(8) A person who uses an unlisted pesticide pursuant to an approval provided under subsection (3) or (5) shall,

- (a) use the pesticide for the purpose identified in the approval; and
- (b) carry a copy of the approval or have it readily available at the extermination site.

9. The Regulation is amended by adding the following section:

No expiry date, vendor's licence of Treated Seed Class

34.2.1 Despite subsection 34.2 (2), a vendor's licence of the Treated Seed Class does not expire.

10. Subsection 41 (1) of the Regulation is amended by striking out "on a form approved by the Director" at the end.

11. Section 42 of the Regulation is revoked and the following substituted:

Exemption, Class D pesticide

42. A farmer is exempt from subsection 5 (1) of the Act in respect of an extermination that he or she performs for the purposes of the agricultural operation that he or she owns or operates on a regular basis if the extermination is performed by means of a Class D pesticide.

12. The Table to section 43 is revoked and the following substituted:

TABLE

Item	Column 1 Description of extermination that may be performed	Column 2 Conditions related to the extermination
1.	A fumigation of groundhog burrows performed in the ground for the purpose of controlling groundhogs by means of a fumigant gas with a label that indicates that it contains aluminum phosphide.	<ol style="list-style-type: none"> 1. The extermination must be performed for the purposes of the agricultural operation owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1). 2. The farmer must ensure that, <ol style="list-style-type: none"> i. the burrows do not open into a building, ii. all burrow entrances are at least 30 metres from a building, and iii. the farmer and every other person present have adequate respiratory protection during the introduction of the fumigant gas.
2.	An extermination that is performed by means of a Class B or C pesticide that is not a fumigant gas.	<ol style="list-style-type: none"> 1. The extermination must be performed for the purposes of the agricultural operation owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1). 2. If the extermination is a structural extermination, the farmer must meet the following conditions: <ol style="list-style-type: none"> i. If the extermination is performed by means of a Class B or C pesticide with a label that indicates that it contains 4-amino-pyridine, strychnine or zinc phosphide, he or she must meet the requirements set out in section 66. ii. If the extermination is performed by means of a Class B or C pesticide that is a suspension in air or a fumigant that is not a fumigant gas, the farmer must meet the requirements set out in subsection 67 (6) and another farmer who meets the conditions set out in clauses 43 (1) (c) and (d) or a licensed exterminator whose licence authorizes the performance of the extermination must be present during the extermination. 3. The extermination must not be performed by aerial application.
3.	A land extermination performed by means of one of the following: <ol style="list-style-type: none"> 1. A Class B or C pesticide that is not a fumigant gas. 2. A Class D pesticide. 	<ol style="list-style-type: none"> 1. The extermination must be performed for the purposes of an agricultural operation other than the operation that is owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1). 2. If the farmer who is exempt under subsection 43 (1) uses a piece of equipment to apply the pesticide, only one piece of equipment must be used at any time and that equipment must be normally used on an agricultural operation that he or she owns or operates on a regular basis. 3. No money must be paid for the extermination. 4. The extermination must not be performed by aerial application. 5. The farmer who is exempt under subsection 43 (1) must not be assisted in the performance of the extermination by any person other than another farmer who meets the conditions set out in clauses 43 (1) (c) and (d).

13. The Table to section 44 is revoked and the following substituted:

Item	Column 1 Conditions related to the performance of the extermination	Column 2 Conditions related to the supervision
1.	<ol style="list-style-type: none"> 1. The farmer must not, <ol style="list-style-type: none"> i. purchase, recommend or select the pesticide, ii. use a Class B or C suspension in air in a structural extermination, 	<ol style="list-style-type: none"> 1. The supervising farmer must be present at the extermination site or the supervising farmer must, <ol style="list-style-type: none"> i. provide the supervisee with written instructions for the proper use of the pesticide,

	<ul style="list-style-type: none"> iii. select the application rate of the pesticide, iv. calibrate equipment used to apply the pesticide, v. select the appropriate means of storage of the pesticide, vi. select the appropriate means of disposal or recycling of an empty container that has held the pesticide, or vii. transport or dispose of the pesticide that has become waste. <p>2. If the farmer uses a Class B or C pesticide with a label that indicates that it contains 4-amino-pyridine, strychnine or zinc phosphide in a structural extermination, he or she must meet all of the requirements set out under section 66.</p>	<ul style="list-style-type: none"> ii. ensure that the instructions are readily available at the extermination site, iii. be available for immediate response through an effective communication system and iv. be able to attend at the extermination site to respond to an emergency situation within a period of time that is reasonable in the circumstances. <p>3. The supervising farmer must not supervise, at any one time, more than three farmers who are exempt under subsection 44 (1).</p> <p>4. The supervising farmer must ensure that the use, storage, transportation and disposal of pesticides for the purposes of the agricultural operation are carried out in accordance with the Act and this Regulation.</p> <p>5. The supervising farmer must ensure that the conditions applicable to the extermination set out in Column 2 of the Table to section 43 are met.</p>
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14. (1) Subsection 45.1 (1) of the Regulation is amended by striking out “Class 12” in the portion before clause (a) and substituting “Class E”.

(2) Subclause 45.1 (1) (a) (ii) of the Regulation is amended by striking out “within the last 60 months or within such other period of time as may be specified by the Director”.

(3) Subsection 45.1 (2) of the Regulation is revoked and the following substituted:

(2) Subsection (1) does not apply to a person unless the person is performing the extermination on a farm property that is identified in a pest risk assessment report referred to in subsection 98.3 (2) that was provided to the treated seed sales representative, vendor or custom seed treater in respect of the Class E pesticide.

(4) Subsection 45.1 (3) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”.

(5) Subclause 45.1 (3) (a) (ii) of the Regulation is amended by striking out “pest assessment report” and substituting “pest risk assessment report”.

(6) Subclause 45.1 (3) (a) (iii) of the Regulation is amended by striking out “subsection 45.2 (1)” at the end and substituting “section 45.2”.

(7) Subsection 45.1 (4) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting “Class E” in each case.

(8) Subparagraph 2 iv of subsection 45.1 (4) of the Regulation is revoked.

(9) Subsection 45.1 (5) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”.

(10) Clause 45.1 (5) (c) of the Regulation is revoked.

(11) Clause 45.1 (5) (e) of the Regulation is amended by striking out “subsections 9.1 (1) and (3)” and substituting “subsection 9.1 (3)”.

(12) Subsection 45.1 (6) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”.

(13) Paragraph 3 of subsection 45.1 (6) of the Regulation is amended by striking out “Pest Assessment Guideline” wherever it appears and substituting in each case “Pest Risk Assessment Guideline”.

(14) Subsection 45.1 (7) of the Regulation is revoked.

(15) Subsection 45.1 (8) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”.

(16) Subparagraph 3 iii of subsection 45.1 (8) of the Regulation is revoked.

(17) Paragraph 5 of subsection 45.1 (8) of the Regulation is revoked and the following substituted:

5. The name of the Class E pesticide used in the extermination or the name of the custom seed treater who treated the Class E pesticide used in the extermination.

(18) Paragraph 7 of subsection 45.1 (8) of the Regulation is amended by striking out “and expiry date”.

(19) Paragraph 8 of subsection 45.1 (8) of the Regulation is amended by striking out “and expiry date”.

(20) Clause 45.1 (9) (c) of the Regulation is revoked and the following substituted:

- (c) keep a copy of each pest risk assessment report referred to in subsection 98.3 (2) and each written declaration referred to in subsection 98.3 (2) that relates to the extermination for a period of at least two years after the extermination is complete; and

15. Section 45.2 of the Regulation is revoked and the following substituted:

Use of seeds treated by custom seed treaters

45.2 A Class E pesticide treated by a custom seed treater shall not be used in an extermination for the purposes of an agricultural operation unless the following criteria are met:

1. The person who requested the seed treating service provided the custom seed treater with the information and documents referred to in subsection 98.3 (2) that are required to be provided by a person mentioned in that subsection.
2. The custom seed treater provided to the person who requested the seed treating service, in a form approved by the Director, a written confirmation that the person who requested the seed treating service provided a copy of the pest risk assessment report referred to in paragraph 1 to the custom seed treater.

16. (1) Clause 46 (3) (b) of the Regulation is revoked and the following substituted:

- (b) a copy of a document confirming that within the previous 24 months the Director has been satisfied that the technician has qualifications equivalent to having successfully completed the course mentioned in clause (a).

(2) Item 1 of the Table to section 46 of the Regulation is amended by,

- (a) striking out “Class 2” in subparagraph 1 iii of Column 2 and substituting “Class B”; and
- (b) striking out “Class 3” in subparagraph 1 iv of Column 2 and substituting “Class C”.

(3) Column 2 of Item 2 of the Table to section 46 of the Regulation is amended by striking out “Class 2” in paragraph 3 and substituting “Class B”.

17. (1) Subsection 47 (1) of the Regulation is amended by striking out the portion before clause (a) and substituting the following:

Assistance to exterminator

(1) If an exterminator requires assistance in the performance of an extermination to which subsection 5 (1) of the Act applies, no person, other than a licensed exterminator authorized to perform the extermination, shall assist with the extermination unless,

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(2) Clause 47 (5) (b) of the Regulation is revoked and the following substituted:

- (b) a copy of a document confirming that within the previous 24 months the Director has been satisfied that the technician has qualifications equivalent to having successfully completed the course mentioned in clause (a).

18. Clause 50 (3) (c) of the Regulation is amended by striking out “Class 2 or 3” and substituting “Class B or C”.

19. (1) Clause 51 (a) of the Regulation is amended by striking out “Class 5, 6 or 7” in the portion before subclause (i) and substituting “Class D”.

(2) Clause 51 (b) of the Regulation is amended by striking out the portion before subclause (a) and substituting the following:

- (b) if the extermination is a structural extermination, a Class D pesticide with a label that indicates that it contains no pesticide ingredients other than,

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20. Item 1 of the Table to section 53 is amended by striking out paragraph 5 in Column 2 and substituting “Any other insecticide that is not a fumigant gas and that has a label that indicates use in the extermination of pests associated with the commodity being fumigated.”

21. Item 3 of the Table to section 53 is amended by adding the following paragraphs in Column 3:

- 3. A land extermination performed by means of chloropicrin.
- 4. A land extermination mentioned in subsection 71 (3).

22. Clause 54 (1) (b) of the Regulation is amended by striking out “Class 5, 6 or 7” and substituting “Class D”.

23. (1) Clause 55 (1) (b) of the Regulation is amended by striking out “Class 2, 3, 4, 5, 6 or 7” and substituting “Class B, C or D”.

(2) Clause 55 (1) (c) of the Regulation is amended by striking out “Class 2 pesticide” at the end and substituting “fumigant gas”.

(3) Clause 55 (2) (c) of the Regulation is amended by striking out “Class 3, 4, 5, 6 or 7 pesticide” at the end and substituting “Class B, C or D pesticide that is not a fumigant gas”.

24. (1) Clause 56 (1) (b) of the Regulation is revoked and the following substituted:

- (b) subject to subsection (2), the person performs the extermination in groundhog burrows in the ground by means of a fumigant gas with a label that indicates that it contains aluminum phosphide for the purpose of controlling groundhogs.

(2) Clause 56 (2) (b) of the Regulation is amended by striking out “10” and substituting “30”.

25. (1) Subsection 58 (1) of the Regulation is amended by striking out “Class 2 pesticide” in the portion before paragraph 1 and substituting “Class B or C pesticide that is a fumigant gas”.

(2) Subsections 58 (2) and (3) of the Regulation are revoked and the following substituted:

(2) For greater certainty, a Class B or C pesticide that is a fumigant gas is prescribed for the purposes of subsection 7 (1) of the Act if the pesticide is used in a structural extermination to destroy bees.

(3) Subsection 7 (1) of the Act does not apply with respect to a fumigation mentioned in paragraph 2 of subsection (1) if the extermination is performed by a licensed exterminator of the Fumigation Commodity or Fumigation General class and the licensee complies with sections 59 and 63.

(4) Sections 59 and 63 do not apply to the holder of a permit who is performing a fumigation mentioned in paragraph 2 of subsection (1) except to the extent the Director imposes one or more of the requirements set out in those sections as a condition of the permit.

26. Clause 64 (c) of the Regulation is amended by striking out “10” and substituting “30”.

27. (1) Subsection 65 (1) of the Regulation is amended by adding “and” at the end of clause (a), by striking out “and” at the end of clause (b) and by revoking clause (c).

(2) Subsection 65 (2) of the Regulation is amended by adding the following clause:

(0.a) the exterminator shall ensure that the fumigant gas or chloropicrin used in the fumigation is enclosed during the fumigation under a covering that suppresses the release of gas;

(3) Section 65 of the Regulation is amended by adding the following subsection:

(3) This section applies, with necessary modifications, to a land extermination that is performed by means of chloropicrin.

28. (1) Section 66 of the Regulation is amended by striking out “If a pesticide containing” at the beginning of the portion before clause (a) and substituting “If a pesticide with a label that indicates that it contains”.

(2) Clause 66 (c) of the Regulation is revoked.

(3) Section 66 of the Regulation is amended by adding the following subsections:

(2) A person who performs a structural extermination using a pesticide with a label that indicates that it contains 4-amino-pyridine, strychnine or zinc phosphide shall,

- (a) prepare a record, during the extermination, of each location where the pesticide is placed and keep the record for at least two years after the extermination is complete;
- (b) if the structural extermination is performed for an operator, give a copy of the record mentioned in clause (a) to the operator after the extermination is complete; and
- (c) if the Director requests a copy of the record mentioned in clause (a) during the two years following the completion of the extermination, give it to the Director as soon as practicable.

(3) An operator shall,

- (a) keep a copy of a record given under clause (2) (b) for at least two years after the extermination is complete; and
- (b) if the Director requests a copy of the record mentioned in clause (a) during the two years following the completion of the extermination, give it to the Director as soon as practicable.

29. (1) Subsection 67 (2) of the Regulation is amended by striking out “Class 2” in the portion before clause (a) and substituting “Class B or C”.

(2) Clause 67 (2) (a) of the Regulation is amended by adding “Fumigation Commodity,” before “Greenhouse/Interior Plant”.

(3) Subsections 67 (3), (4) and (5) of the Regulation are revoked.

(4) Subsection 67 (6) of the Regulation is amended by striking out “Class 2 or 3” in the portion before clause (a) and substituting “Class B or C”.

30. The Regulation is amended by adding the following section immediately before the heading “Land Exterminations”:

Signs, requirement to post

67.1 Section 74 applies to a person who performs a structural extermination that involves the use of a pesticide in, on or over land for the purposes of destroying, preventing or controlling animals that bite, sting, are venomous or carry disease.

31. The Regulation is amended by adding the following section immediately after the heading “Land Exterminations”:

Deemed land extermination

67.2 A structural extermination is deemed to be a land extermination for the purposes of the Act and this Regulation if,

- (a) the extermination is performed to destroy, prevent or control plants in order to prevent damage to the structural integrity of a building or other structure that is not part of a public work; and
- (b) the potential damage caused to the building or structure by the plants would place the health or safety of a person at risk.

32. (1) Item 2 of the Table to subsection 68 (1) of the Regulation is amended by striking out “fumigant gas that contains” in Column 2 and substituting “fumigant gas with a label that indicates that it contains”.

(2) Item 3 of the Table to subsection 68 (1) of the Regulation is amended by adding “Use in a land extermination described in section 67.2” after “Use in a structural extermination mentioned in section 57” in Column 3.

(3) Item 5 of the Table to subsection 68 (1) of the Regulation is amended by adding the following paragraph in Column 3:

- 4. Use in a land extermination for the destruction, prevention or control of vegetation, as authorized under section 23, 28 or 29.

33. Subsection 68 (2) of the Regulation is amended by striking out “Class 12” and substituting “Class E”.

34. (1) Section 69 of the Regulation is amended by striking out “Class 5, 6 or 7” and substituting “Class B or D”.

(2) Section 69 of the Regulation is amended by adding the following subsection:

(2) Subsection (1) does not apply to a Class B pesticide with a label that indicates that it contains an active ingredient other than capsaicin.

35. Section 70 of the Regulation is amended by striking out “Class 5, 6 or 7” in the portion before clause (a) and substituting “Class D”.

36. (1) Subsection 71 (1) of the Regulation is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following clause:

- (c) he or she exterminates pests that are animals that bite, sting, are venomous or carry disease.

(2) Subsection 71 (2) of the Regulation is amended by striking out “mosquitoes in their adult stage or other biting flies in their adult stage” at the end and substituting “an arthropod in its terrestrial life stage that bites, stings, is venomous or carries disease”.

(3) Section 71 of the Regulation is amended by adding the following subsection:

(3) A licenced structural exterminator of the Fumigation Soil class is exempt from subsection 5 (1) of the Act with respect to the performance of a land extermination if,

- (a) he or she performs the extermination of soil; and
- (b) only a pesticide that is a fumigant is used for the extermination.

37. Section 72 of the Regulation is revoked and the following substituted:

Permits

72. (1) A pesticide used in a land extermination is prescribed for the purposes of subsection 7 (1) of the Act in any of the following circumstances:

1. The pesticide is a Class B or C pesticide with a label that indicates that it contains picloram.
2. Subject to subsection (2), the pesticide is a Class B pesticide and the extermination is performed by aerial application.
3. The pesticide is a Class C pesticide and the extermination is performed by aerial application in connection with the management of a Crown forest.

(2) Paragraph 2 of subsection (1) does not apply with respect to an extermination performed by a municipality using *Bacillus thuringiensis* subspecies *kurstaki* for the purpose of maintaining a tree canopy.

38. Subsection 73 (2) of the Regulation is amended by striking out “Class 2 or 3” in the portion before clause (a) and substituting “Class B or C”.

39. (1) Column 4 of the Table to subsection 74 (1) of the Regulation is revoked and the following substituted:

Column 4 Pesticide used
Pesticide with a label that indicates that its only active ingredients are listed active ingredients.
Any pesticide other than a pesticide with a label that indicates that its only active ingredients are listed active ingredients.
Pesticide with a label that indicates that its only active ingredients are listed active ingredients.
Any pesticide other than a pesticide with a label that indicates that its only active ingredients are listed active ingredients.

(2) Subsection 74 (2) of the Regulation is amended by striking out “or” at the end of clause (d), by adding “or” at the end of clause (e) and by adding the following clause:

- (f) the extermination is performed by means of a rodenticide that is secured,
 - (i) within a tamper-resistant bait station, or
 - (ii) in a location that is not accessible to children, pets, livestock or non-target wildlife.

(3) Subsection 74 (4) of the Regulation is revoked and the following substituted:

(4) Subsection (1) does not apply if the extermination is performed by means of any of the following:

1. A Class D pesticide that is one of the following:
 - i. A tree wound dressing.
 - ii. A wood preservative.
 - iii. An insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets.
 - iv. An injection into trees, stumps or wooden poles.
2. A Class B or D pesticide that is an animal repellent used for personal protection.

40. Subclause 78 (3) (b) (ii) of the Regulation is revoked and the following substituted:

- (ii) an outdoor area associated with a residential building, including an apartment building or long-term care home, but not including a detached house, semi-detached house or rowhouse,

- (ii.1) a portion of a highway that is intended for pedestrian access or other portions where the public is invited to stop, including a rest area or picnic area,

41. Section 79 of the Regulation is revoked and the following substituted:

Alternative to non-residential area signs

79. (1) A person who performs the land extermination for which the posting of Sign E or Sign F is required may elect to provide public notice of the extermination in accordance with this section instead of in accordance with section 78 if the following circumstances apply:

1. Written notice of the election is provided to the Director before the public notice is given.
2. In the case of a land extermination by aerial application, the Director gives written notice to the person stating that the Director is of the opinion that compliance with this section will provide adequate notice to all persons who may be affected by the extermination.
3. One or more of the following circumstances applies:
 - i. Complying with the requirements of section 78 would require the posting of more than 20 signs.
 - ii. The application area is in a rural area and is on a public thoroughfare.
 - iii. The application area is in a rural area on land used for the purposes of a public work and the land extermination is to be performed for the benefit of the public work or to allow access to the public work.
 - iv. In the opinion of the Director, public access to the application area is sufficiently limited to justify the election.

(2) The public notice may be given, in the case of an application area described in Column 1 of the following Table, in accordance with the rules set out opposite the application area in Column 2 of the Table:

TABLE

Item	Column 1 Application area	Column 2 Rules
1.	A golf course.	1. Post Sign E or F at least 24 hours but not more than seven days before the extermination begins at every entrance to the golf course (including a pedestrian walkway, a multi-use trail crossing and a driveway), each pro shop and each starting tee. 2. Give public notice by at least one of the following means: i. Post Sign E or F at least every 100 metres along the perimeter of a hole used for playing golf on which there is an application area.

		<p>ii. Except in respect of any property for which there is a barrier between that can reasonably be expected to prevent any person from entering the golf course from the property, give written notice to the occupant of each property that abuts the golf course at least one time per year, one week before pesticides are first used at the golf course in a calendar year, setting out the following:</p> <p>A. That pesticides are anticipated to be used at the golf course during the year.</p> <p>B. The telephone number of a representative of the golf course who can provide more information.</p> <p>C. That the occupant has the option to receive written notice each time a sign is required to be posted under this section.</p> <p>3. If an occupant confirms the choice of the option described in sub-subparagraph 2 ii C, provide the written notice 24 hours before the sign is required to be posted.</p> <p>4. Despite paragraphs 1 and 2, a sign may be posted or a notice given immediately before the extermination begins, if the extermination is carried out by means of a fungicide.</p>
2.	An application area that is not a golf course and in respect of which a Sign E would otherwise be required to be posted in accordance with section 78.	Publish notice in a newspaper of general circulation in the vicinity of the application area at least one week before the extermination begins, repeated monthly until the extermination is complete.
3.	An application area in respect of which a Sign F would otherwise be required to be posted in accordance with section 78 that is, i. on a portion of a highway or in a rural area, and ii. on a public thoroughfare.	<p>1. Publish notice in a newspaper of general circulation in the vicinity of the application area at least one week before the extermination begins, repeated monthly until the extermination is complete.</p> <p>2. Provide notice by at least one of the following means:</p> <p>i. Distribution of written notices that meet the requirements of section 80 to the occupant of each property within 100 metres of the application area at least one week before the extermination begins.</p> <p>ii. Posting a Sign F at least every kilometre along the portion of the highway that is the application area and at every point where another highway intersects the portion of the highway that is the application area,</p> <p>A. if the portion of the highway abuts one of the places set out in clause 78 (3) (b), at least 24 hours but not more than seven days before the extermination begins, or</p> <p>B. in any other case, immediately before the extermination begins.</p>
4.	Any application area.	Other means that have been approved by the Director and are described in a written notice given to the person, stating that the Director is of the opinion that the means will provide adequate notice to all persons who may be affected by the extermination.

(3) In addition to complying with applicable requirements set out in subsection (2), signs shall be posted conspicuously least every 100 metres along the portion of the perimeter of the application area that abuts one or more of the following areas:

1. An outdoor area associated with an educational institution or facility, including a day care facility, nursery school, primary school, high school, private school or post-secondary institution.
2. An outdoor area associated with a residential building that is not a detached house, semi-detached house or rowhouse, including an apartment building, condominium or long-term care home.
3. A park.
4. A cemetery.
5. A campground.

6. A path or trail for walking, hiking, bicycling or similar use, but not a path or trail for use by motorized vehicles.
7. A portion of a highway that is intended for pedestrian access or other portions where the public is invited to stop, including a rest area or picnic area.

(4) For the purposes of this section,

“public thoroughfare” includes a highway and any land over which the public has a general right of access but does not include any portion of a highway that is intended for pedestrian access or other areas where the public is invited to stop, including a rest area or picnic area.

42. (1) Paragraphs 4, 5 and 6 of subsection 80 (1) of the Regulation are revoked and the following substituted:

4. The name of the Class B, C or D pesticide to be used and the registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada).
5. The active ingredients contained in the Class B, C or D pesticide to be used.
6. The telephone number of a representative of the person using the pesticide who can provide more information about it.
7. If the pesticide is being used with respect to an exception under subsection 7.1 (2) of the Act, a description of the exception.

(2) Section 80 of the Regulation is amended by adding the following subsection:

(3) If a range of dates is provided for the purpose of paragraph 1 of subsection (1), the person mentioned in paragraph 6 of subsection (1) must be able to provide, at least 24 hours before the extermination, the actual date on which the extermination is to take place.

43. (1) Subsection 83 (3) of the Regulation is amended by adding “Unless the pesticide has a label that indicates that it contains diuron or acrolein” at the beginning.

(2) Clause 83 (3) (b) of the Regulation is amended by adding “at any time of the year” after “occurs”.

44. Subsection 84 (1) of the Regulation is amended by striking out “and” at the end of clause (b), by striking out clause (c) and by substituting the following:

- (c) the person uses a Class B, C or D pesticide with a label that indicates use as mentioned in clause (a); and
- (d) the label for the pesticide does not indicate that it contains diuron or acrolein.

45. Subsection 85 (2) of the Regulation is amended by striking out “Class 2 or 3” in the portion before clause (a) and substituting “Class B or C”.

46. Clause 88 (3) (c) of the Regulation is amended by striking out “Class 2 or 3” and substituting “Class B or C”.

47. Section 91 of the Regulation is amended by striking out “Class 3, 4, 5, 6 or 7” and substituting “Class B, C or D”.

48. Section 92 of the Regulation is revoked and the following substituted:

Exemption, specified pesticides

92. A person who operates an extermination business is exempt from subsection 5 (2) of the Act and section 93 with respect to the business in any of the following circumstances:

1. The only exterminations performed for the purposes of the business are performed by means of a Class D pesticide that is any of the following:
 - i. A tree wound dressing.
 - ii. A wood preservative.
 - iii. An insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets.
 - iv. An injection into trees, stumps or wooden poles.
2. The only exterminations performed for the purposes of the business are structural exterminations performed by means of a Class D pesticide with a label that indicates that it contains no active ingredients other than a soap or a mineral oil or silicon dioxide, also called diatomaceous earth.
3. The only exterminations performed for the purposes of the business are performed by means of a Class E pesticide by a person referred to in subsection 45.1 (1).

49. (1) Subsection 93 (1) of the Regulation is amended by striking out “in a form approved by the Superintendent of Financial Services of the Province of Ontario”.

(2) Subsection 93 (2) of the Regulation is amended by striking out “\$25,000” and substituting “\$1,000,000” and by striking out “50,000” at the end and substituting “\$1,000,000”.

(3) Subsection 93 (4) of the Regulation is amended by striking out “1,000,000” and substituting “2,000,000”.

(4) Subsection 93 (5) of the Regulation is amended by striking out “200,000” and substituting “\$2,000,000”.

(5) Clause 93 (6) (a) of the Regulation is amended by striking out “\$100,000” and substituting “2,000,000”.

(6) Clause 93 (6) (b) of the Regulation is amended by striking out “\$25,000” and substituting “\$2,000,000”.

(7) Subsection 93 (8) of the Regulation is revoked.

50. Section 96 of the Regulation is revoked and the following substituted:

Exemption, specified pesticides

96. A person is exempt from section 6 of the Act with respect to the sale, offer for sale or transfer of any of the following pesticides:

1. A Class D pesticide that is a paint, stain, sealer or wood preservative, if no food is prepared, sold or stored at the sales outlet where the pesticide is sold or transferred.
2. A Class D pesticide that is a personal insect repellent or rodenticide.
3. A pesticide that is to be transported out of Ontario.

51. (1) Section 96.1 of the Regulation is amended by striking out “Class 12” wherever it appears and substituting “Class E” in each case.

(2) Paragraph 2 of subsection 96.1 (4) of the Regulation is amended by striking out “section 98” and substituting “section 98.3”.

(3) Paragraph 1 of subsection 96.1 (8) of the Regulation is revoked and the following substituted:

1. The name of the Class E pesticide.

(4) Subsection 96.1 (9) of the Regulation is revoked and the following substituted:

(9) The direct-to-farm vendor shall keep the record required under subsection (8) for a period of at least two years after the record is prepared or the information and documents are collected by the vendor, or for such other period as the Director may require in writing.

52. Subsection 97 (1) of the Regulation is revoked and the following substituted:

Prescribed pesticides, s. 7.1 (4) of the Act

(1) A pesticide is prescribed for the purposes of subsection 7.1 (4) of the Act if it meets one or more of the following criteria:

1. The pesticide is a Class B, C or D pesticide with a label that indicates that its only active ingredients are listed active ingredients.
2. The pesticide is a Class B or C pesticide, other than a pesticide mentioned in paragraph 1, with a label that indicates a use set out in subsection 7.1 (2) of the Act.
3. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, and its label indicates a use related to clause (a) of the definition of the promotion of public health or safety in section 16.
4. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, and its label,
 - i. indicates a use related to the destruction, prevention or control of plants that are poisonous to humans by touch,
 - ii. indicates that the only active ingredient it contains is glufosinate ammonium or glyphosate or both, and
 - iii. does not indicate that any mixing or dilution is required in order to use the pesticide.
5. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, that is not a herbicide or fungicide and its label indicates a use related to a structural extermination.
6. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, and its label indicates an indoor use or a use in water.

53. Section 98 of the Regulation is revoked and the following substituted:

Sale and transfer, Class A

98. Unless exempt from section 6 of the Act, no person shall sell or transfer a Class A pesticide except in accordance with the following rules:

1. The person must be a licensed vendor of the General class.
2. The sale or transfer must be to one of the following:
 - i. A licensed vendor of the General class.
 - ii. A manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer.
 - iii. A person who is exempt under section 10 of this Regulation from subsection 5 (1) of the Act with respect to the use of the pesticide, if the person presents a letter signed by the Director or a written approval mentioned in subsection 10 (2) of this Regulation confirming that the person is exempt.

Sale and transfer, Class B or C

98.1 (1) Unless exempt from section 6 of the Act, no person shall sell or transfer a Class B or C pesticide except in accordance with the following rules:

1. Subject to subsection (2), the person must be a licensed vendor of the General class.
2. Subject to paragraph 3, the sale or transfer must be to one of the following:
 - i. A licensed vendor of the General class.
 - ii. A manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer.
 - iii. A person who is exempt under section 10 of this Regulation from subsection 5 (1) of the Act with respect to the use of the pesticide, if the person presents a letter signed by the Director or a written approval mentioned in subsection 10 (2) of this Regulation confirming that the person is exempt.
 - iv. A person who is exempt under paragraph 1 or 3 of section 14 of this Regulation from the Act and the regulations with respect to the use, storage, sale, offer for sale, transfer or transportation of a pesticide in carrying out their professional duties, if the person provides the membership number assigned to the person by a College mentioned in section 14.
 - v. A person who is exempt under paragraph 2 of section 14 of this Regulation from the Act and the regulations with respect to the use, storage, sale, offer for sale, transfer or transportation of a pesticide in carrying out their professional duties, if the person provides a letter of employment indicating

that they are a medical officer of health or a member of the staff of a board of health under the *Health Protection and Promotion Act*.

- vi. An inspector who is exempt under subsection 55 (1) of this Regulation from subsection 5 (1) of the Act, if the inspector presents proof of appointment as an inspector under the *Bees Act* and the pesticide is not a fumigant gas.
 - vii. A person who is exempt under subsection 55 (2) of this Regulation from subsection 5 (1) of the Act if the person presents certification of registration issued by the Provincial Apiarist under the *Bees Act* and the pesticide is not a fumigant gas.
 - viii. A person who is exempt under subsections 83 (2) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of the pesticide, if the following conditions are met:
 - A. The person is also exempt under subsection 83 (3) of this Regulation from subsection 7 (2) of the Act.
 - B. The person presents a letter signed by the Director confirming that the person is exempt from subsections 5 (1) and 7 (2) of the Act.
 - ix. A licensed exterminator, if the licence authorizes the use of the pesticide and its label indicates that it does not contain picloram.
 - x. The holder of a permit issued under section 7 of the Act, if the permit authorizes the use of the pesticide.
 - xi. A farmer who meets the conditions set out in clauses 43 (1) (c) and (d), if section 43 authorizes the use of the pesticide and its label indicates that it does not contain picloram, acrolein or diuron.
3. If the pesticide being sold or transferred is a Class B pesticide with a label that indicates use to repel any animal and that its only active ingredient is capsaicin, the pesticide may be sold or transferred to any person.

(2) A licensed vendor of the Limited class may sell or transfer a pesticide described in paragraph 3 of subsection (1).

Sale and transfer, Class D

98.2 Unless exempt from section 6 of the Act, no person shall sell or transfer a Class D pesticide unless the person is a licensed vendor of the General or Limited class.

Sale and transfer, Class E

98.3 (1) Unless exempt from section 6 of the Act, no person shall sell or transfer a Class E pesticide except in accordance with the following rules:

1. The person must be a licensed vendor of the Treated Seed class.
2. The sale or transfer must be to one of the following:
 - i. A licensed vendor of the Treated Seed class.
 - ii. Subject to subsection (2), a person who is exempt under clause 45.1 (1) (a) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of a Class E pesticide.

(2) The sale or transfer may be made to a person mentioned in subparagraph 2 ii of subsection (1) only if the following conditions are met:

1. The person provides the number of the document issued by the body that provided the course described in subsection 45.1 (6), confirming the person's successful completion of the course.
2. The person provides a copy of a pest risk assessment report that is related to each farm property in respect of which the Class E pesticide is to be used.
3. The person provides a written declaration, in a form approved by the Director, that the person has considered integrated pest management principles prior to the sale or transfer.

54. Subsection 100.1 (4) of the Regulation is revoked and the following substituted:

(4) A treated seed sales representative shall not facilitate the sale or transfer of a Class E pesticide unless,

- (a) if the purchaser is a person who is required to hold a vendor's licence of the Treated Seed class, the treated seed sales representative has collected the number of the licence; or
- (b) if the purchaser is a person mentioned in subparagraph 2 ii of subsection 98.3 (1), the treated seed sales representative has collected the information and documents required to be provided by the purchaser under subsection 98.3 (2).

55. Subsection 100.1 (5) of the Regulation is amended by striking out "and shall keep the information and documents for a period of at least two years after the information and

documents are collected or for such other period as the Director may require in writing” at the end.

56. Section 101 of the Regulation is revoked and the following substituted:

Sale and transfer of controlled sales pesticides

101. An outlet representative mentioned in subsection 99 (1) or a licensed vendor of the Limited class who sells or transfers a Class B or D pesticide that meets the following criteria shall ensure that information in a form approved by the Director regarding the use of the pesticide is given to a purchaser or transferee of the pesticide:

1. In the case of a Class B pesticide, its label indicates use to repel any animal and that its only active ingredient is capsaicin.
2. In the case of a Class D pesticide, it is a pesticide described in paragraph 3, 4, 5 or 6 of subsection 97 (1) and the label indicates a use not mentioned in subsection 7.1 (2) of the Act.

57. Sections 101.01 and 101.1 of the Regulation are revoked.

58. (1) Subsection 102 (1) of the Regulation is amended by striking out “Class 1, 2, 3 or 12 pesticide” in the portion before clause (a) and substituting “Class A, B, C or E pesticide”.

(2) Subclause 102 (1) (a) (ii) of the Regulation is amended by striking out “Class 1, 2 or 3” and substituting “Class A, B or C”.

(3) Subclause 102 (1) (a) (iii) of the Regulation is revoked.

(4) Clause 102 (1) (d) of the Regulation is amended by adding “if applicable” after “expiry date”.

(5) Subsection 102 (1.1) of the Regulation is revoked.

(6) Paragraph 1 of subsection 102 (2) of the Regulation is amended by striking out “Class 1, 2, 3 or 4” and substituting “Class A, B or C”.

(7) Paragraph 2 of subsection 102 (2) of the Regulation is revoked and the following substituted:

2. If any sale or transfer of a Class A, B or C pesticide is carried out by the person to a purchaser or transferee mentioned in section 98 or 98.1, the information and a copy of the documents required to be presented or provided under the applicable section.

(8) Subsection 102 (3) of the Regulation is revoked and the following substituted:

(3) A person who is required to hold a vendor's licence shall keep a record mentioned in subsection (1) that pertains to a Class E pesticide for a period of at least four years after the record is prepared, if it is prepared by the vendor, or for a period of at least four years after the record is received by the vendor, or for such other period as the Director may require in writing.

(9) Subsections 102 (4) and (5) of the Regulation are revoked and the following substituted:

(4) A person who is required to hold a vendor's licence of the Treated Seed class shall provide each purchaser of corn seed or soybean seed with a record that clearly identifies which seed is a Class E pesticide.

(10) Subsection 102 (6) of the Regulation is amended by striking out “subsection (2), (3), (4) or (5)” in the portion before clause (a) and substituting “subsection (2) or (3)”.

59. (1) Paragraphs 3, 4, 5, 7 and 8 of subsection 102.1 (1) of the Regulation are revoked.

(2) Paragraph 9 of subsection 102.1 (1) of the Regulation is amended by striking out “Class 12” in the portion before subparagraph i and substituting “Class E”.

(3) Paragraphs 10 and 11 of subsection 102.1 (1) of the Regulation are revoked.

60. Sections 102.2 and 103 of the Regulation are revoked and the following substituted:

Display

103. A person who is required to hold a vendor's licence shall ensure the following:

1. That a Class A, B or C pesticide or a pesticide described in section 101 is displayed in a manner that prevents any person other than the licensed vendor or the licensed vendor's employees from having ready access to the pesticide.
2. That a Class D pesticide is displayed in a manner that presents minimal hazard to children.
3. That a Class A, B, C or D pesticide is not displayed on a shelf or in a display case that is adjacent to or above a shelf or display case containing food or drink intended for human or animal consumption or any other commodity which, if contaminated by the pesticide, could cause injury or damage to property or to plant or animal life or to any person.

61. Subclause 104 (2) (b) (ii) of the Regulation is amended by striking out “Class 12” and substituting “Class E”.

62. (1) Subsection 105 (1) of the Regulation is amended by striking out “Class 1, 2, 3 or 4” and substituting “Class A, B or C”.

(2) Subsection 105 (7) of the Regulation is amended by striking out “Class 1, 2, 3 or 4” in the portion before clause (a) and substituting “Class A, B or C”.

63. (1) Section 106 of the Regulation is amended by striking out “Class 1, 2, 3 or 4” in the portion before clause (a) and substituting “Class A, B or C”.

(2) Clause 106 (a) of the Regulation is amended by striking out “or the *Fertilizers Act* (Canada)” in the portion before subclause (i).

(3) Subclause 106 (b) (ii) of the Regulation is amended by striking out “or the *Fertilizers Act* (Canada)” at the end.

64. (1) Subsection 108 (1) of the Regulation is amended by striking out “Class 1, 2, 3, 4, 5, 6, 7 or 8” and substituting “Class A, B, C or D”.

(2) Subsection 108 (2) of the Regulation is amended by striking out “Class 1, 2, 3, 4, 5, 6, 7 or 8” and substituting “Class A, B, C or D”.

(3) Subsection 108 (3) of the Regulation is revoked and the following substituted:

(3) Subsection (2) does not apply to a person who is transporting any of the following pesticides for personal use in or around a home:

1. A Class D pesticide.
2. A Class B pesticide with a label that indicates use to repel any animal and that its only active ingredient is capsaicin.

65. (1) Subsection 109 (1) of the Regulation is amended by striking out “Class 1, 2, 3, 4, 5, 6, 7 or 8” in the portion before paragraph 1 and substituting “Class A, B, C or D”.

(2) Subsection 109 (2) of the Regulation is revoked and the following substituted:

(2) Subsection (1) does not apply to a person who is storing any of the following pesticides on property occupied by the person for personal use of the pesticide in or around a home:

1. A Class D pesticide.

2. A Class B pesticide with a label that indicates use to repel any animal and that its only active ingredient is capsaicin.

66. The Regulation is amended by adding the following section:

Personal use

109.1 For greater certainty, a reference to “personal use” in sections 108 and 109 does not include the use of a pesticide as part of a person’s employment or occupation.

67. (1) Subsection 110 (1) of the Regulation is amended by striking out “Class 1, 2 or 3” in the portion before clause (a) and substituting “Class A, B or C”.

(2) Clause 110 (1) (e) of the Regulation is revoked and the following substituted:

- (e) the pesticide is stored in an area that is used primarily for the storage of pesticides if the pesticide is a Class B pesticide or is a Class C pesticide that is a fumigant.

68. Section 111 of the Regulation is revoked and the following substituted:

Exemption, specified pesticides

111. Subsection 108 (2) and paragraphs 3 and 4 of subsection 109 (1) do not apply in respect of the storage of any of the following:

1. A Class D pesticide that is,
 - i. a tree wound dressing,
 - ii. a wood preservative,
 - iii. an insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets, or
 - iv. an injection into trees, stumps or wooden poles.
2. A Class D pesticide with a label that indicates that it contains no active ingredient other than a soap or a mineral oil or silicon dioxide, also called diatomaceous earth.

69. (1) Paragraphs 1 to 4 of subsection 112 (1) of the Regulation are revoked and the following substituted:

1. A person who stores a Class A pesticide.
2. A person required to hold a vendor’s licence who stores a Class B, C, or D pesticide.

3. A person required to hold an operator's licence who stores a Class B, C or D pesticide.
4. A manufacturer who stores a Class B, C or D pesticide.

(2) Subsection 112 (3) of the Regulation is revoked and the following substituted:

(3) If the person referred to in subsection (1) commonly stores pesticides in a vehicle overnight, the person shall give a written notice in accordance with subsection (2) to the fire department responsible for the area in which the vehicle is normally parked at night.

70. (1) Subsection 113 (1) of the Regulation is amended by striking out “shall, as soon as practicable, notify the Director” in the portion before clause (a) and substituting “shall immediately notify the Ministry’s Spills Action Centre”.

(2) Subsection 113 (2) of the Regulation is revoked.

71. Section 115 of the Regulation is amended by striking out “Class 1, 2, 3 or 4” in the portion before paragraph 1 and substituting “Class A, B or C”.

72. Schedules 1, 2 and 3 to the Regulation are revoked.

Commencement

73. [Commencement]