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West Coast Environmental Law
DEREGULATION BACKGROUNDER

BILL 53, 2003 – THE INTEGRATED PEST MANAGEMENT ACT

On May 13, 2003 the Minister of Water, Land and Air Protection introduced Bill 53, a new *Integrated Pest Management Act* (the "new Act"), which will replace British Columbia's *Pesticide Control Act*.

Integrated pest management (IPM) is widely recognized to be an important pesticide reduction strategy that seeks to minimize use by making it a 'last resort' option, after attempting strategies such as biological controls (e.g. natural enemies of pests) and cultural controls (e.g. using pest-resistant varieties). Unfortunately, although it borrows the name, those goals are not spelled out anywhere in Bill 53. The definition of "integrated pest management" makes reference to the various components of IPM, but not to its principles, goals or objectives. There is a possibility that the Administrator may pass regulations requiring plans to follow IPM principles, but these plans will not be vetted or approved by government.

Government's oversight role in approving pesticide use will be considerably reduced. For example, government will only be requiring pesticide use permits for certain "prescribed" pesticides. Government will no longer be reviewing and approving pest management plans. Instead, permit applicants must simply declare that they have prepared a plan in accordance with the regulations.

Theoretically, government's role will shift from 'front end' authorization to detecting and punishing companies that are not following their own plans or government technical standards after the fact. However, when these changes are coupled with staff and budget cuts, it is questionable whether government will in fact be able to effectively monitor the amount of pesticides applied in BC and sanction against misuse.

Concerns with Bill 53:

West Coast Environmental Law has several concerns with Bill 53, which we hope the government will remedy to better protect public health and the environment:

- The government has removed most requirements for government approval of proposed pesticide use. Policy documents indicate that, under regulations to be drafted, government approval of pesticide permits will only be required for narrowly defined "high-risk" circumstances.

- For pesticides that do not fall within the "high risk" category, the government may require certain classes of pesticide-users (e.g. forest companies) to develop Pest Management Plans, which will become valid merely on notice to government, without government ever seeing the completed plan, let alone evaluating whether it will prevent harm to human or environmental health and was prepared according to the legal requirements.

- Accountability will be reduced because members of the public will no longer be able to appeal pesticide use permits to the Environmental Appeal Board. The public also cannot ask the Environmental Appeal Board to review Pest Management Plans prepared by pesticide users, even though those Plans have involved no government review. Overall, these changes mean that much of the pesticide use on public land could escape scrutiny by the government, the public and the Environmental Appeal Board.

- The Administrator under the new Act will have broad powers to set standards that determine how the Act will work. However, there is no requirement that these standards protect public health or the environment and ensure public consultation. We feel that such important requirements should be contained in the Act itself.

- The new Act gives the Government wide powers to exempt pesticides from government regulation, without any requirement for safety evaluations of the exempted substances.

- The provincial Cabinet can pass regulations preventing local governments from passing bylaws regulating pesticides. This could diminish the role of local governments in protecting their environment, at a time when the Supreme Court of Canada has upheld local government jurisdiction respecting pesticides elsewhere in Canada (*Hudson* decision, 2001).

Potential Benefits of the New Act

While we are concerned that the new Act is a step backwards for the regulation of pesticide use, there are some potential benefits to Bill 53:

- It gives the Administrator the authority to require that professional "monitors" be used to ensure that pesticide use complies with the Act (although it is not yet clear that these monitors will be sufficiently independent from those required to hire them);

- It allows government to intervene when it becomes aware that pesticide use is likely to cause an unreasonable adverse effect to the environment or human health;

- It introduces administrative penalties (basically ticketing) provisions and increased penalties for offences under the Act, which could help in enforcement of the Act.

Missing Pieces

Unfortunately, it is difficult to evaluate the full effect of the new Act because so much of the detail will be contained in regulations that have not yet been made available. These regulations will determine how the Act actually operates. Although government has stated that Bill 53 sets "high standards for the use of integrated pest management and for public consultation," the Bill contains no requirements around public consultation or public notice, and only vague references to the use of integrated pest management. It is only once the government develops regulations and makes them public that the effectiveness of the Act can be fully evaluated.

In November 2002, the Ministry of Water, Land and Air Protection issued a discussion paper outlining its plans for a new *Integrated Pest Management Act*. Our response to that paper is available from our website at www.wcel.org/wcelpub/2002/13892.pdf. For further information contact West Coast Environmental Law at 604-684-7378.