

Integrated Pest Management Act and Regulation

**Ministry of Environment Draft Guidelines for
IPM Proponents Conducting Consultations with First Nations**

1. INTRODUCTION

Pest Management, which involves the use of herbicides, insecticides, fungicides and other pesticides, is regulated in British Columbia under the *Integrated Pest Management Act (IPMA)* and the *Integrated Pest Management Regulation (IPMR)*. This act and regulation is administered by the Ministry of Environment (referred to below as ‘the Ministry’) and came into force on December 31, 2004, replacing the *Pesticide Control Act* and *Pesticide Control Act Regulation*.

Public consultation is a key element for obtaining an *IPMA* authorization to use pesticides. First Nations’ rights and interests need to be included in this process. The purposes of these guidelines are to provide advice to pest management proponents¹, under the *IPMA*, on:

- a process for engaging First Nations
- recording the results of this process and
- reporting the results to the Ministry.

Using the process described in the guidelines, the proponent will be able to easily communicate the results of the consultation to Ministry staff and First Nations, and will fulfill the *IPMA*’s public consultation and records requirements. Also, this process is compatible with the Crown’s (provincial government) consultation processes.

A proponent may choose other methods to engage First Nations and consult on their proposed pest management activities. Proponents who are involved in consultation should document their engagement activities, share their consultation record with provincial staff, and advise staff of any issues that arise.

Good consultation practices benefit proponents under the *IPMA*. Proponents who are proactive in carrying out and reporting on consultation steps with First Nations, as described in these guidelines, can expect to benefit by preventing delays that may result from Ministry inquiries and involvement. Proactive and sincere efforts to consult will also help build positive working relationships between First Nations and proponents in areas where proponents operate. The consultation steps in these guidelines are intended to complement existing consultation practices that many proponents and First Nations have developed and have determined to be mutually acceptable.

¹ “Proponent” means, as the context requires, an applicant for a pesticide use license or permit, or a person who prepares a pest management plan and gives the Ministry a pesticide use notice under the *IPMA* or *IPMR*.

These guidelines have been prepared to support implementation of the *IPMA* and *IPMR* and are not a substitute for the legal requirements set out in the legislation. These guidelines should be used in conjunction with the *IPMA* and *IPMR* in order to place First Nation consultation in context with other regulatory requirements. Links to the *IPMA* and *IPMR* and to summaries of the legal requirements for industry in Sector Review Papers are available at the following website:

<http://www.env.gov.bc.ca/epd/ipmp/publications/index.htm>.

Terms defined in the *IPMA* and *IPMR* have the same meaning when used in these guidelines.

The foremost requirement of the *IPMA* is that a proponent must not use a pesticide that causes or is likely to cause an unreasonable adverse effect². It is the responsibility of the proponent to investigate concerns identified during consultation, determine the potential for an adverse effect, and ensure plans are modified as necessary to prevent an unreasonable adverse effect.

2. CONSULTATION STEPS TO BE CONDUCTED BY PROPONENTS

This section provides guidance on First Nation consultation steps and how they could be conducted by proponents. In instances where aboriginal interests or treaty rights may be adversely impacted by pest management activities regulated under the *IPMA*, the ministry will assess the proponent's conduct of and fulfilment of these steps (see ministry contact information in **Appendix A**).

2.1 Determining the Level of First Nations Consultation

First Nations consultation is required when a proposed pest management activity is to be conducted in an area where a First Nation asserts aboriginal interests or has treaty rights.

When consultation is required, the level of consultation to be conducted is determined by assessing the potential for that activity to have an adverse impact on a First Nation's aboriginal interests or exercise of treaty rights.

Pest management activities may be proposed for many different types of pests (including insects, fungal diseases and weeds) and using many different application methods (ranging from small uses that target the specific pest, to large uses that may target a number of different plants or animals). Proposals for pesticide uses range from land that is highly managed and modified (e.g., weed control on dam sites or in hydro-electric

² *IPMA*, section 1, In this Act: "adverse effect" means harm to humans, animals or the environment.

compounds) to land that is managed infrequently (e.g., removal of plants that overgrow planted seedlings in harvested forest lands).

The table in **Appendix B** rates different categories of pest management according to potential for adverse impact on land or resource use. For categories where there is no potential for adverse impact, notification to the appropriate First Nation about the activity would likely be sufficient. Where there is a potential for adverse impact on First Nations aboriginal interests or exercise of treaty rights, more in-depth consultation will be necessary.

In many cases proponents will be aware of the First Nations who assert aboriginal interests or who have treaty rights in the proponent's area of operation. If this is not the case, a proponent may wish to conduct research to determine the nature of potential First Nation aboriginal interests or treaty rights in the area, including the location of reserves, communities, and asserted traditional territories (which may involve more than one First Nation). The benefits of doing such research are that information is not sent to First Nations that may not likely be affected by the proposed pest management activities or that the process has to be interrupted because a First Nations was excluded from the process.

To assist with this research, the province has developed a mapping tool (CAD Public Map service) that pest managers may use to identify the First Nations within an area and how they may be contacted. This interactive mapping tool may be accessed through

ftp://ftp.geobc.gov.bc.ca/pub/outgoing/CAD/CAD_Public_Map_Service-User_Guidance-Technical_Instructions.pdf

It enables a proponent to draw a point, line or polygon on a map and generate a list of First Nations with contact information for the area on the map. This information is intended to be a starting point in obtaining information on First Nations who hold aboriginal rights and treaty rights in an area, and to enable the proponent to make those important initial connections to establish respectful working relationships.

Contact information for First Nations may be found on the Ministry of Aboriginal Relations and Reconciliation website at: <http://www.gov.bc.ca/arr/>

Ministry of Environment regional offices may also be able to assist in determining whether all appropriate First Nations have been identified. (See the contact information for Ministry regional offices in **Appendix A**.)

2.2 Initiating Contact with First Nations for In-depth Consultation:

Proponents must make reasonable efforts to contact First Nations who assert aboriginal interests or who have treaty rights in the area where pest management is proposed. The Chief should be the first point of contact; then, if the Chief so directs, preferably in

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writing, subsequent communications may be with a designated Councillor, Band Manager, other employee, tribal council or treaty association.

It may be necessary to make several attempts at contact, either through phone calls or letters, and sufficient time must be allowed for a response. A minimum of three efforts using methods that include telephone, registered letter or personal visits over a 2-3 month period, and allowing a minimum of 30 days for a First Nation to reply, is generally considered to be a reasonable effort at making contact.

Where a proponent's communication with a First Nation is intended to initiate or form part of a consultation process, proponents should advise the First Nation that the communication forms part of the Crown's consultation process for the proposed activity in question. The initial communication should also invite comment from the First Nation regarding proposed pest management activities within areas where the First Nation asserts aboriginal interests or has treaty rights. To facilitate the processing of an *IPMA* authorization, a proponent should send a copy of this initial communication to the ministry headquarters office (**Appendix A**). This will advise the ministry that a consultation process has been initiated.

Initial communication is an important part of any consultation process. By conveying the following information about the proposed pest management activities, a First Nation can determine if they should be included in the process and their level of participation:

- what is being proposed;
- how and when it will happen; and
- where it will happen (reference should be made to a draft pest management plan (when prepared) with an indication that a copy can be provided to the First Nation if requested).

The initial communication should also request information on specific aboriginal interests or treaty rights that may be adversely impacted by the proposed pest management activities.

This may include the following information:

- what traditional uses and activities are practiced within the proposed area;
- where these traditional uses and activities have taken place; and
- technical information or traditional knowledge of the area that would assist in assessing the potential impact of the proposed activities on asserted aboriginal interests or treaty rights.

Where adverse impact to land or resources may occur (as listed in **Appendix B**), the initial communications should indicate that the proponent would like to meet with a representative of the First Nation to ensure that the proposed pest management activities are understood and that First Nation's response is understood by the proponent, with the intent to carry on meaningful consultation as may be required.

Appendix C contains an initial contact letter template that proponents may use. A copy of a proponent's initial contact letter should be sent to the Ministry headquarters office so that the Ministry is made aware that this consultation process has been initiated.

2.3 Information Exchange

Proponents should provide meaningful and understandable information about the proposed pest management activities to the identified First Nations. Proponents should also make a reasonable effort to obtain and understand all the information that a First Nation can provide about aboriginal interests or treaty rights that may be adversely impacted by the proposed activities. Exceptions to this obligation are instances where a First Nation has advised, in writing, that they do not wish to receive or share information. For example, if upon initial contact with a First Nation a response is received indicating that there are no concerns relating to the proposed activity, then no further communication is required. If concerns are raised or the First Nation requests further information, then the proponent should offer to meet in order to exchange information.

If a First Nation indicates that it opposes a proposed activity and is unwilling to engage in an information exchange with the proponent, the proponent should advise the Ministry headquarters office (**Appendix A**). The ministry will request from the proponent an assessment of the details of the First Nation's aboriginal interests or treaty rights as known by the proponent and what, if anything, the proponent proposes to do to address potential adverse impacts on those interests.

If the First Nation raises questions or concerns and does engage in an information exchange with the proponent, then the time and effort allotted to the information exchange and related meetings will be dictated by the extent of these questions and concerns. Note that all efforts should be documented and records kept.

2.4 No Response from a First Nation

If there is no response from a First Nation after reasonable efforts at contact have been made, alternate sources of information should be used to identify potential aboriginal interests or treaty rights. These are to include:

- for forest land, information provided in Forest Stewardship Planning consultation processes ([Ministry of Forests, Mine and Lands](#));
- Archaeological General Guidelines for Forest Licensees and Natural Resource Stakeholders ([Ministry of Forests, Mines and Lands](#));
- [Archaeological Data Request Form](#) for access to BC Archaeological Branch database;
- local knowledge.

2.5 Addressing Potential Infringements to Aboriginal Interests or Treaty Rights

Proponents will need to consider and address any potential impacts related to asserted aboriginal interests or treaty rights that are brought to the proponent's attention by a First

Nation, or by the proponent's own research if no response is received. The proponent should obtain comments from the First Nation on any proposed alteration to pest management activities that the proponent designs to address potential impacts on aboriginal interests and treaty rights that have been identified.

In all cases, there should be a record that the proponent has considered the potential impact of pest management activities on the aboriginal interests or treaty rights and has addressed any impacts identified through consultation. Where a proponent has questions about addressing First Nation concerns (such as how to alter a pest management plan), those questions should be communicated to the ministry headquarters office (**Appendix A**) with as much lead time as possible before a proposed pesticide use.

2.6 Record Keeping

In addition to the record keeping requirements under the IPMR, proponents should maintain accurate and complete records specific to consultation with First Nations. The record may include:

- descriptions of specific Aboriginal Interests and any potential impacts;
- descriptions of any modifications implemented for accommodation purposes;
- a communications log, including copies of correspondence, meeting notes, attempts to communicate etc.; and,
- summaries of engagement activities and outcomes.

See **Appendix D** for a list of the types of information for which records should be maintained.

2.7 Submission of Consultation Report to the First Nations and the Ministry

In order to facilitate ministry consideration of the adequacy of consultations and of the proponent's responses to issues raised, the proponent should prepare a report that describes the consultation process and outcomes. A copy of this report should be submitted to the First Nation(s) with whom consultation was conducted and to the Ministry prior to initiation of a pesticide use (see section 3 below for timing of submission of this report). When the report is sent to a First Nation, a letter should be included that indicates to the First Nation that it may submit comments or concerns regarding the report to the Ministry.

Appendix E contains a template that a proponent may use for preparing a First Nation consultation report.

Appendix F contains a template that a proponent may use for preparing the letter that is to accompany the Consultation Report when sent to a First Nation for their review.

The ministry will review the consultation report and look for indications the proponent has adequately carried out the consultation steps and, where appropriate, has addressed any issues concerning adverse impacts of proposed pest management activities to the aboriginal interests or treaty rights asserted by the First Nation.

3. OPERATIONAL IMPLEMENTATION

This section outlines the operational aspects of First Nation consultation in relation to requirements under the *IPMA* and *IPMR*.

Pesticide use is authorized through Pesticide Use Notices, Licences and Permits. These authorizations are described below, together with guidelines on when the consultation steps outlined above are to be conducted.

3.1 Pest Management Plans and Pesticide Use Notices

Pest Management Plans and Pesticide Use Notices are required by a person (including a corporation or government Ministry) proposing to conduct a large scale pest management program, including the following:

- vegetation management on private or public land used for railways, public utilities, pipelines or roads when more than 20 ha is treated per year;
- vegetation management on public land used for other industrial operations when more than 20 ha is treated per year;
- management of forest pests on public land when more than 20 ha is treated per year;
- management of noxious and invasive weeds on public land when more than 50 ha is treated per year; and
- management of mosquitoes on public land (any treatment of adult/flying mosquitoes and when more than 1 ha of water is treated for larvae/ wrigglers).

A proponent is to prepare a draft pest management plan, conduct public consultation regarding that plan, amend the plan or take other actions as appropriate in response to comments about the plan and then submit a Pesticide Use Notice to the Ministry. Proponents who submit a Pesticide Use Notice are registering with the Ministry that they have conducted consultation about their Pest Management Plan and have finalized their Plan.

On registration, a copy of the plan must be made available for viewing to any member of the public on request. The plan may be audited by the Ministry for compliance with regulatory standards. The *IPMR* has standards for:

- the content of the plan;
- requirements for conducting consultation;
- environmental and human health protection; and
- recording keeping and reporting in respect of consultation and pesticide use.

The Pesticide Use Notice must include information on the general area in which pesticides are to be used, the types of pesticides to be used, the person or company responsible for the pesticide use and contact information for viewing the pest management plan. The *IPMR* also specifies [section 26(b)] that the proponent is to

submit with the Pesticide Use Notice a description of any actions the proponent proposes to take in response to comments received during consultations.

Before the Ministry confirms receipt of a Pesticide Use Notice, the Ministry must be satisfied that the proponent has conducted consultations as required under the IPMR and has proposed adequate actions to be taken in response to comments received during consultations. The Ministry must issue a confirmation if satisfied that all regulatory requirements are met. The term of the Pesticide Use Notice can be up to 5 years, as requested by the proponent.

First Nation Consultation

The Ministry recommends that a proponent follow these First Nation consultation guidelines before submitting a Pesticide Use Notice, where adverse impacts to aboriginal interests or the exercise of treaty rights may occur as a result of a proposed pesticide use.

The IPMR (section 61(2)) specifies that communication with an individual or member of an organization or community, who may be significantly impacted by a proposed pesticide use under a plan, must commence at least 45 days in advance of submitting a Pesticide Use Notice. In the ministry's experience a longer time frame may be required to carry out consultations with First Nations, especially if meetings, review of potential impacts, or reviews of how to address potential impacts on asserted aboriginal interests or treaty rights are required. Proponents should initiate consultation early enough to ensure the consultation steps in this guideline can be completed before submitting the Pesticide Use Notice.

When the Ministry receives the Pesticide Use Notice, the Ministry will assess whether the applicant has conducted consultation appropriately and whether potential adverse impacts on asserted aboriginal interests or treaty rights were adequately addressed. To conduct this assessment, the Ministry will consider the information submitted with the Pesticide Use Notice, and will determine whether the information is adequate or whether more information is required. To facilitate this assessment, the proponent must submit a completed First Nation consultation report (section 2.7 of this guideline) together with the Pesticide Use Notice to the ministry headquarters office (**Appendix A**).

Continuation of Consultation Following Submission of a Pesticide Use Notice:

In many cases a Pest Management Plan will be for a large area and will not specify the exact sites of proposed treatment (because not all treatment sites will be known at the plan development stage). Interested individuals, including First Nations, may want to continue consultation after being informed of the specific treatment sites.

The IPMR allows a proponent to make an agreement during initial consultation to directly notify an individual before the pesticide use. If this is done, the IPMR [section 28(2)] specifies that the proponent must notify the individual in the agreed time and manner.

During consultation about a Pest Management Plan, a First Nation may enter into an agreement with a proponent to receive additional notification when the treatment sites are identified at a specified time period before the pesticide use (e.g., one or more days, weeks or months). This notification can be linked to the completion of consultation before treatments are conducted on those sites. The First Nation consultation report submitted with the Pesticide Use Notice should identify any such agreements.

Annual Notice of Intent to Treat

Proponents are required to submit an Annual Notice of Intent to Treat to the Ministry each year before commencing pesticide use. The Annual Notice of Intent to Treat is to specify the locations where pesticides are to be used, with a map or diagram (based on detailed maps retained by the proponent) showing features to be protected with pesticide-free zones and no-treatment zones.

The Ministry will review an Annual Notice of Intent to Treat for consistency with the Pesticide Use Notice to which it relates. This review may include ascertaining whether any follow-up consultation was required under an agreement to notify for example. When follow-up consultation was required, the Ministry will assess whether this consultation was conducted adequately, as it will do when a Pesticide Use Notice is submitted. Again, to facilitate this Ministry assessment, a proponent who agreed to additional First Nation's consultation in relation to the yearly treatments, should submit a report concerning these consultations along with the Annual Notice of Intent to Treat using the template in Appendix E. The Annual Notice of Intent to Treat and any accompanying consultation report should be submitted to the appropriate regional ministry office (**Appendix A**)

The IPMR specifies that the Annual Notice of Intent to Treat must be submitted at least 21 days before the proposed date of the pesticide use. The 21-day period is the minimum amount of time required for the Ministry's review. Where consultation has been extensive, it is recommended that a proponent submit the Annual Notice of Intent to Treat and consultation report more than 21 days in advance, if possible.

3.2 Pesticide Use Licences

Persons (including a corporation or government Ministry) who provide a service using pesticides or who conduct prescribed pesticide uses are generally required to obtain a licence under the *IPMA*. Most licences are issued to small companies who provide a service to landowners for managing structural pests (such as termites or carpenter ants) or to manage landscape pests (such as for maintenance of gardens). Licences are also issued to land managers for small scale vegetation management on various rights-of-way, or for small to large area forest pest management on private forest land. The term of a pesticide use licence is up to five years.

First Nation Consultation

Licensees who use pesticides to manage pests in areas where a First Nation asserts aboriginal interests or has treaty rights should inform themselves of consultation requirements. When a licensee provides a service to the manager of land where there are

aboriginal interests or treaty rights, the licensee must check that consultation has occurred. The service licensee may be contracted to conduct the consultation or the consultation may be conducted by the land owner or manager. If the land owner or manager holds a pesticide use licence, they will be responsible directly for ensuring consultation is conducted according to these guidelines.

When consultation is necessary, the land manager or licensee (as appropriate) should follow the consultation steps described in section 2 of these guidelines. The ministry will forward a copy of these guidelines to licensees who are identified in the application stage as potentially having to inform themselves of consultation requirements.

Licensees are to submit or ensure the land manager submits the consultation report (section 2.7) at least 14 days before the proposed pesticide use to allow ministry review. The consultation report is to be submitted to the appropriate regional ministry office (**Appendix A**). The ministry will review these reports to assess whether the consultation steps had been followed and whether First Nations concerns have been addressed.

Consultation for Treatments on Private Forest Land

When more than 20 ha per year of private forest land managed by a single entity are to be treated by a licensee, the IPMR requires the licensee to submit to the Ministry an Annual Notice of Intent to Treat; at least 14 days before using the pesticide in each calendar year. If consultation is required for private forest land treatments, the licensee is to submit the consultation report (section 2.7) in advance of or with the Notice of Intent to treat. The Notice of Intent to Treat and consultation report is to be submitted to the appropriate regional ministry office (**Appendix A**)

3.3 Pesticide Use Permits

Permits are required by a person who uses a pesticide for situations of highest public concern or for types of use for which no standards have been incorporated into the regulation. Applicants for a permit must conduct public consultation as specified by the Ministry and then submit to the Ministry a description of the proposed pesticide use and the results of the consultations.

Requirements for public consultations are specified in section 60 of the IPMR. The applicant must advertise in newspapers or may give written notice to persons who may be affected by the treatment, allowing 30 days to receive submissions. The applicant for a permit must then submit a statement of the action the applicant intends to take in response to information provided in the notice. The Ministry will evaluate the statement and decide whether additional information or consultation is required before issuing a permit or whether to impose terms or conditions on the permit that requires additional consultation in relation to First Nations consultation.

To avoid delays in the evaluation of permit applications, it is recommended that proponents conduct First Nation consultation according to the guidelines in this document and submit the consultation report along with the permit application. The

report should include a discussion of how potential impacts on asserted aboriginal interests or treaty rights are to be addressed.

The Ministry will review the proposed use and consultation results and obtain comments from an interagency review committee. The Ministry can only issue the permit if satisfied that the proposed use will not cause an unreasonable adverse effect. The Ministry may specify terms and conditions on a permit to require additional consultation or to ensure that potential impacts on asserted aboriginal interests or treaty rights are addressed, as the Ministry considers appropriate in the circumstances.

4. GENERAL MINISTRY OVERSIGHT

If a First Nation informs the ministry that they have concerns regarding a proposed pest management activity that have not been resolved through the consultative procedures carried out by a proponent, the Ministry will review the process and relevant information and consider whether the proposed activity may result in an unjustifiable infringement of aboriginal interests or treaty rights. If the Ministry is not satisfied that adequate consultation has occurred, the Ministry may directly address the First Nation or proponent, or both, and, with respect to any unjustifiable infringement, propose options to achieve resolution or otherwise seek to appropriately address the potential impacts on asserted aboriginal interests or treaty rights.

A pesticide use that has an adverse impact on aboriginal interests or treaty rights could be considered to be an unreasonable adverse effect or a contravention of the *IPMA*. The Ministry may not issue a confirmation, licence, or permit, or order the person to refrain from using a pesticide for a specified period, if the Ministry considers that a person is not complying with the *IPMA* or believes on reasonable grounds that this activity has caused or is likely to cause an unreasonable adverse effect.

APPENDIX A

**Ministry of Environment
Headquarters and Regional Office Contacts for
Pest Management Issues**

For Headquarters Issues:

Integrated Pest Management Program
Ministry of Environment
PO Box 9342 Stn Prov Govt
Victoria BC V8W 9M1

Tel. (250) 387 9461

Email: BC_IPM@gov.bc.ca

For Vancouver Island and Lower Mainland Regions:

Integrated Pest Management Program
Ministry of Environment
#10470 152nd Street
Surrey BC V3R 0Y3

Tel. (604) 582-5261

For Thompson, Okanagan and Kootenay Regions:

Integrated Pest Management Program
Ministry of Environment
102 Industrial Place
Penticton BC V2A 7C8

Tel. (250) 490-8220

For Omineca, Skeena, Peace and Cariboo Regions:

Integrated Pest Management Program
Ministry of Environment
#325 - 1011 Fourth Avenue
Prince George BC
V2L 3H9

Tel. (250) 565-6449

APPENDIX B
Major Categories of Pest Management and Potential for
Adverse Impact to Land or Resource Use.
(see Section 2.1)

The following is a general description of the main categories (types) of pest management that are conducted in British Columbia and regulated under the BC *Integrated Pest Management Act* and Regulation.

The table on the following page indicates which of the various categories of pest management have the potential, to adversely impact land or resource use (in the view of the Ministry) and therefore require appropriate First Nation consultation. Pest management categories with no contemplated potential for negative impact but in areas where a First Nation asserts aboriginal interests or has treaty rights would require basic notice to be provided to appropriate First Nations before pesticide use takes place.

1. Forest Pest Management: this category includes primarily the use of herbicides to manage vegetation to prepare for the planting of seedlings or to remove vegetation that is preventing or slowing the growth of planted seedlings. Less frequently, forest pest management may involve the use of insecticides to manage outbreaks of insects impacting forest resources.

2. Pest Management on Railways: this category includes two subcategories:

- (1) Use of herbicides and wood preservatives on railway ballast and around switches and signal facilities and in maintenance yards. The objectives include worker safety, maintaining the integrity of the rail bed, reducing fire hazard and preserving wood on ties and bridge decks.
- (2) Use of herbicides outside the ballast area for treatment of selected trees and shrubs that obstruct views of oncoming traffic.

3. Vegetation Management on Right-of-Ways (other than railways): this category includes use of herbicides for vegetation management on roadsides for public use, hydro transmission right-of-ways and oil, gas or water pipeline right-of-ways. There are two sub-categories:

- (1) Management to maintain sites in a near vegetation-free state to reduce fire and safety hazards (e.g., road pavement and shoulders or pipeline pumping stations) or areas with no access by unauthorized people (e.g., fenced hydro transmission transformer stations).
- (2) General selective management of larger shrubs and trees that could interfere with operation of the right-of-way (e.g., encroaching trees and shrubs on roadsides and along the margin of pipeline corridors and trees that would cause power failures or prevent access to transmission lines).

4. Vegetation Management on Industrial Sites on Public Land (Crown or municipally owned land): this category includes use of herbicides on a range of industrial sites associated with dams, dikes, reservoirs, incinerators, landfills, sewage treatment plants, facilities used for processing, mines, and airports. There are two sub-categories:

- (1) Management to maintain sites in a near vegetation-free state to reduce fire or safety hazards) or areas with no access by unauthorized people (e.g., fenced).
- (2) General selective vegetation management in areas that can be accessed without authorization

5. Mosquito Management: this category can be divided into two subcategories:

- (1) Management of mosquito larvae in human made water bodies such as artificial ponds, dug outs and catch basins.
- (2) Management of mosquito larvae in natural water bodies (such as ponds and sloughs and shallow lakes). Also includes the management of adult mosquitoes generally involving release of a fine mist of an insecticide in or near residential areas.

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6. Noxious Weed and Invasive Plant Management: this category involves the use of herbicides to treat weeds designated as noxious under the *BC Weed Act* and designated as invasive under the *Forest and Range Practices Act*. Noxious weeds and invasive plants are not native to BC and their introduction or spread can have a significant negative impact on agricultural production or forest ecosystems in BC. Herbicide use for noxious weed and invasive plant control is to be applied only to the noxious or invasive plant, not surrounding vegetation.

7. Wood Pole Preservation: this involves the application of wood preservatives to installed poles (e.g., telephone and hydro) and includes injection of preservatives into poles and wrapping coatings of preservatives around the their base.

8. Structural Pest Management: this is the management of pests inside or outside of buildings such as rats and mice, fleas, carpenter ants, termites and birds.

9. Landscape Pest Management: is the management of pests that interfere with the maintenance of ornamental plants such as insects or diseases on planted flowers and shrubs in gardens and weeds in lawns around buildings and in community parks.

Potential For Adverse Impact to Use of Land or Resources in Relation to Categories of Pest Management		
Pest Management Category	Pest Management Subcategory	Potential for Adverse Impact
1. Forest Pest Management		Yes
2. Pest Management on Railways	Vegetation management or wood preservation on the ballast area, and around switches and signal facilities and in maintenance yards.	No
	Management of selected trees and shrubs outside the ballast area	Yes
3. Vegetation Management on Right-of-Ways	Vegetation management on sites that are maintained in a near vegetation-free condition, or with no access by unauthorized people	No
	General selective vegetation management on rights-of-way,	Yes
4. Vegetation Management on Industrial Sites	Vegetation management on sites that are maintained in a near vegetation-free condition, or with no access by unauthorized people.	No
	General selective vegetation management in areas that can be accessed without authorization	Yes
5. Mosquito Management	Pesticide use to manage mosquito larvae in human made water bodies	No
	Pesticide use to manage mosquito larvae in natural water bodies and to manage adult mosquitoes	Yes
6. Noxious Weed and Invasive Plant Management		No
7. Wood Pole Preservation		No
8. Structural Pest Management		No
9. Landscape Pest Management		No

APPENDIX C

Recommended Template for an Initial Contact Letter from a Proponent to a Potentially Interested First Nation (see Section 2.2)

Recommended letter content is provided in *italics*.

Note: for pesticide uses that the ministry has identified as having no potential for adverse impact on use of land or resources (Appendix B) this letter could be shortened to a notification about the details of the proposed activity and contact information where the First Nation could obtain more information

Date:

To:

This letter is to advise you of a proposed application of a pesticide by [*sender/ company name*] in accordance with the requirements of the British Columbia *Integrated Pest Management Act* and regulations. This application of pesticide is being proposed as part of a [pest management plan/pesticide use notice/ licence/permit] process.

Pursuant to British Columbia Ministry of Environment guidelines, [*sender / company name*] is seeking comment from the [*First Nation name*] First Nation on the proposed pesticide application. Please be advised that this letter forms part of the Crown's consultation process for the following proposed pesticide use:

1. *Provide details about the proposed activity:*
 - *type of treatment,*
 - *proposed timing*
 - *location (if applicable, reference should be made to the draft pest management plan with an indication that a copy of the plan can be provided to the First Nation on request).*
2. *Request a response from the First Nation within a specified timeframe (at least 30 days), asking them to provide, as they deem appropriate:*
 - *what traditional activities have been practiced in the area of the proposed treatment;*
 - *where these activities have taken place;*
 - *technical information or traditional knowledge of the area that would assist in assessing the potential impact of the proposed pesticide treatment on First Nations asserted aboriginal interests or treaty rights;*
 - *their concerns if any about the proposed activity in terms of potential impacts on their asserted aboriginal interests or treaty rights, and*
 - *their proposals for how to address those concerns.*
3. *Indicate that the proponent would welcome an opportunity to meet with a representative of the First Nation to ensure that the information that has been exchanged in the initial correspondence is properly understood by both parties, with the intent being to carry on further meaningful consultation as needed.*

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If you would like to speak to a Ministry representative directly about the proposed pesticide use outlined in this letter, please contact the following Regional Office: [*insert Regional Office Information*].

Yours truly,

[*sender/ company contact information*]

c.c. [*insert appropriate Ministry of Environment Regional Office*]

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APPENDIX D

RECORD-KEEPING

(see Section 2.6)

Keeping comprehensive records of all efforts to consult with potentially affected First Nations is essential. Proponents should record all contact or attempted contact with the First Nation, regardless of whether a response was received.

The following information should be recorded:

- First Nation group(s) consulted - one record for each First Nation,
- Proposed project or activity,
- Date(s) of interaction,
- Person contacted/title,
- Each step/response of the consultation process, such as:
 - Background research conducted and reports/studies considered,
 - Correspondence, e-mail, telephone calls (including attempts to contact),
 - Site visits (e.g. visits to the band office)
 - Meeting participants, agenda, and minutes,
 - Communications with Ministry of Environment or other ministries or agencies, including the name and title of the person contacted,
 - Description of all proposals presented to First Nation to address concerns in relation to site-specific impacts,
 - Comments: additional notes of observations that apply to the consultation or the attempt at consultation,
 - First Nations comments and/or objections to final proposal should be recorded as accurately as possible, verbatim if possible.

Appendix E

Recommended Template for Preparing a First Nations Consultation Report

(See Section 2.7)

Report on consultation with a First Nation in relation to pest management activities proposed in accordance with a pest management plan, a pesticide use licence, or a pesticide use permit.

Proponent: _____ **First Nation:** _____

Contact Person: _____ **Contact Person:** _____

Pre-Issuance (of a Pesticide Use Notice Confirmation, a Licence or a Permit)

Post-Issuance **Issuance Number:** _____

Instructions:

- Fill in all or part as applicable.
- Attach answers to the questions that require written answers and attach copies of relevant records as required.
- Complete a separate summary for each First Nation.

1. Was a written notice sent by the proponent to the First Nation describing the activity or activities in question and offering an opportunity to respond? If no written notice was sent, describe why.

2. If the answer to question 1 is yes, has the First Nation been provided with the following in writing? (Check the following that apply).

___ Information about the location (including maps), nature and extent of the proposed activity

___ A request for information about traditional use activities, detail about traditional activities in the vicinity of the proposed activity area, typical access requirements and information regarding relationship between traditional activities and supply of preferred species.

___ A request for a meeting to discuss specific information concerning the nature of traditional activities including significant areas, preferred areas, historical traplines, and species typically relied upon within the area that may be affected by the proposed activity.

___ Notice that all communications from the proponent are being made as part of the Crown's consultation process.

___ Copy of notice attached as Appendix 1

3. Did the First Nation respond to the opportunity provided in question 1 or in response to the public notification process? (Check yes or no)

___ Yes. If yes, describe outcome (including what information was provided by the proponent and First Nation)

___ No. If no, describe efforts made to obtain a response

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4. Following up on the responses from the First Nation, did the proponent offer to meet with the First Nation to ensure that the proposed activities and First Nation concerns are understood? (Check yes or no)
- ___ Yes
- ___ No. If no, describe why not.
- 5 (a) If the answer to 4 was yes, describe response of First Nation to meeting requests.
- 5 (b) Were meetings held? (Check yes or no)
- ___ No, if answer to 4 was yes, but no meeting was held, describe why not
- ___ Yes. If yes, describe how the information and maps were explained to ensure full understanding of “on the ground” impacts of the proposed activity or activities.
- 6(a) Describe the information received from the First Nation or other sources concerning the history, location, type and importance of traditional use activities? If none was received, describe the First Nation response.
- 6 (b) What changes, if any, did the First Nation request to the proponent’s proposed pest management activity?
7. What final, if any, revisions were proposed to the activity or activities in order to address the concerns raised by the First Nation? Describe the First Nation response to those revisions, if any.

APPENDIX F

**Recommended Template for a Letter that is to Accompany the
Consultation Report when sent to a First Nation for their Review
(see Section 2.7)**

Date:

To:

Enclosed is a report documenting the information exchange that has occurred between [sender/ company name] and the [First Nation name] First Nation concerning [sender/ company name] 's propose pest management activities, in accordance with the British Columbia *Integrated Pest Management Act* and regulations.

This report has also been sent to the Ministry of Environment for their review.

If you have comments or concerns about the content of this report, please inform the Ministry of Environment using the following contact information:

[Insert appropriate Ministry Headquarters or Regional Office contact information from Appendix I]

Yours truly,

[sender/ company contact information]