

Cosmetic Use of Pesticides in British Columbia

Public Consultation Paper

Introduction

In the August 25th 2009 *Speech from the Throne*, the Government of British Columbia committed to consult British Columbians on “**new statutory protections to further safeguard the environment from cosmetic chemical pesticides.**”¹

This consultation paper and website are intended to stimulate conversation and gather your input on this topic.

The Ministry of Environment (the ministry) has prepared background information and identified consultation issues for discussion to build understanding about the subject and provide a structure for comments and feedback. Additional comments or suggestions beyond the identified consultation issues are also welcome.

Please – tell us what you think!

This consultation paper and a response form for providing comments to the ministry, and links to related legislation, are posted on the [Cosmetic Use of Pesticides Consultation Forum](#) website. This information can also be accessed by clicking on the “Cosmetic Use of Pesticide Consultation” button on the [Ministry of Environment](#) home page (www.gov.bc.ca/env/).

Discussion comments and responses received by February 15, 2010 will be reviewed by the ministry and a summary posted on the Consultation Forum website. Following this review, the ministry will inform respondents and post information regarding next steps and any intentions for revision of statutory provisions governing the cosmetic use of pesticides.

The paper includes the following sections:

Background information

1. Definition of a pesticide
2. The Integrated Pest Management (IPM) approach to managing pests
3. How pesticides are regulated in British Columbia
4. What is meant by “cosmetic use of pesticides”
5. What other provinces are doing

Consultation issues for discussion

1. Ministry objectives in regulating the cosmetic use of pesticides
2. Potential regulatory restrictions on “cosmetic use of pesticides”
3. Creating classes of pesticides that may or may not be used for cosmetic purposes
4. Limiting use to qualified applicators and encouraging IPM
5. Notification and signage requirements
6. Conditions under which pesticides may be sold or purchased
7. Public awareness, education, compliance and enforcement
8. Additional comments

Providing comment – with contact information for responses and next steps in the consultation process

¹ See: www.leg.bc.ca/39th1st/4-8-39-1.htm

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Background Information

1. Definition of a pesticide

A *pesticide* is anything that is intended to prevent, destroy, repel, attract or manage a pest. Pesticides used to kill insects are known as *insecticides*; those that kill weeds are *herbicides*; and those that kill rodents are called *rodenticides*.

2. The Integrated Pest Management (IPM) approach to managing pests

In 2004 B.C. became the first jurisdiction in North America to require the use of Integrated Pest Management (IPM) on all public land and by all commercial pesticide applicators. IPM is a systematic decision-making process that aims to prevent pests from becoming problems, and to determine what actions to take if pest problems occur.²

In IPM programs, all available information and treatment methods are considered in order to manage pest populations effectively, economically and in an environmentally sound manner. IPM does not try to eliminate all pests. Instead, it attempts to reduce pest numbers to levels that minimize damage while protecting human health and the environment.

IPM provides important advantages to the pest manager, the environment and to society. Effective IPM programs:

- ◆ Provide long-term solutions to pest problems
- ◆ Reduce pesticide use
- ◆ Protect the environment and human health
- ◆ Minimize harm to beneficial organisms that help control pests
- ◆ Provide pest control options when pesticides cannot be used
- ◆ Reduce the development of pesticide resistant pests

3. How pesticides are regulated in British Columbia

Important federal legislation

All pesticides used in Canada must be accepted for use (registered under the federal *Pest Control Products Act*) by the Pest Management Regulatory Agency (PMRA) of Health Canada.³ Before a pesticide is registered, the manufacturer must provide scientific data and information on:

- ◆ Product effectiveness in Canadian conditions
- ◆ Toxicity to humans, animals and plants

² For additional information about IPM, see links under publications and guides on the [Ministry of Environment IPM website](#). Recent (2009) publications include [a lawn and landscape and lawn care brochure](#) and a comprehensive [Home & Garden Pest Management Guide for British Columbia 2009 Edition](#) prepared by the Ministry of Agriculture and Lands.

³ For more information regarding pesticide regulation in Canada see: www.hc-sc.gc.ca/cps-spc/pest/index-eng.php. Health Canada provides a fact sheet that outlines federal, provincial and municipal responsibilities at: www.hc-sc.gc.ca/cps-spc/pubs/pest/fact-fiche/reg-pesticide/index-eng.php

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- ◆ Food and feed residues
- ◆ Product fate in the environment
- ◆ Chemistry of the pesticide

The PMRA makes a registration decision after a complete review of the scientific data, safety, effectiveness and merits of the product. When a pesticide is registered, it is given a unique *Pest Control Products Act* (PCP) registration number. This registration number appears on the pesticide label.

Pesticide applicators have specific responsibilities under the federal *Pest Control Products Act*. Those responsibilities include:

- ◆ Possessing and using only registered pesticides
- ◆ Following the instructions contained on the pesticide label
- ◆ Ensuring that the pesticide is used, stored and disposed of safely

B.C. legislation – the Integrated Pest Management (IPM) Act and regulation

The mandate of the Ministry of Environment (the ministry) is to protect human health and safety, and maintain and restore the diversity of British Columbia's native species, ecosystems and habitats.⁴ The ministry administers the *Integrated Pest Management (IPM) Act* and regulation, the primary regulatory tools governing the sale and use of pesticides in the province.⁵

The ministry relies on the federal *Pest Control Products Act*, and the expertise of the PMRA of Health Canada, to evaluate and determine acceptable uses for pesticides registered for sale in B.C.

The *IPM Act* and regulation establish conditions for the sale and use of pesticides in the province through a classification system and regulatory provisions for licences, certification, permits, Pest Management Plans and ministry responsibilities. The regulation also contains public notification, consultation, reporting and record keeping provisions – as well as standards for IPM programs and use of pesticides aimed to ensure protection of human health and the environment.⁶

The *IPM Act* and regulation require that:

- ◆ Pesticides used on public land (e.g., schools, parks, boulevards), and those used by pest control services (e.g., lawn-care or tree-care companies), be applied under the direct supervision of a person trained in the safe use of pesticides and that they be used in an IPM program – under the IPM process a pesticide can be used only when it is determined to be critical to control a pest and when no practical alternatives are available
- ◆ Notification signs be posted when pesticides are used on public land or multi-residence properties
- ◆ Vendors selling pesticides have staff trained in IPM to assist customers who request advice about purchasing a pesticide

⁴ See the “ministry service plan” and “annual service plan report” links on the Ministry of Environment homepage: www.gov.bc.ca/env

⁵ For legislation, search links under: www.bclaws.ca

⁶ For a summary of the *IPM Act* and regulation see: www.env.gov.bc.ca/epd/ipmp/regs/pdf/leg_summary.pdf

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Municipal powers to regulate the use of pesticides

Under provisions of the *Community Charter* municipalities may choose to restrict the use of pesticides for maintaining outdoor trees, shrubs, flowers, other ornamental plants and/or turf – on municipal land and on land used for residential purposes.

Approximately twenty B.C. municipalities have bylaws that restrict pesticide uses in their communities. Some municipalities prohibit all pesticide uses under their jurisdiction. Others allow certain uses under a municipally-issued permit. One municipality allows applications by licensed service companies but not by untrained pesticide applicators.

Municipalities do not have the authority to ban the sale of pesticides.

4. What is meant by “cosmetic use of pesticides”

Cosmetic use of pesticides can be considered as the use of pesticides for non-essential or aesthetic purposes. For example, a pesticide may be used in an outdoor situation to improve the appearance of lawns, gardens, landscapes or other green spaces and/or to control unwanted or undesirable organisms.⁷

Some indoor uses, such as use of a pesticide to control spiders, can also be considered as cosmetic or aesthetic.

Non-cosmetic use of pesticides includes use to prevent economic damage or health impacts, such as reducing pest damage to crops or buildings or reducing spread of disease. Exclusions to regulatory provisions addressing the cosmetic use of pesticides have been made to allow the use of pesticides for such activities as public health and safety (including the protection of public works structures), agriculture and preventing impacts to agriculture, forestry, research and scientific purposes, and to protect natural resources.

Regulations that address the cosmetic use of pesticides generally focus on urban landscapes and residential areas.

Challenges in regulating cosmetic use of pesticides include:

- ◆ Defining potentially subjective terms such as “non-essential” or “aesthetic”
- ◆ Addressing indoor and/or outdoor cosmetic use of pesticides
- ◆ Addressing use of pesticides in food gardens and/or fruit trees in or near residential areas
- ◆ Use of pesticides on business or commercial properties with public access or use – such as commercial gardens, retail businesses or landscaping of businesses in residential areas

⁷ See, for example, the Health Canada information note titled “Cosmetic Pesticide Bans and the Roles of the Three Levels of Government” available at: www.hc-sc.gc.ca/cps-spc/pubs/pest/fact-fiche/gov-roles-gouv/index-eng.php

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5. What other provinces are doing

Six Canadian provinces have enacted or announced some form of regulation governing the cosmetic use of pesticides within their jurisdiction. This section of the consultation paper summarizes key aspects of the approaches and current status of these efforts for each of the provinces – Newfoundland and Labrador, Prince Edward Island, New Brunswick, Québec, Ontario and Alberta.

A. Newfoundland and Labrador

Newfoundland and Labrador regulates pesticides under the Pesticides Control Regulation of the *Environmental Protection Act*.⁸ The provincial regulation:

- ◆ Bans the sale of pesticide-fertilizer combination products to unlicensed people (while still permitting purchase by commercial applicators)
- ◆ Limits broadcast application⁹ of a pesticide-fertilizer combination product containing the herbicide 2,4-D by licensed applicators to one application per lawn per year

B. Prince Edward Island

The Government of Prince Edward Island in December 2009 announced its intention to “implement changes to how lawn-care pesticides will be managed in the province.”¹⁰ Changes are planned to take effect on April 1, 2010 and include:

- ◆ A ban on the sale and use of specified domestic lawn care pesticides, including pesticide-fertilizer combination products, concentrates requiring dilution before use, granular products and products containing the active ingredient 2,4-D – with criteria and a list of identified products set out in an “Over-the-Counter Products banned list” of over 240 products
- ◆ Lawn care companies (and individuals working for these companies) who apply pesticides are required to have completed a training course, submit an annual record of pesticide use, and not use pesticides containing the ingredient 2,4-D on lawns

C. New Brunswick

New Brunswick conducted a public consultation “lawn care and landscape pesticide use” in 2008¹¹ and introduced regulatory changes to the provincial *Pesticides Control Act* in the fall 2009 legislative sitting¹² including:

- ◆ A ban on the sale and use of more than 200 over-the-counter lawn care pesticide products, including the use of products containing 2,4-D for domestic lawn care
- ◆ As of February 2010, requirements for Integrated Pest Management (IPM) accreditation (involving training and certification) will be included in all operating permits for professionals and companies (such as golf courses and other businesses) companies and individuals carrying out lawn care services involving commercial grade pesticides

⁸ See: www.assembly.nl.ca/Legislation/sr/Regulations/rc030057.htm

⁹ The term “broadcast application” refers to spreading over an entire surface area (e.g., a lawn or field).

¹⁰ See: www.gov.pe.ca/envengfor/index.php3?number=1030236&lang=E.

¹¹ See: www.gnb.ca/cnb/Promos/Pest/index-e.asp

¹² See New Brunswick government News Release of June 2009 at: www.gnb.ca/cnb/news/env/2009e0865ev.htm

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D. Québec

Québec regulates pesticide use under a *Pesticides Management Code* instituted in 2003.¹³ The code, among other provisions:

- ◆ Prohibits the sale and use of about 20 “active ingredients” present in some 200 lawn pesticide products registered under federal legislation – listed in a Schedule of the code
- ◆ Requires pesticides to be sold “behind-the-counter”
- ◆ Prohibits the use of most pesticides inside and outside child care centres and schools
- ◆ Lists 14 “low or reduced risk” pesticides (such as borax, silicon dioxide and acetic acid) that are explicitly authorized for sale and use in public places such as schools and child care centres – under a specific Schedule of the code
- ◆ Prohibits the sale and use of pesticide-fertilizer mixtures for lawns
- ◆ Allows use of prohibited pesticides by golf course operators and requires operators to submit a “pesticide reduction plan” to the ministry every three years¹⁴
- ◆ Prohibits the application of pesticides less than three metres from a body of water

E. Ontario

Ontario passed legislation implementing a “cosmetic pesticides ban” that took effect April 22, 2009. The requirements of the ban are detailed in Ontario Regulation 63/09 and the *Pesticides Act*, which was amended by the *Cosmetic Pesticides Ban Act*, 2008.¹⁵ The legislation:

- ◆ Generally prohibits the sale and use of pesticides for cosmetic (i.e., “non-essential”) purposes – excluding golf courses, some sports fields, specialty turf, forestry and agriculture
- ◆ Established 11 classes of pesticides:
 - One class of pesticide may not be sold or used
 - Another class may be sold and used according to label directions without any additional restrictions
 - Another class of products have both “cosmetic and non-cosmetic” uses, with specific rules provided for vendors to follow when dealing with potential purchasers (intended to ensure that purchasers do not use these products for cosmetic purposes)

F. Alberta

In November 2008,¹⁶ the Government of Alberta announced an intended “ban on herbicide-fertilizer combination products.” Under provincial legislation:

- ◆ As of January 1, 2010 a list of over 100 products containing a combination of fertilizer and herbicide (2,4-D) will no longer be sold in Alberta
- ◆ Herbicide-only products (including those containing 2,4-D) will still be available for sale and use

¹³ See: www.mddep.gouv.qc.ca/pesticides/permis-en/code-geste-en/index.htm

¹⁴ See: www.mddep.gouv.qc.ca/pesticides/permis-en/code-gestion-en/guide-golf/index.htm

¹⁵ See: www.ene.gov.on.ca/en/land/pesticides/news.php

¹⁶ See: www.environment.alberta.ca/3613.html

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Consultation Issues for Discussion

This section of the consultation paper outlines some key issues in considering regulation of cosmetic use of pesticides in British Columbia.

Please review the following information and consultation questions – and let us know what you think, using the response form available on the *Cosmetic Use of Pesticides Consultation Forum* website or by separate submission. Directions for providing comments to the ministry are provided in the final section of this consultation paper.

1. *Current Ministry objectives in regulating the use of pesticides*

In regulating pesticides and the cosmetic use of pesticides, the ministry currently considers:

- ◆ Protection of human health and the environment
- ◆ Having a science-based approach
- ◆ Supporting the practice of Integrated Pest Management (IPM)
- ◆ Being appropriate and effective
- ◆ Providing a foundation for understanding and adoption by the public, IPM practitioners and affected interests
- ◆ Cost-effective compliance and enforcement

Consultation Questions:

- 1.1 What are your thoughts about these objectives?**
- 1.2 How should these objectives be applied in developing policy and/or legislation to further safeguard the environment from cosmetic use of pesticides?**

2. *Potential regulatory restrictions on “cosmetic use of pesticides”*

B.C.’s existing laws governing the sale and use of pesticides that might be used for cosmetic purposes:

- ◆ Require that, for pesticide uses on public land or in and around multi-resident dwellings, the pesticide applicator be trained in the safe use of pesticides and use pesticides according to the principles of IPM
- ◆ Allow private property owners to use pesticides on their own property for any purpose allowed on the pesticide label – if all label directions are followed
- ◆ Do not explicitly define or restrict “the cosmetic use of pesticides”

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In considering new restrictions for the cosmetic use of pesticides, the ministry is considering the following questions related to the scope of the topic:

- ◆ What is and what is not a “cosmetic use” of a pesticide? Can certain pests be considered “cosmetic”? Is there a point at which the management of a pest becomes “not cosmetic”? Is there a difference in using a pesticide to manage pests on a tree used for fruit production in a residential area and a fruit tree that is strictly ornamental?
- ◆ Should the term “cosmetic use of pesticides” apply strictly to outdoor situations (e.g., lawns and/or gardens)? Are there situations where the use of pesticides indoors would be considered to be “cosmetic”? How would this (indoor) use of pesticide for cosmetic purposes be defined?
- ◆ Should the regulation of cosmetic pesticides include uses on residential land, public municipal lands, and/or other private lands?

Consultation Questions:

- 2.1 Do you have any comments regarding new restrictions addressing the cosmetic use of pesticides?**
- 2.2 How would you define “cosmetic use of pesticides”?**
- 2.3 Are there any business sectors or particular uses that you feel should not be subject to restrictions on the “cosmetic use of pesticides”? If yes, what is your rationale for recommending exclusion of these sectors or uses?**

3. *Creating classes of pesticides that may or may not be used for cosmetic purposes*

B.C.’s existing laws governing the sale and use of pesticides:

- ◆ Group pesticides into classes based on Health Canada’s classification system (that does not distinguish between cosmetic and non-cosmetic use)
- ◆ Have established rules for the selling and use of each class of pesticides using this system
- ◆ State that pesticides may only be used according to label directions

Some Canadian provinces have introduced statutory provisions that create additional classes of pesticides, with accompanying rules governing their sale and use. The following table summarizes some approaches that could be used to establish classes of pesticides used for cosmetic purposes – along with examples associated with each approach, and comments and considerations.

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Approach	Examples	Comments and Considerations
A. Create a class of active ingredients to which restrictions <i>do</i> apply	<ul style="list-style-type: none"> ◆ 2,4-D ◆ Permethrin 	<ul style="list-style-type: none"> ◆ An active ingredient is the part of a pesticide formulation that produces the desired effects – many people think of the active ingredient as the generic name for the pesticide ◆ Criteria would need to be developed to assign pesticides to new classes ◆ The time and resources required to categorize pesticides would depend on the criteria used for the review.
B. Create a class of active ingredients to which restrictions <i>do not</i> apply	<ul style="list-style-type: none"> ◆ Corn gluten meal ◆ Soaps 	<ul style="list-style-type: none"> ◆ The ministry currently depends on Health Canada to scientifically assess the risk associated with each pesticide and assign pesticides to classes ◆ Concerns have been raised that products might be assigned to lists based on a perception of risk rather than on a scientific basis ◆ Some active ingredients can be used for more than one purpose – some purposes may be considered cosmetic and others not cosmetic
C. Create a class of product types to which restrictions <i>do</i> apply	<ul style="list-style-type: none"> ◆ Pesticide-fertilizer combinations ◆ Pesticides requiring dilution before use ◆ Herbicides 	<ul style="list-style-type: none"> ◆ A product could be assigned to a restricted list for various reasons (e.g., if the product does not fit well into IPM programs, likelihood of misapplication, types of pests controlled) ◆ Criteria and a fair process for creating a restricted list would need to be developed
D. Create a class of product types to which restrictions <i>do not</i> apply	<ul style="list-style-type: none"> ◆ Insect repellents ◆ Ready-to-use pesticides 	<ul style="list-style-type: none"> ◆ Use of all pesticides could be restricted except for pesticides on an “accepted” list – a product could be assigned to an accepted list for various reasons (e.g., demand for products, likelihood of proper use, quantity likely to be used, where the product is likely to be applied) ◆ Criteria and a fair process for creating an accepted list would need to be developed

Consultation Questions:

- 3.1 Do you feel that creating additional classes of pesticides would be an effective way to regulate pesticides used for cosmetic purposes? Why or why not?**
- 3.2 If you do recommend the establishment of new classes of pesticides for regulation, what criteria would you suggest for establishing categories and assigning pesticides to particular categories?**
- 3.3 What rules would you recommend for the sale and use of pesticides in any new categories?**
- 3.4 What suggestions or recommendations do you have to address products or product types involving a pesticide that may have both cosmetic and non-cosmetic uses?**

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4. Limiting use to qualified applicators and encouraging IPM

B.C.'s existing laws governing the sale and use of pesticides require:

- ◆ Landscape services, tree care companies, pest control companies and managers of multi-residences to ensure that pesticides are used in Integrated Pest Management (IPM) programs by people trained in the safe use of pesticides
- ◆ People applying pesticides to their own private property to follow all pesticide label directions

Consultation Questions:

- 4.1 If pesticides are to be used, do you feel that people who apply pesticides to their own property for cosmetic purposes require any special training? If so, what training do you think is needed?**
- 4.2 Do you feel that pesticides should only be used if an Integrated Pest Management (IPM) program has been undertaken? Do you have any comments or suggestions for the ministry to improve the effectiveness of IPM training or requirements in relation to the cosmetic use of pesticides?**

5. Notification and signage requirements

B.C.'s existing laws governing the use of pesticides require:

- ◆ Posting of signs informing people of pesticide use when pesticides are used on public land or on multi-residency properties
- ◆ People applying pesticides to public land, multi-residence properties or as a commercial service (e.g., landscapers) to ensure that pesticides do not “drift” onto neighbouring properties

Consultation Questions:

- 5.1 Do you have any comments or suggestions regarding appropriate notification and/or signage when a pesticide has been used (for cosmetic purposes)?**
- 5.2 Would you want to be informed if a neighbour is intending to use a pesticide (for cosmetic purposes)? If yes, how and when should notification be required?**

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6. Conditions under which pesticides may be sold or purchased

B.C.'s existing laws governing the sale of pesticides presently require:

- ♦ A certified dispenser to talk to pesticide purchasers and inform the purchaser that the pesticide may only be used according to label directions – the dispenser must also offer to provide advice on pesticide use and pest management

Consultation Questions:

- 6.1 Do you have any comments or recommendations regarding existing or new requirements governing the sale of pesticides that could be used for cosmetic purposes?**
- 6.2 Do you feel that public access to all or specified classes of pesticides should be restricted or controlled? If yes, in what ways should access be restricted?**
- 6.3 Should vendors be required to provide information to prospective purchasers of a pesticide prior to sale? If yes, what information should be provided and how?**
- 6.4 Do you feel that sales of pesticides intended to be used for cosmetic purposes should be restricted to buyers who hold special authorization or training? If yes, what authorization (e.g., licensing) and/or training would you recommend?**

7. Public awareness, education, compliance and enforcement

Public awareness and understanding are essential elements of effective regulation, as is compliance and enforcement. Some restrictions that may be considered to regulate the cosmetic use of pesticides could involve significant resources to effectively implement.

The ministry is seeking advice and examples of awareness, education and enforcement programs addressing the cosmetic use of pesticides that are cost-effective.

Consultation Questions:

- 7.1 Do you have any comments or suggestions regarding public awareness and/or education programs addressing the cosmetic use of pesticides (e.g., examples, target audiences, media campaigns)?**
- 7.2 Do you have any comments or suggestions for supporting compliance and cost-effective enforcement of any new restrictions on the cosmetic use of pesticides?**

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8. Additional comments

Consultation Questions:

- 8.1 Do you have any additional comments or suggestions for the ministry regarding statutory protections to safeguard the environment from the cosmetic use of chemical pesticides?**

Providing Comment

The ministry is interested in hearing your comments concerning the cosmetic use of pesticides. The consultation paper and a response form for providing comments to the ministry, and links to related legislation, are posted on the [Cosmetic Use of Pesticides Consultation Forum](#) website. This information can also be accessed by clicking on the “Cosmetic Use of Pesticide Consultation” button on the [Ministry of Environment](#) home page (www.gov.bc.ca/env/).

Discussion comments and responses received by February 15, 2010 will be reviewed by the ministry and a summary posted on the Consultation Forum website. Following review of comments received through the consultation process, the ministry will inform respondents and post information regarding next steps and any intentions for review or revision of statutory provisions governing the cosmetic use of pesticides.

Comments to the ministry should be made on or before February 15, 2010.

Comments received will be treated with confidentiality by ministry staff and contractors when preparing consultation reports. Please note that comments you provide, and information identifying you as the source of those comments may be made publicly available if a freedom of information (FOI) request is made under the *Freedom of Information and Protection of Privacy Act*.

If you have any questions or comments regarding the consultation process, review the information posted on the ministry’s website, or contact Cindy Bertram of C. Rankin & Associates, who is contracted to manage consultation comments, at:

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Please – tell us what you think...

...and thank you for your time and comments!