



Muskoka

WATERSHED COUNCIL

9 TAYLOR ROAD, BOX 482, BRACEBRIDGE ON P1L 1T8 PHONE: (705) 645-7393 FAX: (705) 645-7888
EMAIL: WATERSHED@MUSKOKAHERITAGE.ORG WEBSITE: WWW.MUSKOKAHERITAGE.ORG/WATERSHED

TO: Chair and Members
Policy & Research Committee

FROM: Rebecca Willison
Watershed Planning Technician

DATE: April 16, 2009

SUBJECT: Ontario's Cosmetic Pesticides Ban

Introduction

Muskoka Watershed Council released a Pesticides Background Paper in 2003 that contained a number of recommendations regarding the non-essential use of pesticides in Muskoka. In 2008, the Ontario legislature passed the *Cosmetic Pesticides Ban Act*, which will take effect on April 22, 2009, superseding local municipal pesticide bylaws. The Policy and Research Committee requested an overview of the Act and analysis of how the new provincial ban addresses the recommendations put forward by MWC in 2003.

Ontario's Cosmetic Pesticides Ban

The Ministry of the Environment (MOE) administers Ontario's *Pesticides Act*, R.S.O. 1990, Chap. P.11, which provides the province's framework for regulating the sale, use, transportation, storage and disposal of pesticides to protect human health and the natural environment. Ontario Regulation 63/09 made under the Pesticides Act is the general regulation governing pesticides in Ontario. This Regulation replaced and revoked Ontario Regulation 914.

The Cosmetic Pesticides Ban Act, 2008 was passed in the Ontario legislature on June 18, 2008. The requirements of the ban are detailed in the *Pesticides Act*, amended by the *Cosmetic Pesticides Ban Act*, 2008 and the Regulation. The provincial ban supersedes local municipal pesticides bylaws and is intended to create one clear, transparent and understandable set of rules across the province.

Pesticides cannot be used for cosmetic purposes on lawns, vegetable and ornamental gardens, patios, driveways, cemeteries, and in parks and school yards. There are no exceptions for pest infestations in these areas, as lower risk pesticides, biopesticides and alternatives to pesticides exist. More than 250 pesticide products are banned for sale and over 95 pesticide ingredients are banned for cosmetic uses.

Classification of Pesticides

A classification system is used as the basis for regulating the sale, use, transportation, storage and disposal of pesticides in Ontario. After a pesticide is registered by the federal government, the province may classify a pesticide regulating its sale and use in Ontario to protect human health and the

environment. Section 9 of the Regulation states that a pesticide must be registered and classified to be used in Ontario and that it is illegal to use a pesticide other than in accordance with the uses set out on the pesticide's label.

In general, the hazard posed by a pesticide is the basis for classifying pesticides and is determined by assessing toxicity, persistence in the environment and other factors. Pesticides that meet certain hazard criteria are placed in the same class so that appropriate regulatory requirements can be placed on persons selling or using the pesticides. Certain "pesticides" are exempt from the *Pesticides Act* and the Regulation as specified in Section 13 of the Regulation, for example a pesticide that is a machine, an algacide, or a living animal.

Eleven classes of pesticides have been established under the new Act:

- Class 1 are manufacturing concentrates used in the manufacture of a pesticide product.
- Classes 2, 3 and 4 are commercial or restricted pesticides that can continue to be used by farmers and licensed exterminators for non-banned uses. If the pesticide contains a Class 9 pesticide, it may only be used for an exception to the ban (e.g., agriculture, forestry, golf courses).
- Classes 5 and 6 pesticides can be used by homeowners and include biopesticides and lower risk pesticides allowed for cosmetic uses.
- Class 7 includes dual-use pesticides (i.e. indoor/outdoor uses). Such pesticides will only be allowed to be used for non-cosmetic purposes. For example, they can be used indoors to kill pests or outdoors for public health or safety reasons, but cannot be used outdoors to kill weeds. Retailers must give information to notify purchasers that only certain uses of these pesticides are legal. In two years' time, consumers will also not have ready access to these products, and continue to receive notification about the legal uses.
- Class 8 are banned domestic products. (e.g., pesticide-fertilizer combination products, weed and insect control products for lawns and gardens).
- Class 9 lists ingredients in pesticide products. These ingredients are banned for cosmetic use. Commercial or restricted products containing these ingredients may still be used by farmers or licensed exterminators for exceptions under the ban.
- Class 10 pesticides are ingredients in pesticide products. These are the only ingredients that may be used to control plants that are poisonous to the touch under the public health or safety exception.
- Class 11 lists ingredients that are biopesticides or lower risk pesticides. Licensed exterminators that use Class 11 pesticides are required to post a green notice sign to provide public notice of the use of these pesticides.

Exceptions

Sections 17 to 33 of the Regulation outline the excepted uses, including:

- **Public health or safety:** Pesticides can be used to control plants that are poisonous to the touch, such as poison ivy; insects that bite, sting, are venomous or are disease carrying, like mosquitoes;

and animals, insects or plants that may cause damage to a structure or infrastructure, such as termites.

- **Natural resources:** There is an exception, with Ministry of Natural Resources approval, to control invasive species that may be detrimental to health, the environment or the economy, or to protect a native plant, animal or a rare ecosystem.
- **Golf courses** are conditionally excepted from the ban, but they must:
 - Become accredited for Integrated Pest Management (IPM) by an approved accreditation body;
 - Prepare an annual report on how they minimized their pesticide use and make the report accessible to the public; and
 - Hold a public meeting annually to present the report.
- **Sports fields** are allowed a short term exception from the ban to host national or international level sports competitions. Written approval for the exception must be granted by the Minister of the Environment and once the event concludes, the use of pesticides must end. Areas such as lawns and gardens around the sports fields are not excepted from the ban.
- **Specialty turf:** Pesticides can be used to maintain specialty turf used for lawn bowling, cricket, lawn tennis and croquet if certain conditions are met. Areas such as lawns and gardens around the specialty turf are not excepted from the ban. IPM and annual reporting conditions, similar to those imposed on golf courses, must be followed.
- **Trees:** Since trees are so important to protecting our climate, licensed exterminators can use conventional pesticides with the written opinion of a tree care professional that states that the use of the pesticide is necessary to protect the health of the tree. Homeowners and licensed exterminators can also buy and use biopesticides and lower risk pesticides to care for trees without requiring an opinion from a tree care professional.
- **Agriculture:** The use of pesticides is necessary for agriculture from an economic and operational perspective. Ontario farmers already have stringent rules on the use, handling, storage and application of pesticides, and these rules will continue. The exception does not apply to a farmer's household vegetable garden and lawn.
- **Forestry:** The use of pesticides in forestry is essential to protect trees from pests, and to control competing vegetation. Ontario's forestry workers must follow stringent rules on the use, handling, storage and application of pesticides. The exception applies to a range of forestry activities including harvest and reforestation.
- **Public works:** Under the health or safety exception, pesticides are allowed to be used to maintain safe conditions, and the security of and emergency access to public works. Public works include highways, railways, power works, gas works, water works and other utilities, transit/transportation corridors and the perimeter of nuclear facilities. The exception does not apply to the use of a pesticide on a portion of a highway to which pedestrians have access on a regular basis or where the public is invited to stop including picnic and rest areas.

Notice Signs

Homeowners can apply biopesticides or lower risk pesticides (Classes 5, 6 and 11) to control weeds and other pests on lawns, gardens, driveways and other areas around the home. However, if licensed exterminators use a lower risk pesticide or biopesticide, the exterminator must post a green notice sign on the lawn. This sign makes it clear that the exterminator is not using an illegal pesticide and satisfies the public's right to know about the use of a pesticide.

Buying Pesticides

Vendors are licensed based on the class of pesticides they sell and fall into one of three categories: General, Limited or unlicensed. Beginning April 22, 2009:

- A General or Limited vendor may:
 - Sell Class 5 and 6 domestic pesticides.
 - Sell controlled sales pesticides (Class 7) with conditions.
 - No longer sell banned domestic pesticides (Class 8).

- An unlicensed vendor may:
 - Sell Class 6 domestic pesticides.
 - Sell controlled sales pesticides (Class 7) with conditions until January 1, 2010.
 - No longer sell banned domestic pesticides (Class 8).

Class 7 are controlled sales domestic pesticides with both non-cosmetic uses and cosmetic uses. Class 7 pesticides will only be allowed for non-cosmetic purposes and written information must be given to each consumer at the time of purchase informing them that the cosmetic uses of the pesticide are illegal under the ban. Beginning April 22, 2011, licensed vendors will be required to display Class 7 pesticides such that consumers do not have ready access to them.

Disposal of Class 8 Pesticides

Class 8 pesticides are banned domestic products, including conventional pesticide-fertilizer combination products and weed and insect control products for lawn and gardens. Vendors are required to remove these products from their shelves by April 22, 2009 and it is the responsibility of vendors to properly store them until they can be safely disposed of.

Safe disposal includes returning the product to the manufacturer where possible. Otherwise, Class 8 pesticides must be disposed of in accordance with Ontario Regulation 69/09 under the *Pesticides Act* and Regulation 347 (General Waste Management) under the *Environmental Protection Act*.

In Ontario, all pesticide waste must be disposed of at a waste disposal facility that has been approved by the MOE. In addition, pesticide wastes can only be transported by a waste management company that has obtained the appropriate approvals from the MOE. Homeowners can dispose of unused and banned pesticides through the District Municipality of Muskoka's Household Hazardous Waste program. Disposal of a pesticide by vendors is a multi-step process that requires the vendor to classify the waste and then determine the appropriate actions for disposal based on this classification.

Compliance and Enforcement

The Ministry of the Environment is the ministry responsible for administering the Act. MOE will focus its initial efforts on education when responding to reports of suspected non-compliance. Contravening the Act may result in a fine of up to \$10,000.

MWC 2003 Recommendations

As stated in its 2003 *Pesticides Background Paper*:

Muskoka Watershed Council supports a ban on the non-essential use of pesticides and recommends a precautionary approach to the regulation of these chemicals.

Until such time as a complete ban on the non-essential use of pesticides can be implemented, Muskoka Watershed Council supports:

- 1) An immediate ban on the use of pesticides around facilities that cater to children and seniors.*
- 2) Requiring a buffer along streams, lakes and other surface water, including stormwater management facilities.*
- 3) The elimination of the non-essential use of pesticides on all public property.*
- 4) A public education campaign undertaken in conjunction with Muskoka and the Area Municipalities.*

The *Cosmetic Pesticides Ban Act, 2008* addresses all of MWC's recommendations above and goes beyond most municipal bylaws in that no exceptions are made for pest infestations in lawns, gardens, parks and school yards unless public health and safety is affected. Many municipal bylaws also excluded golf courses, which are now required to become IPM accredited under the new Act.

Respectfully submitted,

Rebecca Willison

Watershed Planning Technician