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Item No. 2
Environment & Sustainability Standing Committee
January 8, 2015

TO: Chair and Members of Environment & Sustainability Standing Committee

SUBMITTED BY: Original Signed
John Traves, Q.C., Director, Legal, Insurance and Risk Management

DATE: November 27, 2014

SUBJECT: ***By-law P-800 – Respecting the Regulation of Pesticides, Herbicides, and Insecticides and Administrative Order 23 - Respecting Pesticides, Herbicides, and Insecticides excluded from the By-law***

INFORMATION REPORT

ORIGIN

On April 15, 2014, Council passed the following two motions:

Motion passed that Halifax Regional Council amend proposed By-law R-107, An Amendment to By-law R-100 Respecting the Repeal of By-laws and Ordinances, by deleting By-law P- 800 from section 3 item 7 of R-107, being the list of by-laws to be added to Schedule “E” of By-law R-100.

Motion passed that Halifax Regional Council refer the repeal of By-Law P-800 and AO 23, for further review and recommendation to Regional Council, to the Environment and Sustainability Standing Committee.

LEGISLATIVE AUTHORITY

The *Halifax Regional Municipality Charter* (the “Charter”) at section 188 (1)(j) gives the Municipality the power to regulate the application and use of pesticides.

The *Halifax Regional Municipality Charter* at section 186(2) states, “A by-law must not be inconsistent with an enactment of the Province or of Canada.”

By-law P-800, *Respecting the Regulation of Pesticides, Herbicides, and Insecticides*, and Administrative Order 23, *Respecting Pesticides, Herbicides, and Insecticides excluded from the By-law*.

BACKGROUND

An Information Report dated December 17, 2010 was on the agenda for Regional Council on January 11, 2011 (Attachment "1"). This report outlined the impact of the new Provincial Act and regulations regarding pesticides with respect to HRM's by-law. The Information Report identified the need for staff to work with the Environment and Sustainability Standing Committee for review and recommendation of amendments as required to the Pesticides By-law and Administrative Order 23 ("AO 23") in light of the Provincial enactment.

An Information Report dated January 20, 2011, and on the agenda for Environment and Sustainability Standing Committee on February 3, 2011, titled Legislated Scope of HRM Pesticide P-800 (Attachment "2") outlined what Business Unit staff understood to be the impact of the new Provincial Act and regulations. It was in this report that staff first conveyed the understanding that the new regulations rendered the municipal program redundant.

A Recommendation Report dated April 19, 2011 was before Council on May 24, 2011 (Attachment "3"). The report recommended the inclusion of FeHEDTA in AO 23 as the provincial regulations allowed the product. The report made three recommendations:

1. Endorse FeHEDTA being included in Administrative Order 23 (Permitted Pesticides List);
2. Request staff to provide a follow up report on the practicality, costs and benefits of aligning Administrative Order 23 with the Provincial Allowable List; and
3. Endorse Policy that Halifax Regional Municipality (HRM) Operations will not use FeHEDTA in municipal turf care operations.

Regional Council did not endorse FeHEDTA at the meeting of May 24, 2011 (Attachment "4"). This meant the provincial regulations and HRM's by-law were inconsistent. However, Council did pass items 2 & 3 of the Recommendation Report.

At Regional Council on June 7, 2011 a Motion of Reconsideration was made to have Council revisit the motion to endorse FeHEDTA for inclusion in AO 23 (Attachment "5"). The Municipal Solicitor advised that item 1 of Council's motion of May 24, 2011 was out of order as the *Charter* states a by-law must not be inconsistent with an enactment of the Province. As a result of this advice, Council voted to endorse FeHEDTA to be included in AO 23. In separate motions Council also passed recommendations 2 & 3 from the report.

Regional Council requested a follow-up report from staff however a report did not come back to Council. The Pesticides By-law and AO 23 did not come before Council again until 2014.

On March 18, 2014 Regional Council gave first reading to By-law R-107, An Amendment to By-law R-100, *Respecting the Repeal of By-laws and Ordinances*. By-law R-107 put before Council 6 by-laws for repeal. By-law P-800, *Respecting the Regulation of Pesticides, Herbicides, and Insecticides* was included in the list of by-laws recommended for repeal.

Prior to second reading of By-law R-107, a Supplementary Information Report on P-800 *Respecting the Regulation of Pesticides, Herbicides, and Insecticides* was prepared (Attachment "6").

On April 15, 2014 Regional Council passed the motion to amend By-law R-107 to remove the repeal of the Pesticides By-law, and made a subsequent motion referring the repeal of the Pesticides By-law and corresponding AO 23 to the Environment and Sustainability Standing Committee for review and recommendation.

DISCUSSION

The Supplementary Information Report dated April 2, 2014, which was before Council on April 15, 2014, stated at the end of the paragraph on the bottom of page 3 that:

With the alignment of the Provincial Permitted list and the Municipal Permitted list, the permitting system operated by HRM is completely redundant as there are no longer any available products in Nova Scotia which HRM can permit which are not restricted already by the Province of Nova Scotia.

Upon review, this statement is not completely accurate and the purpose of this report is to rectify that information.

The *Non-essential Pesticides Control Act* (the “Act”) sets out the restrictions on the sale and use of pesticides in Nova Scotia. The Act prohibits the sale and use of pesticides with two exceptions:

1. if the pesticide is on the allowable list as set out in regulation; and
2. if regulations exist allowing the sale and use of pesticides in certain circumstances.

The *Exceptions to Prohibitions on Non-essential Pesticides Regulations* (the “*Exceptions Regulations*”), sets out the criteria for when the sale and use of a pesticide that is not on the list of allowable pesticides can be used. Although these pesticides may be restricted, they are still available.

The Information Report of December 17, 2010 refers to the fact that glyphosate (common name: Round Up) was allowed under the Province's regulations in 2011 but would be restricted in 2012. Glyphosate is not on HRM's list of allowed pesticides under AO 23. Glyphosate is specifically identified in the *Exceptions Regulations* as permitted to be sold and used for dealing with invasive species on lawns, outdoor trees, shrubs, flowers or other ornamental plants (restricted use). The *Exceptions Regulations* also permit other non-essential pesticides to be sold and used for the purposes of dealing with invasive species, but does not specifically name them.

The report to Council on April 15th stated there are no longer any pesticides available in NS that HRM can permit due to the restrictions set out by the Province. While it is true that pesticides not listed in the Province's allowable list are restricted, the sale and use of these pesticides is permitted in certain circumstances. The pesticides can be purchased from a certified retailer for use, as long as the user states that the pesticide is for one of the exceptions set out in the *Exceptions Regulations*.

The *Charter* provides that a by-law must not be inconsistent with a Provincial enactment. This, however, does not preclude HRM from regulating the application and use of pesticides as provided for in section 188 of the *Charter*, even though the Province also regulates this area provided that there is no inconsistency between the two.

The Province's *Exceptions Regulations* permit the use of pesticides in certain circumstances. The Pesticides By-law also permits the use of pesticides that are not listed in AO 23 as long as a permit is obtained. This would not be in conflict with the Provincial regulations and therefore Council may regulate by requiring a permit be obtained for use of a restricted pesticide.

Staff of the Business Unit understood in 2010 that the provincial legislation and regulations made the administration of the former program redundant as there was no ability to permit restricted products for chinch or white grub, and dandelions and cosmetic weeds are not excepted under the regulations. However, the Act, *Exceptions Regulations*, and By-law P-800 do allow the municipality to enact a permitting program on the *Exceptions Regulations* (for Invasive Species). This is substantively different than the previous permitting program and would operationally be a new municipal service.

Business Unit staff have advised they have not completed a firm program analysis for administering a permitting program with respect to *Exceptions Regulations* permitting (for Invasive Species). However based on past experience, staff advised us that a program budget could be expected as follows:

Development of Program (consultant)	\$50,000	One time cost
Education Program	\$25,000 to \$50,000 annually	Would need early year increase to convey regulatory expectations and then reduce in subsequent years
Permitting	\$150,000 annually	Due to complex nature of Invasive Species, anticipate that a permanent Subject Matter Expert would be required and supplemented during summer with a junior staff

Historically, the former Pesticide Permitting program, operated by Ecology Action Centre, Clean Nova Scotia, and then internally by the municipality cost between \$100,000 and \$150,000 per year, however did not deal with invasive species.

Our review of this matter has determined that HRM has not been regulating invasive species in accordance with the existing by-law. A decision not to revoke the By-law will require the development of a permitting program by the Business Unit.

Options

There is an outstanding motion at Regional Council: *that Halifax Regional Council refer the repeal of By-law P-800 and AO 23, for further review and recommendation to Regional Council, to the Environment and Sustainability Standing Committee*. There are two options for the Committee to consider in light of the information presented in this report:

1. recommend that Regional Council repeal By-law P-800 and AO 23; or
2. recommend that Regional Council defeat the motion to repeal P-800 and AO 23. If the Committee chooses to make this recommendation to Council, staff will need to put a permitting program in place to enforce the by-law.

FINANCIAL IMPLICATIONS

There are no budget implications to this particular Report.

The existing budget does not contemplate a permitting program. A decision not to revoke the by-law will result in the need for a separate staff report and analysis of the cost implications for consideration of Regional Council.

COMMUNITY ENGAGEMENT

None

ATTACHMENTS

Attachment "1" – Information Report, Item No. 3, to Regional Council on January 22, 2011

Attachment "2" – Information Report, to Environment and Sustainability Committee on February 3, 2011

Attachment "3" – Recommendation Report, Item No. 8.1(i) to Regional Council on May 10, 2011; deferred to May 24, 2011

Attachment "4" – Excerpt of the Minutes of Regional Council, May 24, 2011

Attachment "5" – Excerpt of the Minutes of Regional Council, June 7, 2011

Attachment "6" – Supplementary Information Report, Item No. 11.1.9ii, to Regional Council on April 15, 2014

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Donna Boutilier, Solicitor & By-law Coordinator, Legal Services, 902.490.2331



P.O. Box 1749
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Item No. 3
Halifax Regional Council
January 11, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by Director
Phillip Townsend, Director, Infrastructure and Asset Management

DATE: December 17, 2010

SUBJECT: Provincial Pesticide Regulations

INFORMATION REPORT

ORIGIN

This report originates from Staff.

BACKGROUND

On December 3, 2010, the Province of Nova Scotia announced the new Non-essential Pesticides Regulations and List of Allowable Pesticides. The Non-essential Pesticides Control Act was passed in May 2010. The legislation and regulations applies to lawn care and ornamental plants on residential, commercial, government and institutional properties, as well as parks and other recreational facilities. The legislation is also accompanied by a List of Allowable Pesticides. The sale and use of pesticides, which do not appear on the Allowable list, will be prohibited on lawns as of April 1, 2011. The legislation will be extended to ornamental shrubs, flowers and trees as of April 1, 2012.

The Exceptions to Prohibitions on Non-essential Pesticides Regulations, outline the circumstances when pesticides which are not on the Allowable list, can be used on lawns and ornamental gardens. The regulations also place restrictions on the sale of pesticides for these exceptions.

The Non-essential Pesticides Control Act can be found at the following URL:
<http://nslegislature.ca/legc/sol.htm>.

The Exceptions to Prohibitions on Non-essential Pesticides Regulations and the List of Allowable Pesticides Regulations can be found at: <http://www.gov.ns.ca/just/regulations/rxam-z.htm#non>.

DISCUSSION

The legislation and regulations passed by the Province of Nova Scotia are helpful as they address the gap that the current Halifax Regional Municipality's (HRM) Pesticide By-Law, P-800, could not address: (<http://www.halifax.ca/legislation/bylaws/hrm/blp-800.pdf>). The focus of the HRM By-Law is on the usage of the pesticide, whereas the Provincial Legislation scopes additionally on the sale of non-allowable pesticides in stores.

A brief and simplified summary of key staff notes of the new regulations are as follows:

1. There is no longer any exception for the spraying of chinch bugs with non-allowable chemicals (i.e. Carbaryl). This restriction is environmentally stronger than our By-Law;
2. Non-allowable products would only be offered through Commercially Licenced Class 1 retailers;
3. FeHEDTA and Glyphosate (Round Up) are allowed in 2011 on the Nova Scotia Environment (NSE) list, but not on the HRM allowable list; and
4. Glyphosate (Round Up) is restricted in 2012 (with the shrubs, flowers and trees piece), FeHEDTA is allowed.

Glyphosate has been the primary product of discrepancy during the administration of the HRM By-Law.

A couple of items that the new legislation and regulations do not address, which are addressed in the HRM By-Law, are:

1. Signage;
2. Buffer areas; and
3. Restricted areas.

The Provincial regulations do not usurp the HRM By-Law.

Staff needs to work with the Environment and Sustainability Committee to review direction related to:

1. Adoption/or not of the NSE List of Allowable Products; and
2. Maintenance of the HRM By-Law and possible administrative clean up.

Changes to the by-law will require a public hearing. As such, and knowing the public interest in the topic, this by-law will not be changed prior to Spring 2011. With the phased-in regulations, it is staff's intent to work with the Committee to:

1. Re-examine the acceptability of FeHEDTA - Spring 2011;
2. Determine whether the existing By-Law is still required (which at this point, staff would recommend a tidied up By-Law) - Spring/ Summer 2011;
3. Examine and review how the Provincial Regulations are working - Summer/ Fall 2011;

4. Determine whether and how to tidy up the By-Law - Fall 2011; and
5. Hold Public Hearings related to the By-Law changes - Fall/ Winter 2011.

In 2010, staff brought forward a recommendation to consider FeHEDTA for inclusion on HRM's Permitted Pesticides List, Administrative Order #23. This recommendation was based on Regional Council's previous motion to recommend that the Union of Nova Scotia Municipalities (UNSM) advocate that the Province adopt the Ontario standards for pesticides. FeHEDTA is on the Ontario Class 11 list. Regional Council did not accept staff's recommendation. Local environmental academics have recommended against the inclusion of FeHEDTA, therefore, staff will need to re-examine this and provide a recommendation to the Committee.

Currently, it is staff's vision to discontinue the permitting process in 2011 and onwards, based on our understanding of the new provincial regulations – there will be nothing to permit. It is envisioned that there will be a need for some education/advertisements relating to signage and buffer zones, possibly for this year only, due to public expectation. This will be reviewed with the Environment and Sustainability Committee.

BUDGET IMPLICATIONS

There are no budget implications to this specific information report. Administration of the Pesticide permitting and education by the Sustainable Environment Management Office (SEMO), cost approximately \$110,000 in 2009/ 2010, was reduced to \$60,000 in 2010/ 2011 (by eliminating the education component), and is currently targeted as a cost savings opportunity for 2011/ 2012.

Expected recommendations from the Environment and Sustainability Committee will provide succinct budget implications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

There has been ongoing engagement with the Province of Nova Scotia, the local Environmental NGO community, and members of industry. Deferring this to the Committee will enable further engagement.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Richard MacLellan, Manager, Sustainable Environment Management Office, 490-6056

Item No. 8.1(i)
Halifax Regional Council
May 10, 2011
May 24, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer, Operations

DATE: April 19, 2011

SUBJECT: Administrative Order 23: Inclusion of FeHEDTA

ORIGIN

Environment and Sustainability Committee, Item 7.1.1, April 7, 2011

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Endorse FeHEDTA being included in Administrative Order 23 (Permitted Pesticides List);
2. Request staff to provide a follow up report on the practicality, costs and benefits of aligning Administrative Order 23 with the Provincial Allowable List; and
3. Endorse Policy that Halifax Regional Municipality (HRM) Operations will not use FeHEDTA in municipal turf care operations.

BACKGROUND

During presentation of the referenced Environment and Sustainability Committee report, Committee members decided to forward the Staff Recommendation report to Regional Council with no debate and no recommendation.

Staff is seeking direction from Regional Council.

DISCUSSION

A comprehensive report was provided to the Environment and Sustainability Committee on April 7, 2011. This report can be viewed online at the following website: (<http://www.halifax.ca/boardscom/swrac/documents/7.1.1AdminOrder23InclusionofFeHEDTA.pdf>),

The Environment and Sustainability Committee asked a number of questions and clarifications. This report responds to those questions.

Confirm Legal Standing of By-Law

- The HRM Charter provides the Municipality with the authority to make By-Laws related to the regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor plants and turf.
- The Charter also states that Municipal By-Laws shall not be inconsistent with an Act of the Province or Canada.

While the By-Law does not appear inconsistent to Provincial Regulations, there may be an argument that Administrative Order 23 is inconsistent.

What is the HRM Authority?

HRM Charter

Power to Make By-Laws

(j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor plants and turf on the part of a property used for residential purposes and on property of the Municipality, without restricting the generality of the foregoing:

- (i) requiring the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted;
- (ii) establishing a registration scheme that is open to the public, in which a resident may file with the clerk an objection to pesticides, herbicides and insecticides being so used in the vicinity of the property on which the person resides;
- (iii) requiring that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the by-law when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the

notice;

(iv) providing that pesticides, herbicides and insecticides may not be so used within the distance of a registered property established by the by-law, the requirements respecting notices to residents or owners of properties within the distance of a registered property established by the by-law and the effective date of the prohibition;

(v) specifying the circumstances in which posting or serving of notices is not required or the prohibition does not apply;

(vi) providing for all other matters necessary or incidental to the establishment of the registration scheme.

What is Happening with Education?

Staff will be clarifying to Industry and Residents the status of the HRM By-Law as soon as Council provides direction on this element of the work.

The following is anticipated:

- Letters to all industry of the status of the HRM By-Law and HRM expectations under the transitioning Provincial Pesticide Regulations. There are elements of the Regulations that staff will be monitoring. For example, it is understood that under the Provincial Regulations there is no exception to enable spraying of permethrin based products for the management of Chinch Bug Infestations. This was virtually the sole item permitted under the By-Law Administration. With this regulation and an effective Pyrethrin (allowable product) alternative available, it appears there is nothing for HRM to permit. However, we have the authority to permit and, if activity occurs against expectations, the service of permitting may be re-instituted;
- Internet Resources of Sustainable Landscaping;
- Press Release on Service Delivery approach;
- Preparation of some information tools available for Customer Service calls or Councillor requests.

The Province of Nova Scotia has spent significant funds on an educational campaign supporting their regulations. Much of the work was based on HRM work. This information has been going to residents and is available to retailers.

Clarify Status of Permitting

The By-Law authorizes HRM to issue permits for the use of products not on the Allowable List (<http://www.halifax.ca/pesticides/rules.html>) with the submission of an application (www.halifax.ca/pesticides/documents/PesticidePermitApplicationForm.pdf) for the control of infestations affecting turf or plants. Since 2000, 99% of permits have been for chinch bug. The product typically used was a deltamethrin or permethrin product.

Under the Provincial Regulations (<http://www.gov.ns.ca/just/regulations/regs/nepexcept.htm>), there is no exemption that would allow these products to be used on Chinch. As such, staff see nothing to permit and have not planned to administrate a permitting program in 2011.

That being said, the Municipality retains the authority and, should activity occur against expectations, permitting could be re-instituted.

Don't We Permit for Ants and Dandelions?

No. The HRM Charter does not provide the Municipality authority to restrict pesticide use for control of ants. HRM has never issued permits for ant infestations – as the scope is outside the municipal authority. Copies of the Annual Reports, including break downs of permits, are available at: <http://www.halifax.ca/pesticides/overviewreports.html>. HRM has never issued a permit for a non-allowable product for dandelion infestations.

Is FeHEDTA on shelf?

Yes. As it was last year, there is FeHEDTA on shelves sold as Scotts EcoSense WeedBgon or Neudorff Fiesta Weed Killer. The product is permitted on the Provincial Allowable List (<http://www.gov.ns.ca/just/regulations/regs/neplist.htm>). Commercial Applicators were not allowed to use them in HRM in 2010.

Difference Between Commercial and Residential Product

Attached is a PMRA Label for both a commercial product and a residential product. The Label Precautions are virtually identical.

It should be noted that commercial applicators are more likely to use the recommended correct and minimum amount of product in an application (the product is costly and comes right out of their profit margin) than a homeowner that picks up a bottle at a retailer.

It is also important to note that applicators not using product according to label are subject to losing their commercial license.

Enforcement

Firstly, the difference between the Provincial Authority and the Municipal Authority rests most evidently in the fact that they can restrict sales (i.e. prevent products from being sold by retailers). The Municipality cannot do that and can only restrict usage. For ten years, there have been products banned under the HRM By-Law sold by retailers.

HRM By-Law enforcement is serviced by receiving calls to the Customer Service Center where a By-Law Officer investigates. Typically, results of investigations are educating residents of the By-Law.

Should HRM decide not to allow FeHEDTA on the Allowable List, it will still be offered on retailers shelves. Commercial Applicators, required to comply with Municipal Law, would be the primary groups restricted.

Copy of Administrative Order 23 and By-Law

Administrative Order 23: <http://www.halifax.ca/legislation/adminorders/documents/AO23.pdf>

By-Law: <http://www.halifax.ca/legislation/bylaws/hrm/blp-800.pdf>

Staff Interpretation of By-Law Focus on Protection of Human Health

A key premise of the Staff Recommendation in the FeHEDTA report is that the By-Law is focused on the protection of Human Health and not on BioDiversity or other Ecological Values. As such, and reviewing the health and toxicology assessments of the product and comparing it to other landscaping products included on the HRM Allowable List, staff did not feel there was a reasonable health risk present.

The basis of that interpretation, including the original motion, came from the background section of this report http://www.halifax.ca/pesticides/Background_Reports.html, and review of the minutes of the series of 2000 meetings of Regional Council and Committee of Whole (<http://www.halifax.ca/council/minit2000.html>).

It is the prerogative of Regional Council to determine whether that interpretation is correct or not. Following submission of the Report to the Environment and Sustainability Committee, members of the public, including the former Councillor that introduced the motion, have submitted that the By-Law Intent was not solely for the Protection of Human Health.

Reported Poisonings

There have been four incident reports logged with Health Canada regarding the use of FeHEDTA. Attachment 2 provides details on incident reports concerning two dogs, a cat and grass. No reports have been logged regarding Humans. It is important to review the incident reports for context. Any and all reports of adverse reactions for products registered by Health Canada are reported, and there are reports for items on the HRM Allowable List such as Pyrethrin.

BUDGET IMPLICATIONS

There are no budget implications with this report.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

There has been substantial industry and community input on this recommendation as per the numerous letters to the Clerks Office.

ALTERNATIVES

Regional Council may choose to recommend against FeHEDTA. Clearly current policy would offer that result. However, staff suggest that this recommendation is not reasonable and would greatly jeopardize the integrity of the By-Law itself.

ATTACHMENTS

Attachment 1: Labels for Commercial and Residential FeHEDTA

Attachment 2: Incident Reports

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Richard MacLellan, Manager, Sustainable Environment Management Office, 490-6056

Financial Approval by: Bruce Fisher, MPA, CMA, A/Director of Finance, CFO, 490-6308

Report Approved by: Phillip Townsend, Director, Infrastructure and Asset Management, 490-7166

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DIRECTIONS FOR USE

SHAKE WELL BEFORE USING. One litre of product will treat between 62.5 and 125 m² (672.5 - 1345 ft²). Mix one part FIESTA Lawn Weed Killer with 24 parts water (40 mL in 560 mL of water). Apply the mixed solution at a rate of 200-400 mL/m². Use the lower rate (200 mL spray/m²) on small weeds; use the higher rate (400 mL/m²) on large weeds and on tough perennial weeds, such as clover. Any standard hand-held or backpack sprayer can be used. Use a coarse nozzle setting to reduce drift. Uniform coverage is important. Repeat treatment once in four or more weeks after the first treatment if necessary. For spot treatment, spray weeds until foliage is thoroughly wetted, just to the point of runoff. Visible signs of control may be seen within several hours after application. Susceptible weeds, moss or algae will turn brown or black. Occasionally a darkening of the grass leaf blades can occur after treatment, however the grass will recover within a few days to weeks. May stain thatch (dead grass under lawn); this does not affect the health of the grass. **Use Precautions:** Do not apply to drought stressed grass; ensure lawn is well watered prior to application. Do not apply when the daytime temperature will exceed 30°C. Do not apply to bentgrass. If unsure of grass sensitivity, test spray a small area of your lawn. Apply to established turf only. Do not apply to newly seeded areas or to turf generated from seed and that is less than one year old. Avoid spraying desirable plants. Any desirable plants or structures accidentally contacted should be rinsed with water. To avoid staining, wait until treated area dries before re-entry. Do not apply if rainfall is expected within 3 hours of application. Do not irrigate within 3 hours of application. Do not apply more than 2 times per year. **DO NOT** contaminate irrigation or drinking water supplies or aquatic habitats by cleaning of equipment or disposal of wastes.

PRECAUTIONS:

KEEP OUT OF REACH OF CHILDREN. CAUTION: Causes slight eye irritation. Avoid contact with eyes, skin, or clothing. Wash hands thoroughly with soap and water after handling and before eating, drinking and chewing gum or chewing tobacco. Wear protective eye-wear and waterproof gloves during application or during mixing, loading, and repair/clean-up activities. Avoid breathing vapour or spray mist. Do not re-enter or allow re-entry into treated areas until the spray is dried. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

Apply only when the potential for drift to areas of human habitation or areas of human activity such as houses, cottages, schools, and recreational areas is minimal. Take into consideration wind speed, wind direction, temperature, application equipment, and sprayer settings.

FIRST AID:

If swallowed:

Call a poison control centre or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control centre or doctor. Do not give anything by mouth to an unconscious person.

If on skin or clothing:

Take off contaminated clothing. Rinse skin immediately with plenty of water for 15 - 20 minutes. Call a poison control centre or doctor for treatment advice.

If inhaled:

Move person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably by mouth-to-mouth, if possible. Call a poison control centre or doctor for further treatment advice.

If in eyes:

Hold eye open and rinse slowly and gently with water for 15 - 20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call a poison control centre or doctor for treatment advice.

Take container, label or product name and Pest Control Product Registration Number with you when seeking medical attention.

TOXICOLOGICAL INFORMATION:

Treat symptomatically.

STORAGE

To prevent contamination store this product away from food or feed.

Store in a secure place, away from open fire or flame. Keep container closed and resealed after use. If spilled, use absorbent materials and dispose of in an approved manner. Do not store at temperatures below 0°C.

DISPOSAL:

DO NOT reuse this container for any purpose. This is a recyclable container, and is to be disposed of at a container collection site. Contact your local distributor/dealer or municipality for the location of the nearest collection site. Before taking the container to the collection site:

1. Triple- or pressure-rinse the empty container. Add the rinsings to the spray mixture in the tank.

2. Make the empty, rinsed container unsuitable for further use.

If there is no container collection site in your area, dispose of the container in accordance with provincial requirements.

For information on disposal of unused/unwanted product, contact the manufacturer or the provincial regulatory agency. Contact the manufacturer and the provincial regulatory agency in case of a spill, and for clean-up of spills.

NOTICE TO USER

This pest control product is to be used only in accordance with the directions on the label. It is an offence under the *Pest Control Products Act* to use this product in a way that is inconsistent with the directions on the label. The user assumes the risk to persons or property that arises from any such use of this product.

Patent Pending

Manufactured for:

W. Neudorff GmbH KG

Postfach 1209, An der Muehle 3, 31860 Emmerthal, Germany

Canadian Office: Neudorff North America

Unit 11 • 6782 Veyaness Road • Saanichton, BC, V8M 2C2 •

1-(250)-652-5888

FIESTA[®] is a registered trademark of W. Neudorff GmbH KG



Pull here to open and press to reseat.

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2010-2625 23-JUL-2010

[FRONT PANEL - ENGLISH]

MADE WITH IRON [ICON]

SCOTTS® ECOSENSE™ WEED B GON®
READY-TO-USE WEED CONTROL
WITH PULL'N SPRAY® APPLICATOR

SOLUTION

DOMESTIC
SELECTIVE HERBICIDE

GUARANTEE: Iron (present as FeHEDTA) 0.25%

Contains 5-chloro-2-methyl-4-izothiazolin-3-one at 0.0007571% and
2-methyl-4-izothiazolin-3-one at 0.0002479%, as preservatives

REG. NO.: _29834_ P.C.P. ACT

READ THE LABEL BEFORE USING
KEEP OUT OF REACH OF CHILDREN
POTENTIAL SKIN SENSITIZER

NET CONTENTS: 5 L

Scotts Canada Ltd.
2000 Argentia Road
Plaza #5, Suite 101
Mississauga, Ontario
L5N 2R7

1-800-668-5669

Made and printed in the U.S.A.

[BACK PANEL - ENGLISH]

OPEN RESEALABLE LABEL FOR
ADDITIONAL PRODUCT
INFORMATION.

**SCOTTS® ECOSENSE™ WEED B GON®
READY-TO-USE WEED CONTROL
WITH PULL'N SPRAY® APPLICATOR**

SELECTIVE HERBICIDE

[ECOSENSE ICON] Care Today, Benefit Tomorrow™

For use on lawn turf consisting of one or more of Kentucky bluegrass, perennial ryegrass, and fescue (tall fescue, chewings fescue, and/or creeping fescue) for control or suppression of broadleaf weeds.

PESTS/SITES:

Controls the following lawn weeds: Dandelion, English daisy, False dandelion, White clover, Black medic, Bull thistle, Canada thistle, Common chickweed, Creeping buttercup, Slender speedwell, Narrow-leaved plantain, Broad-leaved plantain (suppression only), Dove's-foot geranium, Lawn burweed, Moss, and Algae.

With pressure sprayer.

[Text for inside Arrow]

Pull'N Spray® Applicator

- The easier way to apply
- No hand fatigue

[ILLUSTRATION #1]

- Remove sprayer from side carrier and unwrap hose completely.
- Insert plug at end of hose into spout on cap until it clicks.
- Flip up spout.

ILLUSTRATION #2]

- Point sprayer away from body.
- Grasp sprayer by the handle.
- SLOWLY pull ring at bottom of sprayer handle until it stops to ready the sprayer.

[ILLUSTRATION #3]

- Twist nozzle at end of sprayer to adjust spray pattern.

[ILLUSTRATION #4]

- Press button on sprayer to begin spraying and hold down for continuous spray.
- Pull ring at sprayer bottom again as needed for additional spraying.

DIRECTIONS FOR USE:

SHAKE WELL BEFORE USING. Do not dilute. Follow illustrations and instructions to ready the sprayer. Twist nozzle at end of sprayer to open and adjust spray pattern. Point sprayer away from body and press sprayer button to begin spraying. Pull ring at base of sprayer as needed to continue spraying. Hold down for continuous spray. Spray weeds until foliage is thoroughly wetted, just to the point of run-off. Repeat treatment once in four or more weeks after the first treatment if necessary. Visible signs of control may be seen within several hours after application. Susceptible weeds, moss or algae will turn brown or black. Occasionally a darkening of the grass leaf blades can occur after treatment; however the grass will recover within a few days to weeks. May stain thatch (dead grass under lawn); this does not affect the health of the grass.

Use Precautions: Do not apply to drought stressed grass; ensure lawn is well watered prior to application. Do not apply when the daytime temperature will exceed 30°C. Do not apply to bentgrass. If unsure of grass sensitivity, test spray a small area of your lawn. Apply to established turf only. Do not apply to newly seeded areas or to turf generated from seed and that is less than one year old. Avoid spraying desirable plants. Any desirable plants or structures accidentally contacted should be rinsed with water. To avoid staining, wait until treated area dries before re-entry. Do not apply if rainfall is expected within 3 hours of application. Do not irrigate within 3 hours of application. DO NOT contaminate irrigation or drinking water supplies or aquatic habitats by cleaning of equipment or disposal of wastes.

PRECAUTIONS:

CAUTION: KEEP OUT OF REACH OF CHILDREN. Causes slight eye irritation. Avoid contact with skin or clothing. Wash hands thoroughly with soap and water after handling and before eating, drinking, and chewing gum or chewing tobacco. DO NOT get in eyes. Avoid hand-to-mouth contact. Avoid breathing spray mist. Do not re-enter or allow re-entry into treated areas until the spray is dried. Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.

FIRST AID:

If swallowed, call a poison control centre or doctor immediately for treatment advice. Have person sip a glass of water if able to swallow. Do not induce vomiting unless told to do so by a poison control centre or doctor. Do not give anything by mouth to an unconscious person. **If on skin or clothing,** take off contaminated clothing. Rinse skin immediately with plenty of water for 15 - 20 minutes. Call a poison control centre or doctor for treatment advice. **If inhaled,** move person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably by mouth-to-mouth, if possible. Call a poison control centre or doctor for further treatment advice. **If in eyes,** hold eye open and rinse slowly and gently with water for

15 - 20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call a poison control centre or doctor for treatment advice. Take container, label or product name and Pest Control Product Registration Number with you when seeking medical attention.

TOXICOLOGICAL INFORMATION:

Treat symptomatically.

STORAGE:

Store this product in its original container and keep in a secure storage area out of reach of children and domestic animals. Store unused material, tightly closed, in original container only, away from open flame. Protect from freezing. To prevent contamination store this product away from food or feed.

DISPOSAL:

Do not reuse empty container. Dispose of empty container with household garbage. Unused or partially used products should be disposed at provincially or municipally designated hazardous waste disposal sites.

Questions, Comments or Medical Information
Call 1-800-668-5669 or visit our Web Site at www.scotts.ca
[IMAGE OF TELEPHONE] [ICON OF QUESTION MARK]

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Patent Pending.



Manufactured under a license of W. Neudorff GmbH KG

[OPTIONAL STATEMENTS]

- > SELECTIVE BROADLEAF HERBICIDE
- > Made with iron
- > People and pets can enter treated area when spray dries.
- > No unpleasant odor.

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Incident Report - Déclaration d'incident

Subform I: General Information - Sous-formulaire I: Renseignements généraux

1. Report Type - Type de rapport

☒ New incident report - Nouvelle déclaration d'incident
 ☐ Update the report - Mise à jour d'une déclaration précédente

Incident Report No. - N° de la demande 2010-5776

2. Registrant Information - Renseignements concernant le titulaire

Registrant Reference Number - Numéro de référence du titulaire d'homologation PROSAR Case #1-24279177

Registrant Name (Full Legal Name, no abbreviations)
 Nom du titulaire (nom légal complet, aucune abréviation)

Scotts Canada Ltd.

Address
 Adresse

2000 Argenta Road, Plaza 5, Suite 101

City - Ville Mississauga Prov / State - État Ontario

Country - Pays Canada Postal Code - Code postal / Zip L5N2R7

Registrant Contact Person - Personne ressource du titulaire

Telephone - Téléphone Fax - Télécopieur

Email - Courriel

3. Select the appropriate subform(s) for the incident - Choisir le (les) sous-formulaire(s) correspondant à l'incident

- ☐ Human - Incident chez l'humain
 ☐ Residues in Food - Résidus dans les aliments
☒ Domestic Animal - Incident chez un animal domestique
 ☐ Packaging Failure - Défaillance de l'emballage
☐ Environment - Environnement
 ☐ Scientific Study - Étude scientifique

4. Date registrant was first informed of the incident

Date à laquelle le titulaire d'homologation a été informé pour la première fois de l'incident 2010-10-04

5. Location of incident - Lieu de l'incident

Country - Pays Canada - Canada Prov / State - État ON City - Ville

6. Date incident was first observed

Date de la première observation de l'incident

☒ Unknown - Inconnu

Product Description - Description du produit

7. a) Provide the active ingredient and, if available, the registration number and product name (include all tank mixes). If the product is not registered provide a submission number

Donner le nom de la matière active et, si disponibles, le numéro d'homologation et le nom du produit (incluant tous les mélanges).

Si le produit n'est pas homologué, donner le numéro de la demande d'homologation

Active

Matière(s) active(s):

PMRA Registration No. 29695.0 PMRA Submission No. EPA Registration No. ☐ Unknown
 ARLA N° d'homologation ARLA N° de la demande d'homologation EPA N° d'homologation Inconnu

Product Name Ecosense Weed B Gon RTU Weed Control w/ Quick Connect Sprayer
 Nom du produit

Active ingredient IRON (PRESENT AS FEHEDTA)
 Matière active

Application Information - Renseignements sur l'application

8. Product was applied? - Est-ce que le produit a été appliqué? ☒ Yes - Oui ☐ No - Non ☐ Unknown - Inconnu

9. Application Rate Units Other Units ☒ Unknown - Inconnu
 Dose d'application Unités Autres unités

10. Site pesticide was applied to (select all that apply) - Site d'application (choisir tout ce qui s'applique)

Site Residential - Outside Home / Résidentiel - à l'extérieur de la maison Specify Type
 Site Préciser le type

11. Provide any additional information regarding application (how it was applied, amount applied, the size of the area treated etc)
 Donner tout renseignement additionnel concernant l'application (comment le produit a été appliqué, la quantité utilisée, la superficie de la zone traitée, etc.)

To be determined by Registrant - À être déterminé par le titulaire

12. In your opinion, was the product used according to the label instructions?
 Selon vous, le produit a-t-il été utilisé en conformité avec le mode d'emploi de l'étiquette?

☐ Yes - Oui ☐ No - Non ☒ Unknown - Inconnu

Subform III: Domestic Animal Incident Report - Sous-formulaire III : Animal domestique

1

Use a separate form for each animal affected. If an incident involves multiple animals of the same type (see question 2) and with the same symptoms and severity, a single form can be used.

Utiliser un formulaire distinct pour chaque animal touché. Si plusieurs animaux du même type ont été touchés (voir la question 2) et que les symptômes et la sévérité sont les mêmes pour tous les animaux, un seul formulaire peut être utilisé.

1. Source of Report - Source de la déclaration

☐ Animal's Owner - Propriétaire de l'animal
 ☐ Medical Professional - Professionnel de la santé
 ☒ Other - Autre

2. Type of animal affected Type d'animal touché

Cat / Chat

specify
préciser

3. Breed Race

Domestic Shorthair

4. Number of animals affected Nombre d'animaux touchés

1

5. Sex - Sexe:

☐ M

☐ F

☒ Unknown - Inconnu

6. Age (provide a range if necessary)

Âge (fournir un ordre de grandeur si nécessaire)

16

☐ Unknown - Inconnu

7. Weight (provide a range if necessary)

Poids (fournir un ordre de grandeur si nécessaire)

☒ Unknown - Inconnu

8. Route(s) of exposure - Voie(s) d'exposition:

☐ Skin - Cutanée

☐ Eye - Oculaire

☐ Oral - Orale

☐ Respiratory - Respiratoire

☒ Unknown - Inconnu

9. What was the length of exposure? - Durée de l'exposition?

Unknown / Inconnu

10. Time between exposure and onset of symptoms

Temps écoulé entre l'exposition et l'apparition des symptômes

Unknown / Inconnu

11. List all symptoms, using the selections below - Énumérer tous les symptômes, au moyen des choix suivants

☐ French Lists for question 11 - Listes françaises pour la question 11

System - Système

Symptom - Symptôme

SYST_GENERAL

DEATH

specify - préciser

12. How long did the symptoms last? - Quelle a été la durée des symptômes?

Persisted until death / Continue jusqu'au décès

13. Was medical treatment provided? Provide details in question 17.

Des soins médicaux ont-ils été prodigués? Donner les détails à la question 17.

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

14. a) Was the animal hospitalized? - Est-ce que l'animal a-t-il été hospitalisé?

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

15. Outcome of the incident - Issue de l'incident

Died / Décédé

16. How was the animal exposed?

De quelle manière l'animal a-t-il été exposé?

Other / Autre

specify - préciser

unknown

17. Provide any additional details about the incident

(eg. description of the frequency and severity of the symptoms, type of medical treatment, results from medical tests, amount of pesticide exposed to, etc.)

Donnez tout détail additionnel au sujet de l'incident

(p.ex. description des symptômes tels que la fréquence et la gravité, type de soins médicaux, résultats des tests médicaux, quantité de pesticide à laquelle l'animal a été exposée, etc.)

1-24279177- The reporter, a landlord, indicates possible exposure of one of his tenants animals to an herbicide containing the active ingredient FeHEDTA. The reporter indicates he is currently evicting the owner of the affected animal and as retaliation the owner is suing him claiming he is responsible for the death of her animal. The reporter indicates he had used the product on a gravel driveway two-three months ago and the owners sixteen year domestic shorthair cat died some indeterminate time following application. The animal is described by the reporter to be an exclusive indoor animal. He, as a result, stated any topical or ingestion exposure would be impossible. The only potential exposure, according to the reporter, would be inhalation of drift through an open window following spraying of the product. No discreet exposure incident was observed or described. The caller was told the mode of exposure described would not be expected to elicit the outcome seen. The animals death was likely unrelated to the product use. No further information is available.

To be determined by Registrant - À être déterminé par le titulaire

18. Severity classification (if there is more than 1 possible classification, select the most severe)

Classification selon la gravité (s'il y a plus d'une catégorie possible, veuillez choisir la plus grave)

☒ Death - Mort ☐ Major - Majeure ☐ Moderate - Modérée ☐ Minor - Mineure

19. Provide supplemental information here - Donner des renseignements additionnels ici

Incident Report - Déclaration d'incident

Subform I: General Information - Sous-formulaire I: Renseignements généraux

1. Report Type - Type de rapport

☒ New incident report - Nouvelle déclaration d'incident
 ☐ Update the report - Mise à jour d'une déclaration précédente

Incident Report No. - N° de la demande 2010-2927

2. Registrant Information - Renseignements concernant le titulaire

Registrant Reference Number - Numéro de référence du titulaire d'homologation PROSAR Case # 1-22752895

Registrant Name (Full Legal Name, no abbreviations)
 Nom du titulaire (nom légal complet, aucune abréviation) Scotts Canada Ltd.

Address
 Adresse 2000 Argenta Road, Plaza 5, Suite 101

City - Ville Mississauga Prov / State - État Ontario

Country - Pays Canada Postal Code - Code postal / Zip L5N2R7

Registrant Contact Person - Personne ressource du titulaire

Telephone - Téléphone Fax - Télécopieur

Email - Courriel

3. Select the appropriate subform(s) for the incident - Choisir le (les) sous-formulaire(s) correspondant à l'incident

- ☐ Human - Incident chez l'humain
 ☐ Residues in Food - Résidus dans les aliments
☒ Domestic Animal - Incident chez un animal domestique
 ☐ Packaging Failure - Défaillance de l'emballage
☐ Environment - Environnement
 ☐ Scientific Study - Étude scientifique

4. Date registrant was first informed of the incident

Date à laquelle le titulaire d'homologation a été informé pour la première fois de l'incident 2010-05-25

5. Location of incident - Lieu de l'incident

Country - Pays Canada - Canada Prov / State - État ON City - Ville Unknown

6. Date incident was first observed

Date de la première observation de l'incident 2010-05-25 ☐ Unknown - Inconnu

Product Description - Description du produit

7. a) Provide the active ingredient and, if available, the registration number and product name (include all tank mixes). If the product is not registered provide a submission number

Donner le nom de la matière active et, si disponibles, le numéro d'homologation et le nom du produit (incluant tous les mélanges).

Si le produit n'est pas homologué, donner le numéro de la demande d'homologation

Active

Matière(s) active(s):

PMRA Registration No. PMRA Submission No. EPA Registration No. ☐ Unknown
 ARLA N° d'homologation 29694.0 ARLA N° de la demande d'homologation EPA N° d'homologation ☐ Inconnu

Product Name SCOTTS Ecosense Weed-B-Gon Ready-To-Use Weed Control
 Nom du produit

Active ingredient FeHEDTA IRON
 Matière active

Application Information - Renseignements sur l'application

8. Product was applied? - Est-ce que le produit a été appliqué? ☒ Yes - Oui ☐ No - Non ☐ Unknown - Inconnu

9. Application Rate Units Other Units ☒ Unknown - Inconnu
 Dose d'application Unités Autres unités

10. Site pesticide was applied to (select all that apply) - Site d'application (choisir tout ce qui s'applique)

Site Residential - Outside Home / Résidentiel - à l'extérieur de la maison Specify Type
 Site Préciser le type

11. Provide any additional information regarding application (how it was applied, amount applied, the size of the area treated etc)
 Donner tout renseignement additionnel concernant l'application (comment le produit a été appliqué, la quantité utilisée, la superficie de la zone traitée, etc.)

Applied to residential lawn, no further information available

To be determined by Registrant - À être déterminé par le titulaire

12. In your opinion, was the product used according to the label instructions?
 Selon vous, le produit a-t-il été utilisé en conformité avec le mode d'emploi de l'étiquette?

☐ Yes - Oui ☐ No - Non ☒ Unknown - Inconnu

Subform III: Domestic Animal Incident Report - Sous-formulaire III : Animal domestique

1

Use a separate form for each animal affected. If an incident involves multiple animals of the same type (see question 2) and with the same symptoms and severity, a single form can be used.

Utiliser un formulaire distinct pour chaque animal touché. Si plusieurs animaux du même type ont été touchés (voir la question 2) et que les symptômes et la sévérité sont les mêmes pour tous les animaux, un seul formulaire peut être utilisé.

1. Source of Report - Source de la déclaration

☒ Animal's Owner - Propriétaire de l'animal
 ☐ Medical Professional - Professionnel de la santé
 ☐ Other - Autre

2. Type of animal affected Type d'animal touché

Dog / Chien

specify
préciser

3. Breed / Race

Mixed breed

4. Number of animals affected Nombre d'animaux touchés

1

5. Sex - Sexe:

☒ M

☐ F

☐ Unknown - Inconnu

6. Age (provide a range if necessary)

Âge (fournir un ordre de grandeur si nécessaire)

8

☐ Unknown - Inconnu

7. Weight (provide a range if necessary)

Poids (fournir un ordre de grandeur si nécessaire)

22

lbs

☐ Unknown - Inconnu

8. Route(s) of exposure - Voie(s) d'exposition:

☒ Skin - Cutanée

☐ Eye - Oculaire

☐ Oral - Orale

☐ Respiratory - Respiratoire

☐ Unknown - Inconnu

9. What was the length of exposure? - Durée de l'exposition?

>15 min <=2 hrs / >15 min <=2 h

10. Time between exposure and onset of symptoms

Temps écoulé entre l'exposition et l'apparition des symptômes

>30 min <=2 hrs / >30 min <=2 h

11. List all symptoms, using the selections below - Énumérer tous les symptômes, au moyen des choix suivants

☐ French Lists for question 11 - Listes françaises pour la question 11

System - Système

Symptom - Symptôme

SYST_NERVMUS

DIFFICULTY_GETTING_UP

specify - préciser

SYST_GENERAL

PAIN

specify - préciser

12. How long did the symptoms last? - Quelle a été la durée des symptômes?

Unknown / Inconnu

13. Was medical treatment provided? Provide details in question 17.

Des soins médicaux ont-ils été prodigués? Donner les détails à la question 17.

☐ Yes - Oui
 ☒ No - Non
 ☐ Unknown - Inconnu

14. a) Was the animal hospitalized? - Est-ce que l'animal a-t-il été hospitalisé?

☐ Yes - Oui
 ☒ No - Non
 ☐ Unknown - Inconnu

15. Outcome of the incident - Issue de l'incident

Unknown / Inconnu

16. How was the animal exposed?

De quelle manière l'animal a-t-il été exposé?

Contact with treated area / Contact avec la surface traitée

specify - préciser

17. Provide any additional details about the incident

(eg. description of the frequency and severity of the symptoms, type of medical treatment, results from medical tests, amount of pesticide exposed to, etc.)

Donnez tout détail additionnel au sujet de l'incident

(p.ex. description des symptômes tels que la fréquence et la gravité, type de soins médicaux, résultats des tests médicaux, quantité de pesticide à laquelle l'animal a été exposée, etc.)

1-22752895- The reporter calls to indicate his animal was exposed to an herbicide containing the active ingredient FeHEDTA. The caller reports he applied the product to the lawn and kept the 8 year 22 pound male mixed breed dog off of the lawn for one hour after application. The animal was the allowed on to the application area and within 3 hours the animal refused to rise and walk and showed signs consistent with what the owner considered as pain. The owner had washed the animal's feet and looked for injury and found none. The caller was informed this would be unexpected following dermal exposure to this product. He was advised to seek veterinary assistance. The caller was unavailable on two routine call backs. No further information is available.

To be determined by Registrant - À être déterminé par le titulaire

18. Severity classification (if there is more than 1 possible classification, select the most severe)

Classification selon la gravité (s'il y a plus d'une catégorie possible, veuillez choisir la plus grave)

☐ Death - Mort
 ☐ Major - Majeure
 ☒ Moderate - Modérée
 ☐ Minor - Mineure

19. Provide supplemental information here - Donner des renseignements additionnels ici

Incident Report - Déclaration d'incident

Subform I: General Information - Sous-formulaire I: Renseignements généraux

1. Report Type - Type de rapport

☒ New incident report - Nouvelle déclaration d'incident
 ☐ Update the report - Mise à jour d'une déclaration précédente

Incident Report No. - N° de la demande 2010-3414

2. Registrant Information - Renseignements concernant le titulaire

Registrant Reference Number - Numéro de référence du titulaire d'homologation PROSAR Case #1-23312029

Registrant Name (Full Legal Name, no abbreviations)
 Nom du titulaire (nom légal complet, aucune abréviation)

Scotts Canada Ltd.

Address
 Adresse

2000 Argentinia Road, Plaza 5, Suite 101

City - Ville Mississauga Prov / State - État Ontario

Country - Pays Canada Postal Code - Code postal / Zip L5N2R7

Registrant Contact Person - Personne ressource du titulaire

Telephone - Téléphone Fax - Télécopieur

Email - Courriel

3. Select the appropriate subform(s) for the incident - Choisir le (les) sous-formulaire(s) correspondant à l'incident

- ☐ Human - Incident chez l'humain
 ☐ Residues in Food - Résidus dans les aliments
☒ Domestic Animal - Incident chez un animal domestique
 ☐ Packaging Failure - Défaillance de l'emballage
☐ Environment - Environnement
 ☐ Scientific Study - Étude scientifique

4. Date registrant was first informed of the incident

Date à laquelle le titulaire d'homologation a été informé pour la première fois de l'incident 2010-07-01

5. Location of Incident - Lieu de l'incident

Country - Pays Canada - Canada Prov / State - État AB City - Ville Edmonton

6. Date incident was first observed

Date de la première observation de l'incident 2010-06-29 ☐ Unknown - Inconnu

Product Description - Description du produit

7. a) Provide the active ingredient and, if available, the registration number and product name (include all tank mixes). If the product is not registered provide a submission number

Donner le nom de la matière active et, si disponibles, le numéro d'homologation et le nom du produit (incluant tous les mélanges).

Si le produit n'est pas homologué, donner le numéro de la demande d'homologation

Active

Matière(s) active(s):

PMRA Registration No. PMRA Submission No. EPA Registration No. ☐ Unknown
 ARLA N° d'homologation ARLA N° de la demande d'homologation EPA N° d'homologation Inconnu

Product Name
 Nom du produit

Active ingredient
 Matière active

Application Information - Renseignements sur l'application

8. Product was applied? - Est-ce que le produit a été appliqué? ☒ Yes - Oui ☐ No - Non ☐ Unknown - Inconnu

9. Application Rate Units Other Units ☒ Unknown - Inconnu
 Dose d'application Unités Autres unités

10. Site pesticide was applied to (select all that apply) - Site d'application (choisir tout ce qui s'applique)

Site Specify Type
 Site Préciser le type

11. Provide any additional information regarding application (how it was applied, amount applied, the size of the area treated etc)
 Donner tout renseignement additionnel concernant l'application (comment le produit a été appliqué, la quantité utilisée, la superficie de la zone traitée, etc.)

To be determined by Registrant - À être déterminé par le titulaire

12. In your opinion, was the product used according to the label instructions?
 Selon vous, le produit a-t-il été utilisé en conformité avec le mode d'emploi de l'étiquette?
☐ Yes - Oui ☐ No - Non ☒ Unknown - Inconnu

Subform III: Domestic Animal Incident Report - Sous-formulaire III : Animal domestique

1

Use a separate form for each animal affected. If an incident involves multiple animals of the same type (see question 2) and with the same symptoms and severity, a single form can be used.

Utiliser un formulaire distinct pour chaque animal touché. Si plusieurs animaux du même type ont été touchés (voir la question 2) et que les symptômes et la sévérité sont les mêmes pour tous les animaux, un seul formulaire peut être utilisé.

1. Source of Report - Source de la déclaration

☒ Animal's Owner - Propriétaire de l'animal
 ☐ Medical Professional - Professionnel de la santé
 ☐ Other - Autre

2. Type of animal affected Type d'animal touché

Dog / Chien

specify
préciser

3. Breed Race

Mixed breed

4. Number of animals affected Nombre d'animaux touchés

1

5. Sex - Sexe:

☐ M

☒ F

☐ Unknown - Inconnu

6. Age (provide a range if necessary)

Âge (fournir un ordre de grandeur si nécessaire)

13

☐ Unknown - Inconnu

7. Weight (provide a range if necessary)

Poids (fournir un ordre de grandeur si nécessaire)

6

lbs

☐ Unknown - Inconnu

8. Route(s) of exposure - Voie(s) d'exposition:

☐ Skin - Cutanée

☐ Eye - Oculaire

☐ Oral - Orale

☐ Respiratory - Respiratoire

☒ Unknown - Inconnu

9. What was the length of exposure? - Durée de l'exposition?

Unknown / Inconnu

10. Time between exposure and onset of symptoms

Temps écoulé entre l'exposition et l'apparition des symptômes

Unknown / Inconnu

11. List all symptoms, using the selections below - Énumérer tous les symptômes, au moyen des choix suivants

☐ French Lists for question 11 - Listes françaises pour la question 11

System - Système

Symptom - Symptôme

SYST_GASTRO

VOMITING

specify - préciser

SYST_GASTRO

DIARRHEA

specify - préciser

SYST_GASTRO

MELENA

specify - préciser

SYST_RESPIR

PANTING

specify - préciser

12. How long did the symptoms last? - Quelle a été la durée des symptômes?

Unknown / Inconnu

13. Was medical treatment provided? Provide details in question 17.

Des soins médicaux ont-ils été prodigués? Donner les détails à la question 17.

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

14. a) Was the animal hospitalized? - Est-ce que l'animal a-t-il été hospitalisé?

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

15. Outcome of the incident - Issue de l'incident

Unknown / Inconnu

16. How was the animal exposed?

De quelle manière l'animal a-t-il été exposé?

Contact with treated area / Contact avec la surface traitée

specify - préciser

17. Provide any additional details about the incident

(eg. description of the frequency and severity of the symptoms, type of medical treatment, results from medical tests, amount of pesticide exposed to, etc.)

Donnez tout détail additionnel au sujet de l'incident

(p.ex. description des symptômes tels que la fréquence et la gravité, type de soins médicaux, résultats des tests médicaux, quantité de pesticide à laquelle l'animal a été exposée, etc.)

1-23312029- The reporter, a pet owner, calls to indicate exposure of her animal to an herbicide containing the active ingredient Iron (present as FeHEDTA). The reporter had indicated she had sprayed the ready to use product on her lawn several times over the past few days prior to the contact with the registrant. The last use was described as one week prior to the initial contact with the registrant. The caller does not describe a discreet exposure but rather indicates the animal had access to the application area. The animal, a 13 year old female 6 pound mixed breed dog, vomited five days after the last described application of the product. The animal then developed diarrhea one day later and panting was describe (but no onset was given). The animal was seen by a veterinarian but it is unclear from the history when the veterinary examination took place. The veterinarian noted black runny stool and placed the animal on the medications sucralfate and metronidazole. The veterinarian had communicated to the pet owner that the animal had ingested something toxic but the pet owner could be no more significant than that. The pet owner, lastly, communicated the animal had vomited again the afternoon of the initial contact with the registrant. The pet owner was told the active ingredient when diluted as described carries a low order of toxicity. No harm would be expected following incidental contact with the lawn or following ingestion of grass itself. The caller was advised they should continue to pursue a diagnosis with their veterinarian. No further information is available

To be determined by Registrant - À être déterminé par le titulaire

18. Severity classification (if there is more than 1 possible classification, select the most severe)

Classification selon la gravité (s'il y a plus d'une catégorie possible, veuillez choisir la plus grave)

☐ Death - Mort
 ☐ Major - Majeure
 ☒ Moderate - Modérée
 ☐ Minor - Mineure

19. Provide supplemental information here - Donner des renseignements additionnels ici

Incident Report - Déclaration d'incident

Subform I: General Information - Sous-formulaire I: Renseignements généraux

1. Report Type - Type de rapport

☒ New incident report - Nouvelle déclaration d'incident
 ☐ Update the report - Mise à jour d'une déclaration précédente

Incident Report No. - N° de la demande 2010-5658

2. Registrant Information - Renseignements concernant le titulaire

Registrant Reference Number - Numéro de référence du titulaire d'homologation PROSAR case # 1-23918628

Registrant Name (Full Legal Name, no abbreviations)
 Nom du titulaire (nom légal complet, aucune abréviation) Scotts Canada Ltd.

Address
 Adresse 2000 Argentia Road, Plaza 5, Suite 101

City - Ville Mississauga Prov / State - État Ontario

Country - Pays Canada Postal Code - Code postal / Zip L5N2R7

Registrant Contact Person - Personne ressource du titulaire

Telephone - Téléphone Fax - Télécopieur

Email - Courriel

3. Select the appropriate subform(s) for the incident - Choisir le (les) sous-formulaire(s) correspondant à l'incident

- ☐ Human - Incident chez l'humain
 ☐ Residues in Food - Résidus dans les aliments
☐ Domestic Animal - Incident chez un animal domestique
 ☐ Packaging Failure - Défaillance de l'emballage
☒ Environment - Environnement
 ☐ Scientific Study - Étude scientifique

4. Date registrant was first informed of the incident

Date à laquelle le titulaire d'homologation a été informé pour la première fois de l'incident 2010-08-23

5. Location of incident - Lieu de l'incident

Country - Pays Canada - Canada Prov / State - État ON City - Ville St. Thomas

6. Date incident was first observed

Date de la première observation de l'incident

☒ Unknown - Inconnu

Product Description - Description du produit

7. a) Provide the active ingredient and, if available, the registration number and product name (include all tank mixes). If the product is not registered provide a submission number

Donner le nom de la matière active et, si disponibles, le numéro d'homologation et le nom du produit (incluant tous les mélanges).
 Si le produit n'est pas homologué, donner le numéro de la demande d'homologation

Active

Matière(s) active(s):

PMRA Registration No. PMRA Submission No. EPA Registration No. ☐ Unknown
 ARLA N° d'homologation 29694.0 ARLA N° de la demande d'homologation EPA N° d'homologation ☐ Inconnu

Product Name Ecosense Weed B Gon RTU Weed Control 709ml
 Nom du produit

Active ingredient IRON (PRESENT AS FEHEDTA)
 Matière active

Application Information - Renseignements sur l'application

8. Product was applied? - Est-ce que le produit a été appliqué? ☒ Yes - Oui ☐ No - Non ☐ Unknown - Inconnu

9. Application Rate Units Other Units ☒ Unknown - Inconnu
 Dose d'application Unités Autres unités

10. Site pesticide was applied to (select all that apply) - Site d'application (choisir tout ce qui s'applique)

Site Residential - Outside Home / Résidentiel - à l'extérieur de la maison Specify Type
 Site Préciser le type

11. Provide any additional information regarding application (how it was applied, amount applied, the size of the area treated etc)
 Donner tout renseignement additionnel concernant l'application (comment le produit a été appliqué, la quantité utilisée, la superficie de la zone traitée, etc.)

To be determined by Registrant - À être déterminé par le titulaire

12. In your opinion, was the product used according to the label instructions?
 Selon vous, le produit a-t-il été utilisé en conformité avec le mode d'emploi de l'étiquette?

☐ Yes - Oui ☐ No - Non ☒ Unknown - Inconnu

Subform IV: Environment - Sous-formulaire IV : Environnement
(includes plants insects and wildlife) - (y compris les plantes, les insectes et la faune)

1

Must use a separate form for each type of organism affected (see Question 1). If multiple organisms of the same type are affected, use a single form.

Il faut utiliser un formulaire distinct pour chaque type d'organisme touché (voir la question 1). Si plusieurs organismes du même type ont été touchés, veuillez utiliser un seul formulaire.

1. Type of organism affected - Type d'organisme touché Herbaceous Plants / Plante herbacée

2. Common name(s)
Nom(s) commun(s) Lawn or grass

☐ Unknown - Inconnu

3. Scientific name(s)
Nom(s) scientifique(s)

☒ Unknown - Inconnu

4. Number of organisms affected - Nombre d'organismes touchés

☒ Unknown - Inconnu

5. Description of site where incident was observed - Description du lieu où l'incident a été observé:

Terrestrial - Terrestre

- ☒ Residential - Résidentiel
- ☐ Agricultural - Agricole
- ☐ Roadside - Bord de chemin
- ☐ Forest - Forêt
- ☐ Other - Autre

Fresh water - Eau douce

- ☐ Pond - Étang
- ☐ Stream - Ruisseau
- ☐ River - Rivière
- ☐ Lake - Lac
- ☐ Sediments - Sédiments
- ☐ Wetland - Terre humide
- ☐ Other - Autre

Salt Water - Eau salée

- ☐ Estuary - Estuaire
- ☐ Bay - Baie
- ☐ Ocean - Océan
- ☐ Sediments - Sédiments
- ☐ Other - Autre

6. Check all symptoms that apply - Cocher tous les symptômes qui s'appliquent à:

- | | |
|--|--|
| <input type="checkbox"/> Abnormal abscission - Abscission anormale
<input type="checkbox"/> Abnormal flower quality or number - Qualité ou quantité anormale de fleurs
<input type="checkbox"/> Abnormal leaf discoloration - Décoloration anormale des feuilles
<input type="checkbox"/> Abnormal plant stance - Port anormal de la plante
<input checked="" type="checkbox"/> Death - Mort
<input type="checkbox"/> Deformities - Malformation
<input type="checkbox"/> Visible injury (e.g. chlorosis, necrosis, bleaching)
Lésions visibles à l'oeil nu (p. ex. chlorose [jaunissement], nécrose, décoloration) | <input type="checkbox"/> Epinasty (leaf wilt) - Épinastie (flétrissement des feuilles)
<input type="checkbox"/> Reduced emergence - Levée réduite des semis
<input type="checkbox"/> Reduction in seed or fruit yield
Réduction de la production de semences et de fruits
<input type="checkbox"/> Stunted vegetative growth - Rabougrissement
<input type="checkbox"/> Terminal bud death - Mort des bourgeons terminaux |
|--|--|

7. Describe symptoms and outcome (died, recovered, etc.).

Provide additional details about the incident (e.g. amount of rainfall, distance from treatment site, etc.).

Décrire les symptômes et issue (mort, rétablissement, etc.).

Donner tout détail additionnel au sujet de l'incident (p.ex. quantité de pluie, distance du site d'application, etc.).

1-23918628- The reporter indicates the use of an herbicide that contains the active ingredient FeHEDTA. The reporter indicates the use of the product on her lawn. The reporter indicates she has noted her grass has been killed? some time after application. She does not clarify the application rate, application technique, or time frame between the application and perceived effect. She does not indicate the area involved. No further information is available.

8. a) Was the incident a result of (select all that apply) - Est-ce que l'incident a été causé par (cocher tout ce qui s'applique) :

- ☒ Application - Application
 ☐ Spill - Déversement
 ☐ Disposal - Élimination
 ☐ Run-off - Ruissellement
 ☐ Drift - Dérive de pulvérisation
- ☐ Wash-off - Lessivage
 ☐ Other - Autre :
☐ Unknown - Inconnu

8. b) i) How many times has the product been applied this year?
Combien de fois le produit a-t-il été appliqué cette année?

☒ Unknown - Inconnu

8. b) ii) What was the date of the last application?
Date de la dernière application

☒ Unknown - Inconnu

9. Did it rain - Est-ce qu'il a plu

9. a) During application? - Pendant l'application?

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

9. b) Up to 3 days after application? - Jusqu'à 3 jours après l'application?

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

10. a) Was there a buffer zone? - Y avait-il une zone tampon?

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

11. a) Were environmental samples collected and analysed?

Est-ce que des échantillons ont été recueillis dans l'environnement et analysés?

☐ Yes - Oui
 ☐ No - Non
 ☒ Unknown - Inconnu

To be determined by Registrant - À être déterminé par le titulaire

12. Severity classification (If there is more than one possible classification, select the most severe)

Classification selon la gravité (s'il y a plus d'une catégorie possible, veuillez choisir la plus grave)

☐ Major - Majeure

☐ Moderate - Modérée

☒ Minor - Mineure

13. Please provide supplemental information here

Donner des renseignements additionnels ici

4. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

Deletion:

10.6.1 Oceans Day

Additions:

- 12.1 Proclamation – HRM Bike Week – May 27 – June 5, 2011
- 12.2 Property Matter – Parkland Acquisition Settlement of Compensation - Dartmouth
- 12.3 Property Matter – Proposed Dalhousie/HRM Land Exchange
- 12.4 Personnel Matter – Appointment to Federation of Canadian Municipalities (FCM) Board of Directors
- 12.5 Personnel Matter – Appointment to Special Events Advisory Committee Summer Festival Grant Program Sub Committee
- 12.6 Councillor Karsten – Request for Leave of Absence for Councillor McCluskey

MOVED by Councillor Nicoll, seconded by Deputy Mayor Smith, that the Order of Business be approved, as amended. MOTION PUT AND PASSED.

5. BUSINESS ARISING OUT OF THE MINUTES – NONE

6. MOTIONS OF RECONSIDERATION – NONE

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS – May 10, 2011

- 8.1 Administrative Order 23 – Inclusion of FeHEDTA
 - (i) Staff Report
 - (ii) Environment & Sustainability Standing Committee Report

Correspondence dated May 20, 2011 was submitted from Helen Jones and Maureen Reynolds. Correspondence dated May 23, 2011 was distributed from David Patriquin.

A staff report dated April 19, 2011 was submitted.

A report dated April 15, 2011 was submitted from the Chair of the Environment and Sustainability Standing Committee.

MOVED by Councillor Lund, seconded by Councillor Hum, that Halifax Regional Council:

- 1. Not endorse FeHEDTA being included in Administrative Order 23 (Permitted Pesticides List);

2. **Request staff to provide a follow up report on the practicality, costs and benefits of aligning Administrative Order 23 with the Provincial Allowable List; and**
3. **Endorse Policy that Halifax Regional Municipality (HRM) Operations will not use FeHEDTA in municipal turf care operations.**

Councillor Lund indicated that he does not have a problem with residents using FeHEDTA as a spot application for dandelions on their lawns, but he is concerned about pest control companies using it as an all over application. He noted that it contains iron, sodium nitrate, nitrogen and acidic acid, which will have negative effects on the PH, iron and aluminum levels of Nova Scotia soils, ground water, and water ways, as well as on wildlife and fish.

He indicated the staff report does not address rates of application of FeHEDTA, nor how to apply it.

Mayor Kelly clarified that the Environment and Sustainability Standing Committee passed a motion to forward the March 10, 2011 staff report to Halifax Regional Council without recommendation.

Councillor Adams asked for staff to present the report to council.

The meeting recessed at 11:56 a.m.

The meeting reconvened at 1:07 p.m.

Mr. Richard McLellan, Manager, Sustainable environment Management Office provided a presentation on the staff report and responded to questions.

At 1:24 p.m. Councilor Uteck entered the meeting.

At 1:26 p.m. the Chief Administrative Officer entered the meeting.

At 1:27p.m. Councillor Hendsbee entered the meeting.

MOVED by Councillor Rankin, seconded by Councillor Karsten that the question now be put.

The Mayor advised that two thirds majority of Council members present would be required.

MOTION PUT AND PASSED.

The Mayor called for the question on the motion.

A recorded vote on the motion was requested.

The MOTION WAS PUT AND PASSED.

Those voting in favour were:

Deputy Mayor Jim Smith; and Councillors: David Hendsbee, Lorelei Nicoll, Jackie Barkhouse, Sue Uteck, Jennifer Watts, Russell Walker, Debbie Hum, Brad Johns, Robert Harvey, and Peter Lund.

Those voting against:

Mayor Peter Kelly; and Councillors: Steve Streach, Barry Dalrymple, Darren Fisher, Bill Karsten, Mary Wile, Jerry Blumenthal, Stephen Adams, Tim Outhit, and Reg Rankin

Councillors McCluskey, Sloane, and Mosher were absent for the vote.

Councillor Adams advised Council that he would be putting forward a Motion of Reconsideration on this matter later in the meeting under Notices of Motions.

9. CORRESPONDENCE, PETITIONS & DELEGATIONS

9.1 Correspondence - None

9.2 Petitions:

9.2.1 Councillor Johns submitted a petition containing 325 signatures requesting:

- a permanent solution be found to the ongoing problems with the Springfield Lake wastewater facility and infrastructure which is current
- affecting the local environment in a negative way; and to hold in abeyance any water bills for those residents on wells and hooked into the treatment plant until such time they are able to observe a noticeable improvement in the service provided by The Halifax Water Commission

Councillor Johns noted that he had met with staff on this matter. He requested that staff provide a report in response to the petition.

10. REPORTS

10.1 CHIEF ADMINISTRATIVE OFFICER

10.1.1 Tender 11-151 – Stone Masonry Restoration, Halifax City Hall – Phase 2

A staff report dated April 15, 2011 was submitted.

MOVED by Councillor Uteck, seconded by Councillor Watts that Halifax Regional Council award Tender No. 11-151, Stone Masonry Restoration, Halifax City Hall, to Coastal Restoration and Masonry Ltd., the lowest bidder meeting specifications,

- Councillor Watts requested that her concern with the integrity of the existing Barrington Street Heritage Conservation District also be included in her comments
- Councillor Lund requested that his concern regarding massing also be included in his comments

Item 9.2, Page 28 - Councillor Watts requested that her concern with the integrity of the existing Barrington Street Heritage Conservation District also be included in her comments

MOVED by Councillor Sloane, seconded by Councillor Blumenthal, that the minutes of May 10, 2011 be approved as amended. MOTION PUT AND PASSED.

4. APPROVAL OF THE ORDER OF BUSINESS AND APPROVAL OF ADDITIONS AND DELETIONS

Addition:

12.1 Property Matter – Sale of Land – Burnside, Atlantic Gateway, Halifax Logistics Park

MOVED by Councillor Sloane, seconded by Councillor Blumenthal that the Order of Business be accepted as amended. MOTION PUT AND PASSED.

5. BUSINESS ARISING OUT OF THE MINUTES

6. MOTIONS OF RECONSIDERATION – May 24, 2011

6.1 Councillor Adams

"To reconsider the May 24, 2011 motion of Council regarding Item 8.1 –Administrative Order 23 – Inclusion of FeHEDTA as an allowable substance on the Permitted Pesticides List."

Correspondence dated June 6, 2011 from Mr. Richard M. Grant was submitted.

Correspondence dated March 14, 2011 from Mr. Nathan Boyd was submitted.

Correspondence dated June 7, 2011 from Mr. Terry Ryan was submitted.

Correspondence dated June 7, 2011 from Mr. John Neatby was submitted.

Councillor Adams advised that he was requesting Council's consideration to reconsider their motion to ban the use of FeHEDTA in HRM for the following reasons:

- Debate was cut short and all members did not have the opportunity to have their say
- The use would be spot application only and is not to be used on a broad basis as it would be cost prohibitive

- The Nova Scotia government announced its approved list, which FeHEDTA is included on, and this new legislation comes after extensive public consultation and support from partners such as the Canadian Cancer Society, Doctors NS and the IWK

At Councillor Adams' request, Ms. Mary Ellen Donovan, Municipal Solicitor, provided her perspective on the validity of the May 24, 2011 Council motion to ban the use of FeHEDTA. She advised that the Solicitor present that day had indicated that the motion as passed by Council was inconsistent with Provincial legislation on the subject and there was a prohibition in the HRM Charter against the municipality adopting By-laws that are inconsistent with Provincial legislation. Ms. Donovan stated that; therefore, item 1 of the motion passed on May 24, 2011 was out of order.

MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council reconsider the May 24, 2011 motion of Council regarding Item 8.1 –Administrative Order 23 – Inclusion of FeHEDTA as an allowable substance on the Permitted Pesticides List.

A recorded vote was taken on the motion.

MOTION PUT AND PASSED. (17 in favour, 7 against)

Those voting in favour were Mayor Kelly and Councillors Adams, Blumenthal, Dalrymple, Fisher, Harvey, Johns, McCluskey, Karsten, Mosher, Nicoll, Outhit, Rankin, Streach, Uteck, Walker and Wile.

Those voting against were Deputy Mayor Smith and Councillors Barkhouse, Hendsbee, Hum, Lund, Sloane and Watts.

Council was advised that the original motion could now be put back on the floor for consideration.

MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council

- 1. Endorse FeHEDTA being included in Administrative Order 23 (Permitted Pesticides List).**
- 2. Request staff to provide a follow up report on the practicality, costs and benefits of aligning Administrative Order 23 with the Provincial Allowable List; and**
- 3. Endorse Policy that Halifax Regional Municipality (HRM) Operations will not use FeHEDTA in municipal turf care operations.**

Discussion on the motion ensued with staff responding to questions.

Ms. Donovan stated that she would be pleased to provide a report to Council to look at the history of these regulations and provide a robust explanation that also looks at inconsistency with the new provincial regulations. She advised that it was correct that HRM was able to adopt more stringent regulations within the provincial regulations; however, section 186 of the Charter clearly states that in adopting any of its By-laws, HRM cannot do anything inconsistent with provincial regulations.

MOVED by Councillor Hendsbee, seconded by Council Sloane that Regional Council table this matter pending a report from Legal Services. MOTION DEFEATED.

Discussion on the main motion continued.

Councillor Lund stated that while he was not against spot treatment, he was concerned about the potential widespread use of this product which photo degrades into an iron by-product as well as aluminum, nitrates and phosphorus; noting that soil, lakes and streams would be effected.

Ms. Donovan clarified that if Councillor Adams' motion did not succeed, it was her assumption that the provincial provisions would apply which allow for the sale of the product.

Several Councillors suggested alternate ways in which to remove dandelions and stated that HRM should provide such resource materials to residents.

Several Councillors also agreed with Councillor Lund's concern regarding widespread, commercial use of the product.

Councillor Fisher requested a friendly amendment that FeHEDTA only be permitted to be used on a spot treatment basis.

Mayor Kelly advised that the Solicitor would need to review the amendment.

Deputy Mayor Smith stated it needed to be clear that by passing the motion, HRM would still not be using FeHEDTA so residents would still see dandelions. He indicated that if the Province was in control of HRM's pesticide list, item 1 of the motion was out of order as well, as it should be an automatic process and not be brought forward as a motion.

Council asked that the following points be included in the report from Legal Services:

- Clarity on banning the use versus the sale of FeHEDTA
- Clarification on the fact that the Supreme Court has upheld a decision to ban the use of cosmetic pesticides
- How HRM can control spot application
- An explanation as to why this product is not permitted under the OMRI (Organic Materials Review Institute)

- Who has the responsibility for determining the rules around the application of FeHEDTA - HRM or the Province
- Can HRM or the Province restrict who uses the product

It was requested that the motion be split and a recorded vote be taken.

MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council endorse FeHEDTA being included in Administrative Order 23 (Permitted Pesticides List). MOTION PUT AND PASSED. (17 in favour, 7 against)

Those voting in favour were Mayor Kelly, Deputy Mayor Smith and Councillors Adams, Blumenthal, Dalrymple, Fisher, Johns, Karsten, McCluskey, Mosher, Nicoll, Outhit, Rankin, Streach, Uteck, Walker and Wile.

Those voting against were Councillors Barkhouse, Harvey, Hendsbee, Hum, Lund, Sloane and Watts.

MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council request staff to provide a follow up report on the practicality, costs and benefits of aligning Administrative Order 23 with the Provincial Allowable List. MOTION PUT AND PASSED. (21 in favour, 3 against)

Those voting in favour were Mayor Kelly, Deputy Mayor Smith and Councillors Adams, Barkhouse, Blumenthal, Dalrymple, Fisher, Harvey, Hendsbee, Hum, Karsten, Lund, McCluskey, Mosher, Nicoll, Outhit, Streach, Uteck, Walker, Watts and Wile.

Those voting against were Councillors Johns, Rankin and Sloane.

MOVED by Councillor Adams, seconded by Councillor Karsten that Halifax Regional Council endorse Policy that Halifax Regional Municipality (HRM) Operations will not use FeHEDTA in municipal turf care operations. MOTION PUT AND PASSED. (18 in favour, 6 against)

Those voting in favour were Mayor Kelly, Deputy Mayor Smith and Councillors Adams, Barkhouse, Fisher, Harvey, Hendsbee, Hum, Johns, Karsten, Lund, McCluskey, Mosher, Nicoll, Sloane, Uteck, Walker and Watts.

Those voting against were Councillors Blumenthal, Dalrymple, Outhit, Rankin, Streach and Wile.

7. MOTIONS OF RESCISSION – NONE

8. CONSIDERATION OF DEFERRED BUSINESS - NONE

9. CORRESPONDENCE, PETITIONS & DELEGATIONS



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.1.9ii
Halifax Regional Council
April 15, 2014

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY: _____
Peter Stickings, Acting Director, Planning & Infrastructure

DATE: April 2, 2014

SUBJECT: Repeal of By-Law P-800

SUPPLEMENTARY INFORMATION REPORT

ORIGIN

Regional Council, March 18, 2014 Item 11.1.4

LEGISLATIVE AUTHORITY

The power to regulate the application and use of pesticides is set out in the *Halifax Regional Municipality Charter* (the “*Charter*”) at section 188 (1)(j):

Power to make by-laws

188 (1) The Council may make by-laws, for municipal purposes, respecting

.....

(j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor plants and turf on the part of a property used for residential purposes and on property of the Municipality and, without restricting the generality of the foregoing,

(i) requiring the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted,

(ii) establishing a registration scheme, that is open to the public, in which a resident may file with the clerk an objection to pesticides, herbicides and insecticides being so used in the vicinity of the property on which the person resides,

(iii) requiring that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the by-law when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice,

- (iv) providing that pesticides, herbicides and insecticides may not be so used within the distance of a registered property established by the by-law, the requirements respecting notices to residents or owners of properties within the distance of a registered property established by the by-law and the effective date of the prohibition,
- (v) specifying the circumstances in which posting or serving of notices is not required or the prohibition does not apply,
- (vi) providing for all other matters necessary or incidental to the establishment of the registration scheme, but, for greater certainty, not applying to property used for agricultural or forestry purposes;

BACKGROUND

On March 18, 2014 Halifax Regional Council gave First Reading of Proposed By-law R-107, An Amendment to By-law R-100 Respecting the Repeal of By-laws and Ordinances. By-law R-107 proposes the repeal of a number of by-laws and one administrative order. Amongst the proposed by-laws for repeal is By-law P-800, *Respecting the Regulation of Pesticides, Herbicides, and Insecticides*, and Administrative Order 23 *Respecting Pesticides, Herbicides, and Insecticides excluded from the By-law*.

Following First Reading of By-law R-107, the Municipality received correspondence from a number of residents, summarized by the March 27, 2014 letter from Pesticide Free Nova Scotia. The submission and comparable communication have articulated three primary concerns:

1. The desire for the pre-notification of the use of toxic pesticides;
2. The desire for signage requirements different than Provincial standards; and,
3. The desire for buffer zones around certain places.

DISCUSSION

To assist in responding to the concerns outlined above, it is helpful to place By-law P-800 within its historical context.

History: The fundamental principles behind By-law P-800 include human health and environmental protection. Discussions towards the creation of a municipal pesticide bylaw began in earnest in 1997 when a Regional Councillor raised a question at Council on behalf of his constituents regarding regulating “toxic” products. In 1998, Regional Council lobbied to make the regulation of pesticide type products a municipal responsibility through the Municipal Government Act. In the spring of 1999 the Province granted authority to the HRM to regulate pesticide use within the municipality, with the enabling legislation specific to residential property and property owned by the Municipality. Regional Council then requested that an Advisory Committee be set up to provide advice on a pesticide related bylaw. Following a number of reports on consensus and non-consensus items, and three public hearing sessions, By-law P-800, *Respecting the Regulation of Pesticides, Herbicides, and Insecticides* was adopted by Regional Council and became effective on August 19, 2000. At the time of adoption, the Province was not regulating the use of pesticides in the municipality.

The by-law balanced the restriction of pesticide products with a notwithstanding clause that enabled pesticide use under specific conditions and incorporated a process to notify neighbouring properties. The by-law was implemented in stages as follows:

Year 1: Ban on use on municipal property

Year 2 & 3: Ban on use on residential properties registered as medically sensitive

Year 4: General ban on all residential properties.

Regional Council recognized the need for Provincial restriction on the sale of pesticides at the retail level and from early days directed efforts to the transition of this matter to one of Provincial control. The Municipality documented this direction in the annual Pesticide Reports provided to Regional Council.

The *Charter* gives the Municipality the power to make by-laws “regulating the application and use of pesticides, herbicides, and insecticides for the maintenance of outdoor plants and turf on the part of a property used for residential purposes...” It is important to note that the *Charter* and by-law give no authority to regulate with respect to pests such as ants, spiders, and ticks. There are, at times, a misunderstanding on this fact.

The overarching premise behind By-law P-800 was a response to environmental and health concerns related to the products that the market offered at the time for the management of weeds (dandelions): most often glyphosate and 2, 4-Dichlorophenoxyacetic acid. At the time, both products were regularly used in the marketplace in popular consumer and commercial offerings. Both of those products are no longer permitted by Provincial and HRM regulations, with the exception being for use to manage invasive species such as Giant Hogweed and Japanese Knotweed. Product availability was reduced, commercially, starting in 2003, as a result of the HRM permitting operations with respect to pesticides, and completely in 2010 with the outright removal of the product for sale by the Provincial *Non-essential Pesticides Control Act*. The Provincial and Municipal permitted products list offered alternatives.

The means in which HRM affected the enforcement of By-law P-800 was through a Permitting System. The administration of the Permit Operation consisted of HRM receiving requests for an inspection of an infestation, normally of Chinch Bug, the verification of the infestation, and the provision of a permit which included requirements for:

- Pre-notification of neighbouring properties
- Signage
- Adhering to atmospheric restrictions

The number of applications and permits dropped from over 3500 in year one to 47 in the final 2010. The primary reason for this drop was the market development of acceptable alternative products such as Safers Trounce, which negated the need for most of the more toxic products. With the alignment of the Provincial Permitted list and the Municipal Permitted list, the permitting system operated by HRM is completely redundant as there are no longer any available products in Nova Scotia which HRM can permit which are not restricted already by the Province of Nova Scotia.

Comparison of Administration: The primary means in which the municipal by-law was administered was through a permitting process. While this process was ineffective at capturing the residential consumer use through retail sales, it was effective at changing the behaviour and activity of commercial applicators. The permitting process restricted the use of more toxic products by commercial applicators and permitted them under the restrictions of the permit. The Secondary means that the by-law was administered was through the receipt of public complaints. While by-law staff responded to all complaints, as a result of the practical inability to prove a violation, the effort would result in education to individual homeowners and was generally an ineffective enforcement means to achieve the desired outcomes of the by-law. The provincial legislation is administered through a more profound and effective primary means: that of simply not permitting the use of some products in Nova Scotia and the inspection of retail stores and management of licensed applicators. The result of this means is that the products simply are not available in Nova Scotia, with the exception of through licensed retailers that are allowed to dispense additional restricted products for the management of invasive species. It should be noted that the municipal by-law exempted the management of invasive species from the normal process as well. The secondary means that the provincial legislation is enforced is comparable to the municipal complaint process. All complaints are registered and managed through the environmental compliance operations of Nova Scotia Environment. It is understood that the compliance officers respond in the same manner as the municipal by-law officers did in generally providing educational materials to homeowners. As such, the Provincial means to administer enforcement is more effective than the former municipal means under the by-law. The current, and original, version of By-Law P-800 is not sufficient to enable municipal staff to provide an enforcement or compliance solution over and above the provincial framework.

In addressing the three concerns of the submissions, Regional Council may consider the following:

The desire for the pre-notification of the use of toxic pesticides
<ul style="list-style-type: none">• Provincial Applicator License Terms and Conditions require “Operators shall ensure that occupants of adjacent properties who have requested pre-notification of pesticide applications shall be advised of the approximate date and time of treatment prior to the application of the pesticide.”• The use of the historically concerning products in Nova Scotia:<ul style="list-style-type: none">○ are banned from store shelves; and○ any use is restricted under the <i>Non-essential Pesticides Control Act</i> and Regulations.• Notification is not required for products on the approved lists.
The desire for signage requirements different to Provincial standards
<ul style="list-style-type: none">• The Provincial Sign Posting Guidelines for Lawn care companies was developed in 2003, after the adoption of the By-law P-800.• The Provincial Sign Posting Guidelines are a condition of the Provincial Terms and Conditions for an Applicator License.
The desire for a buffer zones around certain places
<ul style="list-style-type: none">• The Provincial Applicator License Terms and Conditions address buffer zones with the setback requirements and wind speed restrictions.

Fundamentally, the adoption of By-law P-800 by Halifax Regional Council in 2000 achieved substantial outcomes:

1. Industry changed their product offerings
2. Industry changed their lawn care practices
3. The Province of Nova Scotia enacted legislation that transitioned from the impact By-law P-800 had on commercial applicators and removed consumer products from the shelf.

The by-law has achieved its objectives and no longer offers any practical environmental or health protection for residents. By-law P-800 is recommended for repeal for two reasons. Firstly, Provincial legislation has made this by-law redundant and unnecessary. Secondly, the repeal will eliminate any confusion with respect to what regulations HRM currently administers. Currently all calls to HRM regarding pesticides are referred to the Department of Environment. It should be noted that Pesticide Free Nova Scotia publicly supported the Provincial Legislation when announced in 2010.

FINANCIAL IMPLICATIONS

There are no implications to the 2014 / 2015 Operating or Project Budgets.

However, operationalization of the former By-law P-800 cost approximately \$150,000 per year.

COMMUNITY ENGAGEMENT

This report is in response to public submissions.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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