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Item No. 6
Halifax Regional Council
August 3, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

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

DATE: July 26, 2010

SUBJECT: **Province of Nova Scotia: Proposed Non Essential Pesticide Control Regulations**

INFORMATION REPORT

ORIGIN

This report originates from the July 21st, 2010 Request for Feedback (Attachment One) from the Nova Scotia Department of Environment (NSE) regarding the development of the Proposed Non-Essential Pesticide Control Regulations.

BACKGROUND

In 2000, Regional Council approved Pesticide By-Law P-800, which was phased into a full ban by 2003 on Non Essential Pesticides. Background on the HRM By-Law can be viewed at: http://www.halifax.ca/pesticides/Background_Reports.html

On September 22, 2009, Regional Council approved the following motion:

“MOVED BY Councillor Watts, seconded by Councillor Hum that Regional Council endorse the UNSM Resolution 1C - Province-Wide Ban on the use and sale of Non-Essential Pesticides.”

At the 2009 Fall Conference, the Union of Nova Scotia Municipalities (UNSM) resolution was passed.

By Spring 2010, the Government of Nova Scotia had passed Bill No. 61 (Attachment Two), An Act to Prohibit the Sale and Use of Non-Essential Pesticides. During the later spring and early summer, NSE staff developed the draft regulations to accompany the legislation. The proposed regulations (Attachment Three) are presented for public comment.

DISCUSSION

Halifax Regional Municipality (HRM) passed one of the first municipal restrictions on pesticides in North America. While the province of Nova Scotia has the authority to restrict or ban the sale of pesticides, the essential shortfall of the municipal legislation has been the inability to restrict the sale of banned pesticides at retailers. Products that are banned under the HRM by-law continue to be sold by many retailers. Despite this shortfall, with a great deal of education and enforcement, significant progress has been made in the municipality around the benefits of healthy landscaping practices and reduced use of pesticides.

The proposed regulations provide the following areas requiring comment by HRM:

1. Environmental rigor of standard selected;
2. Method for dealing with exceptions or infestations; and
3. Education and Community Plan.

Staff will be preparing a response to NSE on August 10, 2010 (in advance of the NSE submission deadline of August 11, 2010) summarily stating:

1. That HRM currently endorses OMRI (Organic Materials Review Institute) standard for pesticide review. For consideration of the Ontario standard, staff will request NSE staff to provide a detailed overview of the analysis between the various standards available. It is intended to invite NSE staff to a future Committee of Whole session (possibly Sept. 14, 2010) to overview the regulations. In July 2010, Staff brought forward an Ontario approved product (FeHEDTA) which was rejected by Regional Council.
2. Exemptions Option #1 is not acceptable. Option #1 clearly falls below the HRM By-Law standard. Option #2 or a stringent Permitting process is required to meet the standard of the HRM by-law. The Permitting Process would be equivalent to the HRM standard.
3. The Provincial intent on an Education and Community Plan is commendable and very important. In the past ten years, HRM has spent approximately \$500,000 on education around pesticides - it is important that this work continues.

The overriding perspective of the staff response will be that the Provincial regulations must meet or exceed the HRM legislation/regulations (particularly from the Environmental Health perspective) that Regional Council has adopted, and consistently given direction to staff on during the past ten years.

BUDGET IMPLICATIONS

There are no budget implications with this report. Following adoption of the Legislation (Bill 61), staff will stop its current enforcement and education program. This will result in a reduction of \$60,000 in D935 in future years for our Budget Reduction efforts.

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

This report is related to a Provincial Community Engagement action.

ATTACHMENTS

1. Request for Feedback, NSE;
2. Legislation;
3. Draft Regulations and Allowable List.

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

Attachment 1

From: "David R Briggins" <BRIGGIDR@gov.ns.ca>
To: "Solveig F Madsen" <MADSENSF@gov.ns.ca>
Date: 21/07/2010 4:22 pm
Subject: RE: Draft Non-essential Pesticides Control Regulations
Attachments: Plain Language Regs and Allowable list_FINAL_July 21.pdf; Non-E Regs Consultation Questions FINAL July212010.pdf; Non-essential Pesticide Control Act.pdf; Non-essential Pesticide Control Regulations DRAFT 6 (consultation).pdf ; NSE POSSIBLE LISTJuly 9 1420, 2010.doc July 12, 2010.pdf

Dear Sir or Madam:

Nova Scotia Environment (NSE) is requesting your feedback on the Draft Non-essential Pesticides Control Regulations and the List of Allowable Pesticides, under the authority of the Non-essential Pesticides Control Act.

The Non-essential Pesticides Control Act was passed in May 2010 and will come into force in the spring of 2011. The Act prohibits the sale and use of pesticides in, on or over lawn or turf and will extend to pesticides used on and sold for outdoor trees, shrubs, flowers and other ornamental plants on April 1, 2012. Only pesticides prescribed on the allowable list will be able to be sold and used in the province.

The department is committed to consulting with key stakeholders during the development of the regulations and the allowable list. We would like your responses to the list of questions attached to this letter.

Please forward your comments to Ms. Solveig Madsen by email to maadsensf@gov.ns.ca or by mail to Nova Scotia Environment, 5151 Terminal Road, 5th floor, P.O. Box 442, Halifax, NS B3J 2P8. Comments must be received by August 11, 2010 to be considered.

If you are interested in speaking with us in person about the draft regulations and/or allowable list, or if you have any questions, please contact Solveig Madsen at 902.424.2173.

We look forward to hearing from you.

Sincerely,
David Briggins



BILL NO. 61

Government Bill

*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

An Act to Prohibit the Sale and Use of Non-essential Pesticides

CHAPTER 6
ACTS OF 2010

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 11, 2010**

The Honourable Sterling Belliveau
Minister of Environment

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An Act to Prohibit the Sale and Use of Non-essential Pesticides

Be it enacted by the Governor and Assembly as follows:

- 1** This Act may be cited as the *Non-essential Pesticides Control Act*.
- 2** In this Act,
 - (a) “inspector” means any person who is appointed as an inspector by the Minister, and includes any municipal or town police officer and any member of the Royal Canadian Mounted Police;
 - (b) “Minister” means the Minister of Environment;
 - (c) “pesticide” means a pesticide as defined in the *Environment Act*.
- 3**
 - (1)** This Act binds Her Majesty in right of the Province, Her Majesty’s corporations, agents, administrators, servants and employees and Government agencies.
 - (2)** This Acts binds Her Majesty in right of Canada and Her Majesty’s corporations, boards, commissions, agents, administrators, servants and employees.
 - (3)** For greater certainty, the persons referred to in subsections (1) and (2) are subject to prosecution and other remedies under this Act.
 - (4)** This Act does not apply to a person who uses, sells or supplies a pesticide for
 - (a) forestry activities;
 - (b) agricultural activities; or
 - (c) a golf course.
- 4**
 - (1)** In this Section, “lawn” means a plot of grass that is maintained at a regular and approximately uniform height through periodic and regular mowing, other than as the result of agricultural activities, and includes any associated walkway.
 - (2)** Except as prescribed by the regulations, no person shall use or cause or permit the use of a pesticide in, on or over a lawn.
 - (3)** After April 1, 2012, except as prescribed by the regulations, no person shall use or cause or permit the use of a pesticide in, on or over an outdoor tree, shrub, flower or other ornamental plant.
 - (4)** Subsections (2) and (3) do not apply if the pesticide used is on the list of allowable pesticides established by the Minister under Section 6.

5 (1) Except as prescribed by the regulations, no person shall sell, supply, or offer for sale a pesticide labelled for use on lawns or labelled for use on turf.

(2) After April 1, 2012, except as prescribed by the regulations, no person shall sell, supply, or offer for sale a pesticide labelled for use on an outdoor tree, shrub, flower or other ornamental plant.

(3) Subsections (1) and (2) do not apply if the pesticide used is on the list of allowable pesticides established by the Minister under Section 6.

6 (1) The Minister may establish a list of allowable pesticides.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

(3) The Minister shall provide public notification at least three months before removing a pesticide from the list of allowable pesticides and shall, at the same time, provide information concerning the reason for the removal.

7 An inspector, in carrying out duties pursuant to this Act, has and may exercise in any part of the Province all the powers, authorities and immunities of a peace officer as defined in the *Criminal Code* (Canada).

8 For the purpose of ensuring compliance with the Act and the regulations, an inspector, subject to Section 9, may, at any reasonable time,

- (a) enter and inspect any land or premises;
- (b) make such examinations and inquiries and conduct such tests as the inspector considers necessary or advisable;
- (c) require the production of documents and remove them temporarily for the purposes of copying;
- (d) inspect, take samples and conduct tests of samples, including tests in which a sample is destroyed;
- (e) make any reasonable inquiry of a person, either orally or in writing;
- (f) exercise such other powers as are prescribed by regulation; and
- (g) exercise such powers as are incidental to the powers set out above.

9 Notwithstanding anything contained in this Act, an inspector may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except

- (a) with the consent of the occupant of the place; or
- (b) pursuant to an order under Section 10 to enter and inspect, or under the authority of a search warrant.

10 (1) Notwithstanding anything contained in this Act, where a justice is satisfied on evidence under oath by an inspector that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 8; and

(b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because

(i) no person is present to grant access to land or premises that is locked or is otherwise inaccessible,

(ii) a person has denied the inspector access to land or premises or there are reasonable grounds for believing that a person may deny the inspector access to land or premises,

(iii) a person has prevented the inspector from doing anything set out in Section 8 or denied the inspector access to any thing as a result of which the inspector is unable to do anything set out in Section 8,

(iv) there are reasonable grounds to believe that a person may prevent an inspector from doing anything set out in Section 8, or may deny the inspector access to any thing as a result of which the inspector may be unable to do anything set out in Section 8,

(v) it is impractical, because of the remoteness of the land or premises to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 8 without the order might defeat the purpose of that Section or cause an adverse effect,

the justice may issue an order authorizing the inspector to do anything set out in Section 8 that is specified in the order for the period of time set out in the order.

(2) The period of time referred to in subsection (1) may not extend beyond thirty days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods each of which is not more than thirty days.

(3) An application pursuant to subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice.

11 An inspector, in carrying out any duties or exercising any powers under this Act, may be accompanied by one or more persons considered by the inspector to be necessary to enable the inspector to carry out those duties and exercise those powers.

12 A prosecution for an offence under this Act may not be commenced more than two years after

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of an inspector or the Minister,
whichever is later.

13 A person who

- (a) contravenes this Act or the regulations;
 - (b) knowingly provides false or misleading information pursuant to a requirement under this Act to provide information; or
 - (c) hinders or obstructs an inspector who is exercising powers or carrying out duties, or attempting to do so, pursuant to this Act,
- is guilty of an offence.

14 (1) Subject to subsection (2), a person who contravenes Section 4 or 5 is liable on summary conviction to a fine of not more than twenty-five hundred dollars.

(2) A person, partnership, limited partnership or corporation, authorized or entitled to carry on a trade, occupation, profession, service or venture with a view to a profit, that contravenes Section 4 or 5 is liable on summary conviction to a fine of not more than fifteen thousand dollars.

(3) Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in subsection (1), whether or not the corporation has been prosecuted or convicted.

(4) Where an offence under this Act is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed.

15 (1) Where a person is convicted of an offence under this Act, in addition to any other penalty that may be imposed pursuant to this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order

- (a) prohibiting the offender from doing anything that may result in the continuation or repetition of the offence;
- (b) directing the offender to take any action the court considers appropriate to remedy or prevent any adverse effect that results or may result from the act or omission that constituted the offence;
- (c) directing the offender to publish, in the prescribed manner and at the cost of the offender, the facts relating to the conviction;
- (d) directing the offender to notify any person aggrieved or affected by the conduct of the offender, of the facts relating to the conviction, in the prescribed manner and at the cost of the offender;
- (e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this Section;

(f) on application to the court by the Minister within three years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender that the court considers appropriate in the circumstances;

(g) directing the offender to perform community service;

(h) directing the offender to pay to the Minister the costs incurred by the Minister in carrying out the investigation of the offence;

(i) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the good conduct of the offender and for preventing the offender from repeating the offence or committing other offences.

(2) Where a person contravenes an order made pursuant to clause (1)(c), the Minister may publish the facts in compliance with the order.

(3) Where the Minister incurs publication costs pursuant to subsection (2), the costs constitute a debt due to the Government.

(4) An order made pursuant to subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order.

16 (1) The Governor in Council may make regulations

(a) prescribing any matter that this Act authorizes to be prescribed by the regulations;

(b) prescribing penalties in respect of offences created under this Act;

(c) respecting any matter or thing the Governor in Council considers necessary or advisable for the administration of a system of administrative penalties;

(d) respecting the powers and duties of inspectors, including prescribing additional powers and duties;

(e) respecting records regarding the sale of pesticides;

(f) defining any word or expression used but not defined in this Act;

(g) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

17 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

Please note: This is not the final version of the Non-essential Pesticide Control Regulations. The regulations are currently in draft form and intended for consultation purposes with targeted stakeholders only.

DRAFT Non-essential Pesticides Control Regulations

Citation

1. These regulations may be cited at the “Non-essential Pesticides Control Regulations”.

Definitions

2. In these regulations, “Act” means the Non-essential Pesticides Control Act.

Exceptions regarding use of a pesticide on a lawn

3. Despite subsection 4(2) of the Act, a person may use, cause or permit the use of a pesticide in, on or over a lawn if one or more of the following applies:
 - (a) the use of the pesticide is for the destruction, prevention or control of an animal that bites, stings, is venomous or carries disease;
 - (b) the use of the pesticide is for the destruction, prevention or control of a plant that is poisonous to humans by touch;
 - (c) the use of the pesticide is for the destruction, prevention or control of a plant, fungus, or animal that may negatively affect a building, structure, or machine and the use of the pesticide is in the vicinity of the building, structure, or machine;
 - (d) the use of the pesticide is for the destruction or control of an invasive species that may negatively affect the health of humans or the environment or economy of Nova Scotia.

Exceptions regarding sale or supply of a pesticide labelled for use on lawns or turf

4. Despite subsection 5(1) of the Act, a person may sell, supply or offer for sale a pesticide labelled for use on lawns or labelled for use on turf, other than a pesticide containing 2,4-Dichlorophenoxy acetic acid, if all of the following conditions are met:
 - (a) the pesticide is made available through a person who holds a Class I certificate of qualification issued under the *Pesticide Regulations* made under the *Environment Act* and the pesticide is not directly accessible to members of the public;
 - (b) the pesticide is for a use set out in Section 3;
 - (c) any person to whom the pesticide is sold or supplied is provided with written information about the legal uses of the pesticide as set out in Section 3.

Please note: This is not the final version of the Non-essential Pesticide Control Regulations. The regulations are currently in draft form and intended for consultation purposes with targeted stakeholders only.

Exceptions regarding use of pesticides on outdoor tree, shrub, flower or other ornamental plant

5. Despite subsection 4(3) of the Act, a person may use, cause or permit the use of a pesticide in, on or over an outdoor tree, shrub, flower or other ornamental plant if one or more of the following applies:
- (a) the use of the pesticide is for the destruction, prevention or control of an animal that bites, stings, is venomous or carries disease;
 - (b) the use of the pesticide is for the destruction, prevention or control of a plant that is poisonous to humans by touch;
 - (c) the use of the pesticide is for the destruction, prevention or control of a plant, fungus or animal that may negatively affect a building, structure, or machine and the use of the pesticide is in the vicinity of the building, structure, or machine;
 - (d) the use of the pesticide is for the destruction or control of an invasive species that may negatively affect the health of humans or the environment or economy of Nova Scotia.

Exceptions regarding sale or supply of pesticide labelled for use on outdoor tree, shrub, flower or other ornamental plant

6. Despite subsection 5(2) of the Act, a person may sell, supply or offer for sale a pesticide labelled for use on an outdoor tree, shrub, flower or other ornamental plant, other than a pesticide containing 2,4-Dichlorophenoxy acetic acid, if all of the following conditions are met:
- (a) the pesticide is made available through a person who holds a Class I certificate of qualification issued under the *Pesticide Regulations* made under the *Environment Act* and the pesticide is not directly accessible to members of the public;
 - (b) the pesticide is for a use set out in Section 5;
 - (c) any person to whom the pesticide is sold or supplied is provided with written information about the legal uses of the pesticide as set out in Section 5.

**Draft Nova Scotia List of Allowable Pesticides
for use on lawns and turf and
outdoor trees, shrubs, flowers or other ornamental plants**

The table includes the proposed Nova Scotia List of Allowable Pesticides for use on outdoor trees, shrubs, flowers or other ornamental plants, the registered uses, and examples of products. The list of registered products may not be complete.

PROPOSED NSE LIST	Registered uses	Registered products: Blue ='s Domestic products Orange ='s commercial products
ACETIC ACID (horticultural vinegar)	Non-selective herbicide; effective for smaller annual weeds, will not kill roots of perennial weeds.	<ul style="list-style-type: none"> • Ecoclear Ready RTU For Fast Acting Weed Control (26522) • Green Earth Weed & Grass Killer R-T-U (29054) • Grotek Elimaweed Ready To Use Non Selective Herbicide (28807) • Scotts Ecosense Pathclear Weed Control Spray (27933) • Scotts Ecosense Pathclear Weed Control Spray With Pull'n Spray Applicator (28179) • Scotts Ecosense Pathclear Weed Control Spray With Quick Connect Sprayer (28178) • President's Choice Weed Controller (27109) • Munger Horticultural Vinegar Plus (29405) • Munger Horticultural Vinegar (29406) • Ecoclear Fast Active Weed & Grass Killer (25528)
AMMONIUM SOAPS OF FATTY ACIDS - herbicide	Non-selective herbicide; effective for smaller annual weeds, will not kill roots of perennial weeds.	<ul style="list-style-type: none"> • Finalsan Concentrate (29017) • Scotts Ecosense Pathclear Herbicidal Soap concentrate grass & Weed Killer (29301) • Scotts Ecosense Pathclear Herbicidal Soap Ready to use 4 in 1 (29302) • Scotts Ecosense Moss-B-gon Herbicidal Soap Moss & algae Killer (29303) • Raid Earthblends Grass & Weed Killer (29335)
FATTY ACID	Non-selective herbicide; effective for smaller annual weeds, will not kill roots of perennial	<ul style="list-style-type: none"> • Safer's Superfast Patio Weed Killer (24333) • Safer's Superfast Patio Weed Killer RTU (23775) • Safer's Superfast Patio Weed Killer (Fast

	weeds.	Acting) (23776) • Safer's Topgun Weed Killer (Fast Acting) (22244) • Safer's Topgun Weed Killer (Fast Acting) (22245) • Safer's Topgun Weedkiller/Herbicide Fast Acting (23254) • Safer's Topgun Herbicide Concentrate (29343)
<i>BACILLUS SUBTILIS</i> MBI 600	Fungicide & seed treatment	• Pro-Mix HP with Biofungicide (28705) • Pro-Mix BX with Biofungicide (28706) • Pro-Mix PGX with Biofungicide (28707) • Pro-Mix TA with Biofungicide (28708)
<i>BACILLUS SUBTILIS</i> QST 713	Biofungicide – lawn/turf diseases	• Rhapsody ASO (28627) • Serenade Garden Ready to Use (28629) • Serenade Garden Concentrate (28628) • Serenade Max (28549) • Serenade ASO (28626)
<i>BACILLUS THURINGIENSIS KURSTAKI</i>	insecticide	• Bioprotec Eco (27251) • RONA Eco Btk-Bioinsecticide (27251.01) • Safer's Btk Biological Insecticide (24536) • Dipel WP (11252) • Thuricide-HPC High Potency Aqueous Concentrate (11302) • Foray 48BA (24978) • Bioprotec CAF Aqueous Biological Insecticide (26854) • Dipel 2X DF Biological Insecticide (26508) • Bioprotec 3P (27750)
<i>BACILLUS THURINGIENSIS TENEBRIONIS</i>	insecticide	• Novodor Flowable Concentrate Biological Insecticide (24068)
BORACIC ACID (BORIC ACID)	Insecticide	• Safer's Attack Ant Killer (20203) • Surekiller Bugbuster (21054) • Niban Granular Bait D (26564) • Niban Bait C (26565)
BORAX	Insecticide	• Wilson Liquid Antex Kills Ants (14116) • Pic Ant Trap (16487) • Raid Liquid Ant killer (18449) • Ortho Home Defense Max Ant Trap (23372) • C-I-L Ant Traps (23446) • Super Ants Killer (24074) • Safer's Attack Ant Trap (24355) • Later's Ant Traps (24780) • Insect Kure Ant trap (26687) • Wilson Ant Trap (27017) • Gourmet Liquid Ant Bait (28468) • Wilson Antout Ant Bait (28793)

		<ul style="list-style-type: none"> • Gourmet Liquid Ant Bait-C (29055) • Gourmet Liquid Ant Bait-CR (29056) • Green Earth Homecare Liquid Ant Bait (29090) • Great Value Ant Control System (29553) • Ant-B-Gon Ant Killer Liquid (9167)
COPPER AS ELEMENTAL, PRESENT AS TRIBASIC COPPER SULPHATE	Fungicide for orchard/vegetables	<ul style="list-style-type: none"> • Green Earth Bordo Copper Spray (17482) • Copper 53W Wettable Powder (9934)
COPPER AS ELEMENTAL, PRESENT AS COPPER OXYCHLORIDE	Fungicide for orchard/vegetables	<ul style="list-style-type: none"> • Guardsman Copper Oxychloride 50 W.P. Fungicide (13245) • Copper Spray Fixed Copper Fungicide (19146)
CORN GLUTEN MEAL	Non-selective herbicide that acts by inhibiting germination, especially for annual weed seeds; frequently used for crab grass control in lawns.	<ul style="list-style-type: none"> • Bioprotec Inhib (29144) • C-I-L Golfgreen Bio-Weed & Lawn Fertilizer 9-0-0 with 98% Corn Gluten (2009053C) • Gogreen Amazingly Green Corn Gluten Meal Herbicide (28647) • Green Earth EctoTurf BioWeed and Feed Lawn Fertilizer 9-0-0 with 98% Corn Gluten (2009052C) • Nutrite Pre-Emergent Crabgrass Weed Seed Germination Inhibitor (27727) • President's Choice Weed Seed Inhibitor & Lawn Fertilizer (2008049C) • Scotts Turf Builder Lawn Fertilizer 10-0-0 with Weed Prevent (2009025C) • Scotts Turf Builder Weed Prevent Corn Gluten Meal Herbicide (29060) • Turfmaize Bioweed N'Feed Lawn Fertilizer 9-0-0 (2007001C) • Turfmaize Pre-Emergent Weed Seed Germination Inhibitor With Corn Gluten (27491) • Amaizeingly Green Turf Fertilizer 10-0-0 Weed N' Feed (2008055C) • Green Earth Ecoturf Bio Weed N' Feed (2009054C) • Nutrite Preemergent Crabgrass Weed Seed Germination Inhibitor (27728)

		<ul style="list-style-type: none"> • Turfmaize Pro Corn Gluten Herbicide (27865) • Amaizeingly Green (29304) • Glutamate (29481) • Prairie Gold Corn Gluten Meal (29640)
IRON (FERROUS OR FERRIC) PHOSPHATE	Slug/snail bait	<ul style="list-style-type: none"> • Escar-Go Slug And Snail Bait (29120) • Safer's Slug & Snail Bait (26240) • Scotts Ecosense Slug-B-Gon Slug & Snail Bait (28375)
IRON (FERROUS OR FERRIC) SULFATE	Moss control	<ul style="list-style-type: none"> • Greenleaf Moss Control (25250) • Scotts Turf Builder Lawn Fertilizer 22-2-2 With 5.75% Iron And Moss Control With 17.5% Ferrous Sulphate (2002013C) • Wilson Hose Spray Moss Killer & Lawn Food 5-0-0 (920003C)
IRON (FERROUS OR FERRIC) SODIUM	Slug/snail bait	<ul style="list-style-type: none"> • Safer's Slug and Snail Killer (28775) • Safer's Slug and Snail bait II (28774)
LIME SULPHUR OR CALCIUM POLYSULPHIDE	Insecticide/ fungicide for ornamentals, fruits and roses	<ul style="list-style-type: none"> • Green Earth Lime Sulphur Concentrate (7386) • Green Earth Lime Sulphur Concentrate Insecticide/Fungicide (7386.06) • Later's Lime Sulphur Solution (6335) • Lime Sulphur (27978) • Wilson Liquid Lime Sulphur (23782)
MINERAL OIL (INSECTICIDE)	Insecticide – ornamental and fruit trees	<ul style="list-style-type: none"> • Green Earth Horticultural Oil Insect Spray (21348) • Later's Dormant Oil Spray (6325) • Liquid Dormant Oil Spray (25307) • Plant Products Dormant Oil Spray Emulsifiable Insecticide (10443) • Wilson Liquid Dormant Oil Spray Insecticide (9221)
SCLEROTINIA MINOR	A naturally occurring plant pathogen (fungus) that can be used as a biological control for broad-leaved weeds in turf (esp. dandelions)	<ul style="list-style-type: none"> • Sarritor Granular Biological Herbicide (28545) • Sarritor Selective Biological Lawn Weed Killer (28546)
SILICON DIOXIDE (DIATOMACEOUS EARTH)	Insecticide – ants, slugs, earwigs, cockroaches, etc.	<ul style="list-style-type: none"> • Green Earth Slug And Bug Insect Killer Dust (26622) • Insecolo All Purpose Insecticide (21149) • King Eco-Way Slug Killer (29562) • ProGreen Earth S.D. Insect Dust (28746) • Raid Earthblends Ant & Earwig Dust

		<ul style="list-style-type: none"> (27185) • Insectigone Crawling Insect Killer (19216) • Insect Stop 100% Natural (21038) • Insectigone Cockroach & Ant Killer (21340) • Insectigone Earwig Killer (21341) • Insectigone Ant killer (21342) • Wilson Antout Ant Killer Dust (21936) • Insect Stop Cockroach & Ant Killer (25596) • Insect Stop Silverfish and Cockroach (25597) • Insect Stop Earwig Killer (25598) • Insect Stop Ant Killer (25599) • Green Earth Slug and Bug Insect Killer Dust (26622) • Green Earth Ant & Roach Insect Dust (26679) • Raid Earthblends Ant & Earwig Dust (27185) • House & Garden Insect Destroyer (28098) • The Cockroach and Ant Destroyer (28102) • The Ant Destroyer Insecticide (28103) • The Earwig Destroyer (28105) • Silverfish & Cockroach Destroyer (28106) • Pro Green S. D. Insect Dust (28746)
<p>SOAP (ALKANOLAMINE SALTS OF FATTY ACID OR POTASSIUM SALTS OF FATTY ACID)</p>	<p>Predominantly used as an insecticide but a version is available for moss control.</p>	<ul style="list-style-type: none"> • Safer's Insecticidal Soap Concentrate (14668) • Safer's De-moss Structural Moss & Algae Killer (17102) • Safer's De-moss Structural Moss & Algae Killer (17103) • Safer's De-moss Killer (18141) • Safer's Rose and Flower Insecticide (18355) • Safer's De-Moss for lawns (18416) • Safer's Vegetable Garden Insecticide RTU (20562) • Safer's End All II Miticide Insecticide Acaricide Concentrate (22299) • Safer's De-Moss Moss Killer Herbicide (18418) • Bioprotec Sop Insecticidal Soap (27963) • Green Earth Insecticidal Soap (21111) • Green Earth Insecticidal Soap Hose Spray (21321) • Green Earth Ready-To-Spray Insecticidal Soap (21112) • Insect Stop Insecticidal Soap (26470.03)

		<ul style="list-style-type: none"> • Pro Insecticidal Soap Concentrate (27812) • Safer's 3 In 1 Garden Spray Fungicide, Insecticide & Miticide Ready-To-Use (27894) • Safer's Aphid & Whitefly Killer (19444) • Safer's Insecticidal Soap (23651) • Safer's Rose & Flower Insecticide (19929) • Safer's Rose & Flower Insecticide (20793) • Safer's Spider Mite Spray (19445) • Scotts Ecosense Bug-B-Gon Insecticidal Soap Concentrate (28377) • Scotts Ecosense Bug-B-Gon Insecticidal Soap Ready-To-Spray Concentrate (29272) • Scotts Ecosense Bug-B-Gon Insecticidal Soap Ready-To-Use (28376) • Scotts Ecosense Bug-B-Gon Insecticidal Soap Ready-To-Use with Pull'n Spray Applicator (29269) • Scotts Ecosense Bug-B-Gon Insecticidal Soap Ready-To-Use with Quick Connect Sprayer (29271) • Zap! Insecticidal Soap (27755)
SULPHUR	fungicide	<ul style="list-style-type: none"> • Safer's 3 In 1 Garden Spray Fungicide, Insecticide & Miticide Ready-To-Use (27894) • Green Earth Garden Fungicide Ready To Use (21880) • Green Earth Garden Sulphur Fungicide/Miticide (21890) • King Eco-Way Fruit Tree & Garden Fungicide Spray or Dust (29572) • Later's Garden Sulphur Fungicide (5293) • Safer's 3 In 1 Garden Spray Fungicide, Insecticide & Miticide Ready-To-Use (27894) • Safer's Defender Garden Fungicide II (20812) • Safer's Defender Garden Fungicide Ready To Use (19061) • Safer's Sulphur Dust Fungicide Miticide (19703) • Safer's Defender Garden Fungicide II (20812) • Safer's Defender Garden Fungicide Concentrate (19691)

		<ul style="list-style-type: none"> • Safer's Defender Garden Fungicide Ready To Use (19061) • Safer's Defender Rose and Flower Fungicide (29429) • Safer's Sulphur Dust Fungicide Miticide (19703) • King Eco-way Rose & Flower Fungicide Dust (29571)
VERTICILLIUM ALBO-ATRUM STRAIN WCS850	Restricted product used to prevent dutch elm disease	<ul style="list-style-type: none"> • Dutch Trig (29447)
IRON (PRESENT AS FEHEDTA)	New selective herbicide on the market	<ul style="list-style-type: none"> • Neu1173H (29539) • Scotts Ecosense Weed-B-Gon Ready-To-Use Weed Control (29694) • Scotts Ecosense Weed-B-Gon Ready-To-Use Weed Control with Quick Connect Sprayer (29695) • Fiesta Lawn Weed Killer (29535)
SODIUM CHLORIDE	Herbicide specifically for ragweed	<ul style="list-style-type: none"> • Adios Ambros WSG (28236) • Adios Ambros Domestic WSG (28712) • Ragweed Off (29190)
HYDROGEN PEROXIDE	Algaecide/fungicide	<ul style="list-style-type: none"> • Zerotol Broad Spectrum Algaecide/Fungicide (29508)

General Description of the Proposed Non-essential Pesticide Control Regulation and List of Allowable Pesticides

The Nova Scotia Non-essential Pesticides Control Act (the Act) will restrict the **use** of non-essential pesticides on lawns in the province as of the spring of 2011 and on outdoor trees, shrubs, flowers and other ornamental plants as of the spring 2012. The Act will restrict the **sale** of pesticides labelled for use on lawns or turf as of the spring of 2011 and the sale of pesticides for use on an outdoor tree, shrub, flower or other ornamental plant as of April 2012. Only pesticides on the List of Allowable Pesticides (the Allowable List) or pesticides for exceptional cases as defined in the regulations will be allowed to be sold and used.

The Act does not apply to forestry activities, agricultural activities, or golf courses. The Act does apply to lawns and outside ornamental trees, shrubs, flowers and plants on residential, government, institutional and commercial properties. This includes, but is not limited to, parks, playgrounds, sports fields, apartment buildings, retail properties, cemeteries and residential properties.

In anticipation of the effective dates of the Act, Nova Scotia Environment (NSE) has prepared draft regulations and a draft list of allowable pesticides for review and comment. This document explains the main components of the draft regulation – exemptions for pesticide use and sale – and the proposed Allowable List.

A “lawn” is defined as a plot of grass that is maintained at a regular and approximately uniform height through periodic and regular mowing, other than as the result of agricultural activities, and includes any associated walkway.

Draft Non-essential Pesticide Control Regulations

Exemptions for Pesticide Use

The draft Regulations exempt some public health and safety related pesticide uses from the restrictions in the Act. The exemptions are for:

- Animals that bite, sting, are venomous or carry disease (for example, European fire ant, wasps);
- Plants that are poisonous to humans by touch (for example, poison ivy);
- Insects (animals) that can cause structural damage (for example, carpenter ants); and,
- Invasive species that may negatively affect the health of humans or the environment or economy of Nova Scotia (for example, knotweed, Japanese beetle)

These are considered to be exceptional circumstances for which pesticides that are not on the Allowable List may be needed. There are a few pesticides on the Allowable List that are labelled for use on some of the pests included as exceptions (for example, borax can be used for carpenter ants). In order to ensure there are adequate pesticide products available for exemption uses, exemptions for the sale of certain pesticides are also being considered.

Exemptions for Pesticide Sale

Two options are being considered for pesticide sale exemptions:

1. Allow any pesticide labeled for an exemption use, other than those containing 2,4-D, to be sold under restricted access by a commercial/ domestic pesticide vendor. (Recommended)

There are many pesticides that are labelled for use on lawns/turf and/or ornamental gardens but are also labelled for use on exempted insects and plants. In accordance with the Act, these multi-use products (unless they are on the List of Allowable Pesticides) would need to be removed from the retail shelf because they are labelled for use on lawns and/or for ornamental plants and gardens. To provide access to these multi-use products for the exempted uses and for use in areas not covered by the legislation, it is proposed that the sale be controlled in the following way:

- The sales control would require access to pesticides for exemption uses be restricted. The product could not be available on a shelf for any consumer to access. Products would have to be kept in a location where only vendors could access the product. For example, the products could be kept in a back room, behind a counter or in a locked cabinet.
- Pesticide products kept under restricted access could not contain the active ingredient 2,4-D. 2,4-D products will no longer be available for sale or use on lawns, turf, outdoor trees, shrubs, flowers and other ornamental plants.
- Vendors would be required to hold a Class I certificate of qualification issued under the Pesticide Regulations. Only a Class I certified vendor would be able to give a restricted pesticide to a consumer.
- Currently, Class I certificates are only given to commercial pesticide vendors. This is an existing process administered by Nova Scotia Environment. However, the opportunity to become certified could be extended to all retailers.
- Vendors would have to provide written information on the legal uses of the pesticide to the consumer. It is anticipated that NSE would prepare an information sheet that vendors could use for this purpose, although vendors would be free to create their own if they so chose.

The benefits of this option are that products not on the Allowable List would be more difficult to access, which would encourage the purchase of restricted products only under necessary circumstances. Consumers would also be purchasing pesticides from a knowledgeable vendor who could advise the consumer on which pesticide to use and how to use the product correctly.

In addition to the restricted access sales, there would still be two other ways people would be able to access pesticides for exemption uses. There would be a limited number of products available on all retail shelves for exemption uses that are not captured by restrictions in the Act (i.e. they are not labelled for lawns, turf, outdoor trees, shrubs, flowers or other ornamental plants – See Option 2 below).

Homeowners and businesses could also hire landscapes to treat exemption pests. Landscapers will have access to commercial class pesticides, to use only in exemption cases, since commercial pesticides for agriculture, forestry and golf courses are exempt from the Act.

This is the recommended option that is currently expressed in the draft regulations.

2. Remove all multi-use products from the shelf and rely on the limited number of remaining products to use under exemption circumstances. Do not provide any further sale exemptions.

Another option under consideration is to simply not provide any sale exemptions in the regulations. Once all multi-use products and products not on the Allowable List are removed from the shelf, there will still be some products labelled weed control and insect control uses left. Some products are labelled for the pests they treat, rather than the area the products should be applied – so the labels would not include “lawn”, “turf”, “outdoor tree”, etc. These products can be used for the exempted uses.

Many insecticides would be removed from retail shelves; however, some would remain to treat insects. Fewer products would be available to treat invasive and poisonous to the touch weeds. Although this option would be simpler for retailers to implement, there is a concern there still might not be enough products for public health and safety exemption uses.

Permitting

Some stakeholders have recommended permitting as the best way to manage exemptions to restrictions in the Act. Although permitting was considered, it was found to be a very resource intensive option for government that creates unnecessary red tape and potential delays for people needing to use a pesticide for an exemption purpose. NSE believes that removing most products that are not on the Allowable List from most retail shelves provides a significant deterrent for the use of other pesticides. Any public health and safety circumstances that require the use of pesticides have been written directly into the draft regulations.

The List of Allowable Pesticides for Use on Lawns, Turf, Outdoor Trees, Shrubs, Flowers and other Ornamental Plants in Nova Scotia

The Minister of Environment in Nova Scotia will establish a List of Allowable Pesticides. The list will be comprised of pesticides which are considered to be of lower risk. It is proposed that Nova Scotia base its Allowable List on Ontario's Class 11 list because the Ontario list is based on science, it is a Canadian list that focuses on pesticides available in Canada, it is updated regularly, Ontario and Nova Scotia have good communication links, and basing the list on Ontario's Class 11 list will be less resource intensive for NSE to create and maintain.

To develop the Class 11 list of active ingredients, the Government of Ontario:

- ensures the products are registered for use in Canada by the Pest Management Regulatory Agency of Health Canada (PMRA); and,
- uses the criteria established in the following documents published by the PMRA: Regulatory Proposal PRO2007-02 “Guidelines for the Registration of Low-Risk biochemicals and Other Non-Conventional Pesticides” and RR2008-01 “Update on Reduced-Risk Pesticides”.

This process is outlined in the Pesticide Classification Guideline for Ontario, available at <http://www.ene.gov.on.ca/en/land/pesticides/pesticide-classification.pdf>.

In accordance with the Act, the Minister of Nova Scotia Environment has the authority to add and delete pesticide active ingredients from the Allowable List. The process is proposed to include the following:

- The public notification of pesticides added to or deleted from the Ontario Class 11 will be monitored by Nova Scotia Environment staff for applicability to the Nova Scotia legislation only.
- A recommendation will be provided to the Minister based on whether the product is applicable to the Nova Scotia restrictions (namely lawn, turf, outdoor trees, shrubs, flowers and ornamental plants). For example, Ontario's Class 11 includes such products as animal repellents, wood preservatives and agricultural products which are not covered in the Nova Scotia Act and as such will not be added to Nova Scotia's List.
- If a pesticide is to be removed from the List, the Minister in accordance with the Act will provide three months notice of a pesticide being removed from the list.

Education and Community Plan

Nova Scotia Environment will be embarking upon an education and social marketing campaign to assist Nova Scotians in making a transition to new, chemical-free lawn and garden practices. It is our goal to enable Nova Scotians to both use environmentally responsible lawn maintenance and gardening practices and request such services from lawncare and landscaping professionals.

Nova Scotia Environment will need help designing and implementing this education campaign. The department will put a plan together by the end of summer 2010 and hopes to talk with individuals, communities, businesses, organizations and municipalities about challenges or barriers to complying with the Act and new regulations later in the year. At this time, NSE would like to know who is interested in participating. We would like to meet with all interested partners in fall 2010.