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**Subject: ERO 019-0601 Amendments to the Ontario Pesticides Regulations**

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Premier Tech Home & Garden (PTHG) is a leading Canadian manufacturer of lawn and garden products, including pesticides registered under the federal *Pest Control Products Act*. PTHG operates in six Ontario locations. We have provided comments on ERO 019-0481 Amendments to the Ontario *Pesticides Act* (Act) and appreciate the opportunity to comment on this current consultation ERO 019-0601 Amendments to the Ontario Pesticides Regulations.

As with the proposed amendments to the Act, the proposed regulatory amendments would have a direct impact on our business, the competitiveness of our retail partners and ultimately the choices available to Ontarians. In addition, some of the proposed amendments may as an unintentional consequence, increase Red Tape for small businesses, as well as public services.

### **Revised Classification and Elimination of the Ontario Pesticides Advisory Committee (OPAC)**

PTHG is a member of both the Canadian Consumer Specialty Products Association (CCSPA) and CropLife Canada (CLC). In the Fall 2018, both associations advocated through the government's Red Tape and Regulatory Burden Reduction initiative to repeal the role of OPAC in the classification of pesticides in Ontario. The OPAC classification process was duplicative of the pesticides process at the federal level by Health Canada's Pest Management Regulatory Agency (PMRA). As stated in the ERO 019-2019 Proposal Details "... *Health Canada's PMRA is resourced and equipped to review and register pesticides for all of Canada and is something all other provinces have recognized.*" The PMRA workforce is primarily composed of highly skilled scientists with expertise in toxicology, entomology, weed biology, chemistry and the environment. Coupled with skills in regulatory and policy development, stakeholder engagement and international collaboration, the PMRA is well positioned to evaluate pesticides and register those that can be safely used by Canadians and with minimal risk to the environment.

In addition to the duplication of work already completed at the federal level, the classification process in Ontario delayed the introduction of new and innovative products to consumers, reduced predictability for our seasonal market and affected Ontario retail businesses.

PTHG supports the amendments to the Act that will eliminate OPAC and the onerous, unpredictable application for classification process under the current Pesticide Regulations (Regulations). The proposed amendments recognize the rigorous scientific review conducted by PMRA prior to approving a new pesticide product for use in Canada. Further, the PMRA pesticide classes, Manufacturing, Restricted, Commercial or Domestic will now be the basis of the Regulations classification realignment.

However, PTHG is disappointed that despite acknowledging the scientific rigour of the federal registration process, the prohibition and restricted access to certain pesticides for land use in urban settings will remain in the provincial Act and subsequently in the proposed Regulations. We do not support restrictions or prohibitions that are not based on science. In fact, by maintaining the ban on certain pesticides and restricting access to others for certain uses, the proposed amendments to the Regulations will create confusion and unintended consequences, add Red Tape to some retail vendors who are currently exempt from licensing requirements, as well as municipal and provincial public servants.

### Licensing

In the current Regulations, all class 6 pesticides vendors are exempt from requiring a license under 96(1). With the proposed consolidation of the current Class 5, 6, 7, and 8, into a single Class D, the government has communicated that this will require vendors currently exempt from licensing to apply for licenses. The proposed Regulations will only exempt vendors that sell Class D pesticides that are personal insect repellents or rodenticides from license requirements. This change to the exemptions would exclude many Class 6 pesticides that are currently available to unlicensed vendors.

Subsequently, vendors such as grocers, pharmacies, corner stores, bait and tackle stores and other small businesses will no longer be able to sell the products that they currently provide for their customers. This will create new Red Tape for many businesses that currently sell Class 6 pest control products including ant traps, animal flea and tick collars, pressurized spray insecticides including sprays for bed bugs, insecticidal soap, and other products.

Those vendors who are currently selling Class 6, exclusively, and wish to continue to provide these products for their customers will now need a license. They would be required to apply and pay for a Vendors License, comply with annual fire department notification requirements and comply with storage and display requirements that are currently applied only to Class 5 products. The reason for increasing this

administrative and regulatory burden for these vendors is unclear. Not only does this add Red Tape for the previously exempt retailers, it adds additional administrative burden and costs for licensing staff within the Ministry of the Environment, Conservation and Parks (MECP) as well as for local fire departments who will need to maintain records of these additional annual notifications.

As the regulatory burden increases, some retail outlets could choose to discontinue their pesticide sales, which in turn limits access for consumers who need these pest control products.

The government has acknowledgement the scientific rigour of the Health Canada PMRA registration system as the basis for simplifying the classification system and eliminating the OPAC classification process. Yet it has proposed to maintain the baseless prohibitions and restrictions of the current classification system. The outcome will create more confusion for retailers and will make communication by registrants and manufacturers more difficult.

#### **Recommendations:**

- 1) We suggest that the government at minimum, amend the proposed Regulations to retain the scope of the vendor license exemptions as currently written in Subsection 6(1) within the new regulations.
- 2) We suggest that the Ministry work with industry associations such as CCSPA and CropLife Canada to establish appropriate storage and display for Class D pesticides.

#### **Cosmetic Pesticide Ban**

By definition, a pesticide cannot be cosmetic. The term cosmetic is a non-scientific and subjective term, coined to unfairly target a group of pesticide registered by the PMRA. Subsequently, this jargon was adopted and used in the Act and the Regulations in 2009. While the use of the term has been applied to certain land uses in the urban setting, the definition found in the *Pesticides Act* could be broadly interpreted, and expanded to additional use sites, creating a certain level of unpredictability for business and the broader end use sector.

This term is superfluous and should be removed from the Act and Regulations. While we do not agree with the restrictions and bans of certain land use products and locations, we believe the government's intent can be clearly communicated without the term cosmetic.

#### **Recommendations:**

- 1) The term land, defined in the Act, should be used to replace references to cosmetic in both the Act and the Regulations. The intent of the Act and the Regulations can be adequately communicated with the term land.

- 2) The definition of cosmetic should also be removed from the Act. Our letter commenting on the amendments to the Act through ERO 019-0481 is attached to this submission.

### **Allowable List**

The government has proposed that a list of active ingredients would be made public in an Allowable List for the purposes of Section 7.1(1) of the Act. Those actives would not be subject to any land prohibitions or restrictions.

Subsection 17(1) paragraph 2 i) of the proposed Regulations identifies that biopesticides would be included in the Allowable List. PTHG objects to any list that limits consumer access to pesticides determined by PMRA to not pose unacceptable risk to human health and the environment, and legally registered in Canada. However, PTHG would at minimum, like to see some harmonization between different provincial approaches, in this respect. Subsection 17(1) Paragraph 2 ii) describes a process duplicating the scientific review conducted by PMRA prior to evaluating an active ingredient and related end-use products as non-conventional pest control products.

We believe that non-conventional pesticides should be included in 17(1) Paragraph 2 i). The province of Quebec recognizes both biopesticides and non-conventional pesticides as determined by PMRA without further assessment at the provincial level,

Currently, the guidelines advise that conventional pesticides will not be considered for the Allowable List, a position that is not scientifically supportable. PTHG would support maintaining this subsection 17(1) paragraph 2 ii) as a means for registrants to propose active ingredients to the Allowable List when the active ingredient was one that was registered prior to PMRA establishing the registration process for non-conventional active ingredients in Directive 2012-01. There are older registered active ingredients that could meet the criteria found in 17(1) paragraph 2 ii). Further information on how this process will be conducted, by what criteria and with what performance standard is needed.

In some circumstances, PMRA has changed the name of an active ingredient. For example, in the case of insecticidal soaps, the active ingredient was previously identified on registered pest control products as “Alkanolamine salts of fatty acid”. That same active ingredient is now named “Triethanolamine salts of fatty acids”. When changes such as this will occur, how will the Allowable List be updated to avoid any confusion by registrants and their customers?

**Recommendations:**

- 1) We suggest that Subsection 17(1) paragraph 2 i) be revised to include non-conventional and semiochemical pesticides registered by PMRA as is the case in the Quebec [RÈGLEMENT SUR LES PERMIS ET LES CERTIFICATS POUR LA VENTE ET L'UTILISATION DE PESTICIDES](#) Article 7. Attachment A to this letter provides the original French text and a translation.
- 2) We suggest that the government maintain subsection 17(1) paragraph 2 ii) as a means for registrants or their agents to propose active ingredients for the Allowable List that were evaluated by PMRA by means other than the biopesticide or non-conventional registration process streams. Furthermore, performance standards would be beneficial to improve predictability of any active being considered under this subsection.
- 3) We suggest that the Ministry address the change of active ingredient name by PMRA in their process for updating the Allowable List.

**Animal Repellents to Protect Trees, Shrubs, Gardens and other Outdoor Areas**

The proposed amendments to the Regulations, as written, will essentially extend the ban to include certain products that are currently classified as Class 6 for use by homeowners. Animal repellents used to protect plants (trees, shrubs, and gardens) and other outdoor areas, are legally sold in Ontario and are labelled for land use. Those products without actives on the proposed Allowable List will essentially be banned for homeowners. No rationale for extending the prohibition of pesticides to include these types of animal repellents has been provided, therefore, we believe this was an unintended consequence of the proposed Regulations.

Exemptions under Section 25 Arboriculture would not capture these products appropriately. As written, under Subsection 25(1) paragraph 3, a Class D animal repellent with an active not on the Allowable List could be used only if the homeowner met the requirements of Subsection 25(2) and (3). It is unreasonable to expect that a homeowner would need to hire a professional listed in 25(3) to confirm they have deer, rabbit, rodents or domestic animal damage on their trees, shrubs or garden plants, etc. Consequently, homeowners who want to protect their trees and shrubs and gardens from damage caused by animals will no longer have access to these products which would now essentially be banned under the proposed Regulations. Some animal repellents could be used to protect human health, however, they are not captured under Section 16 (Promotion of Public Health and Safety) either. Some examples are included in Attachment B.

**Recommendation:**

- 1) We suggest that the proposed Regulations be revised to allow for the continued access and use of animal repellants to protect plants and other outdoor areas by homeowners.

**Prescribed document, listed active ingredients**

Consistent with previous comments, the term cosmetic in the heading “List of Active Ingredients Authorized for Cosmetic Uses” for Section 18 to describe the Allowable List is redundant.

**Recommendation:**

- 1) We suggest the following wording or similar:  
“18. For the purpose of paragraph 2 of subsection 7.1(1) of the Act, the document entitled “List of Active Ingredient Authorized for Land Uses” is the prescribed document in which the Director must list the active ingredients determined under Section 17 of this Regulation for land uses not otherwise excepted in 7.1(2) of the Act.”

**Guidelines**

Our comments on the proposed Regulations would obviously have an impact on the final Guide to Pesticide Classification. However, some additional comments, specific to the Guideline are provided:

Pg 13 – The guidelines states that no application is needed for additions to the Allowable List. Please provide further details on how the Director will become aware, in a timely manner, of new active ingredients that should be allowed on the Allowable List. Further information is needed regarding the time between a new active ingredient registration and posting of the ERO notification. Likewise, further information is needed regarding the process for updating the name of an active ingredient on the Allowable List.

Pg 32 – The decision tree provided in the Vendors Guidance Chart is a useful communication tool for registrants as well as vendors. We suggest that the Ministry work with industry associations such as the Consumer Specialty Products Association, CropLife Canada and their members to ensure that the final Guideline, clearly communicates the final Regulations for all stakeholders.

We appreciate this opportunity to provide thoughtful comments on the proposed Regulations. We would appreciate the opportunity to discuss our comments further to ensure that the Regulations provide the appropriate control to protect human health and the environment, and support Ontario business through the reduction of Red Tape. Should you have any questions or require clarification on any of the above or previous comments provided by Premier Tech Home & Garden, please feel free to contact me by phone, 905 814-7051 or e-mail, [beas4@premiertech.com](mailto:beas4@premiertech.com).

Sincerely,



A handwritten signature in blue ink that reads 'Suzanne Beattie'.

Suzanne Beattie  
Regulatory Director

cc

Honourable Jeff Yurek, Minister of Environment, Conservation & Parks  
Honourable Prabmeet Sarkaria, Associate Minister of Small Business and Red  
Tape Reduction  
Serge Imbrogno, Deputy Minister, MECP  
Charles O'Hara, Director, MECP  
Giles Gherson, Deputy Minister, Small Business & Red Tape Reduction  
Jan O'Driscoll, Minister Yurek's Office  
Jonathan Ricci, Minister Yurek's Office  
Isaac Apter, Minister Yurek's Office  
David Donavon, Minister Sarkaria's Office

## Attachment A

### RÈGLEMENT SUR LES PERMIS ET LES CERTIFICATS POUR LA VENTE ET L'UTILISATION DE PESTICIDES – FEUILLET 2

#### Biopesticides

L'Agence de réglementation de la lutte antiparasitaire de Santé Canada regroupe les biopesticides en trois grandes catégories, soit les agents microbiens, les écomones et les produits non conventionnels.

- Agent microbien : microorganisme (bactérie, algue, champignon, protozoaire, virus, mycoplasme ou rickettsie et organismes similaires) et tout métabolite associé auquel l'effet antiparasitaire peut être attribué (Directive DIR2001-02).
- Écomone : substance porteuse d'un message et produite par une plante ou par un animal, ou analogue synthétique de cette substance qui influence le comportement des sujets de la même espèce ou d'autres espèces (Directive PRO2002-02).
- Produit non conventionnel : produit ne faisant pas partie d'une des deux catégories précédentes et qui répond à l'un ou plusieurs des critères suivants (Directive DIR2012-01) :
  - faible toxicité intrinsèque pour les humains et les autres organismes non ciblés;
  - peu de risques que leur utilisation donne lieu à une importante exposition humaine ou de l'environnement;
  - pas de persistance dans l'environnement;
  - mécanisme d'action qui n'est pas le résultat d'une forme de toxicité pour l'organisme ciblé;
  - peu de probabilités d'ouvrir la voie à une forme de résistance;
  - déjà largement disponible au public à travers d'autres utilisations, avec un historique d'utilisation sécuritaire dans des conditions d'exposition équivalentes pour les humains et l'environnement.

Sont inclus dans cette catégorie des aliments, des extraits, des agents de préservation ou des additifs; des extraits végétaux et des huiles; des substances d'usage courant autres que des pesticides; des engrais ou d'autres suppléments de croissance; des matières inertes. Ne sont pas inclus dans cette catégorie les pesticides naturels qui sont intrinsèquement toxiques et, par conséquent, évalués comme des produits conventionnels.

#### English translation:

REGULATIONS RESPECTING PERMITS AND CERTIFICATES FOR THE SALE AND USE OF PESTICIDES – SHEET 2

#### Biopesticides

The Pest Management Regulatory Agency of Health Canada groups biopesticides into three broad categories: microbial agents, ecomones (pheromones and semiochemicals) and non-conventional products.



- **Microbial agent:** microorganism (bacterium, algae, fungus, protozoan, virus, mycoplasma or rickettsia and similar organisms) and any associated metabolites to which the pest control effect can be attributed (Directive DIR2001-02).
- **Phermones and semiochemicals:** a message-carrying substance produced by a plant or animal, or a synthetic analogue of that substance that influences the behavior of subjects of the same or other species (PRO2002-02 Directive).
- **Non-conventional product:** product that does not fall into one of the two preceding categories and meets one or more of the following criteria (Directive DIR2012-01):
  - low intrinsic toxicity for humans and other non-target organisms;
  - low risk of their use giving rise to significant human exposure or the environment;
  - no persistence in the environment;
  - mechanism of action that is not the result of a form of toxicity to the target organism;
  - little probability of opening the way to a form of resistance;
  - already widely available to the public through other uses, with a history of safe use under equivalent exposure conditions for humans and the environment.

Included in this category are foods, extracts, preservatives or additives; vegetable extracts and oils; substances in common use other than pesticides; fertilizers or other growth supplements; inert materials. This category does not include natural pesticides that are inherently toxic and, therefore, assessed as conventional products.

## Attachment B

Registration Number under <i>Pest Control Products Act</i>	Product Name	Active ingredient	Current classification
<a href="#">7715</a>	Skoot Repellent for Rabbits, Mice & Deer	Thiram	5
<a href="#">12857</a>	Wilson Granular Repell Dog & Cat Repellent	Methyl nonyl ketone	5
<a href="#">31840</a>	Wilson Predator Animal Barrier	Denatonium benzoate	6
<a href="#">32949</a>	Wilson Predator Animal Barrier Spray	Denatonium benzoate	6