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UPDATE ON THE NON-ESSENTIAL USE OF PESTICIDES

The Health and Emergency Medical Services Committee recommends the adoption of the recommendations contained in the following report, March 15, 2004, from the Commissioner of Health Services:

1. RECOMMENDATIONS

It is recommended that:

1. Health and Emergency Medical Services Committee and Regional Council receive this follow up report regarding the non-essential use of pesticides on public and private lands within The Regional Municipality of York.
2. The Federal Minister of Health be requested to include municipal representation on the Healthy Lawns Working Group.

2. PURPOSE

The purpose of this report is to provide an update on non-essential pesticide use across York Region. This report will also address the benefit of municipal representation on the Healthy Lawns Working Group.

3. BACKGROUND

3.1 York Region's Pesticide Reduction Strategy

In the June 14, 2001 report to the Health and Social Services Committee entitled "Pesticide Reduction Strategy," Regional Council authorized Health Services Department staff to work with area municipalities, school boards and conservation authorities to develop the Pesticide Reduction Guidelines for Lands Owned by The Regional Municipality of York. A Pesticide Reduction Task Force was formed and on May 16, 2002, the Pesticide Reduction Guidelines for Lands Owned by The Regional Municipality of York was adopted by Regional Council.

In addition to implementing the Guidelines, the Health Services Department has been working with all levels of government, the community and environmental organizations to promote pesticide reduction. The Health Services Department has developed a brochure and display regarding pesticide reduction that has been promoted at region-wide events such as the annual Windfall EcoFestival, Earth Week, Environment Week and at various municipal offices. The Health Services Department also collaborates with area municipalities on pesticide reduction initiatives such as the Markham Pesticide Free Park Pilot and the Newmarket Environmental Advisory Committee's Green Series Workshops.

The Health Services Department is represented on various external committees such as Environment Canada's Municipal Management Tool Package for Plant Healthcare Programs Steering Committee and the Pest Management Regulatory Agency (PMRA) Domestic Pesticide Product Labelling Subcommittee.

York Region's Water for Tomorrow Program delivers a successful Water Efficient Landscape Audit Service to York Region residents. The program consists of a lawn and garden audit to promote organic solutions to pest and weed problems while stressing the need to reduce the use of pesticides.

4. ANALYSIS AND OPTIONS

4.1 Powers of Municipalities to Enact By-Laws Regulating Pesticide Use

Section 130 of the *Municipal Act, 2001* provides that "a municipality may regulate matters not specifically provided for by this Act or any other Act for the purposes related to the health, safety and well-being of the inhabitants of the municipality." This was the section relied upon by the City of Toronto to enact By-Law No. 456-2003, on May 23, 2003, regulating the use of pesticides and is the section relied upon by other single tier and area municipalities that passed by-laws regulating the use of pesticides, and regional municipalities that may be considering such a by-law. City of Toronto By-Law No. 456-2003 does not come into force until April 1, 2004 and enforcement will not commence until September 2005.

4.1.1 City of Toronto By-Law Challenge

On November 10, 2003, a trade association of pesticide manufacturers and applicators brought a court application seeking to challenge City of Toronto By-Law No. 456-2003 on the basis that the City of Toronto did not have the jurisdiction to enact the by-law. Counsel for the trade association made two arguments. First, it was argued that the by-law was an attempt to regulate environmental matters which are within the purview of the provincial and federal governments, not municipalities. Second, it was argued that pesticides are already regulated by provincial and federal governments and therefore the by-law passed by the City of Toronto is in conflict with federal and provincial legislation and of no force or effect.

On December 8, 2003, Justice Somers issued a decision dismissing the application and concluding that the by-law was within the jurisdiction of the City of Toronto. This decision has been appealed to the Court of Appeal and will likely be heard in the fall of 2004.

4.1.2 Other Ontario Municipalities

Many Ontario municipalities have taken initiatives to reduce non-essential pesticide use on private and municipal properties through education and/or enforcement (*see Attachment 2*). While six Ontario municipalities have passed pesticide by-laws they all take very different forms and all are local municipalities, with the exception of the City of Toronto (a single tier municipality). Health units, through their regional governments

or Boards of Health have been active in promoting pesticide reduction through education and awareness and have participated on steering committees with their area municipalities to identify and implement pesticide reduction strategies.

4.2 Relationship to Vision 2026

Continued commitment to the Pesticide Reduction Guidelines for Lands Owned by the Regional Municipality of York and to supporting local area municipalities in reducing the non-essential use of pesticides in their respective municipalities, is consistent with the Vision 2026 goal of Enhancement of Environment and Health.

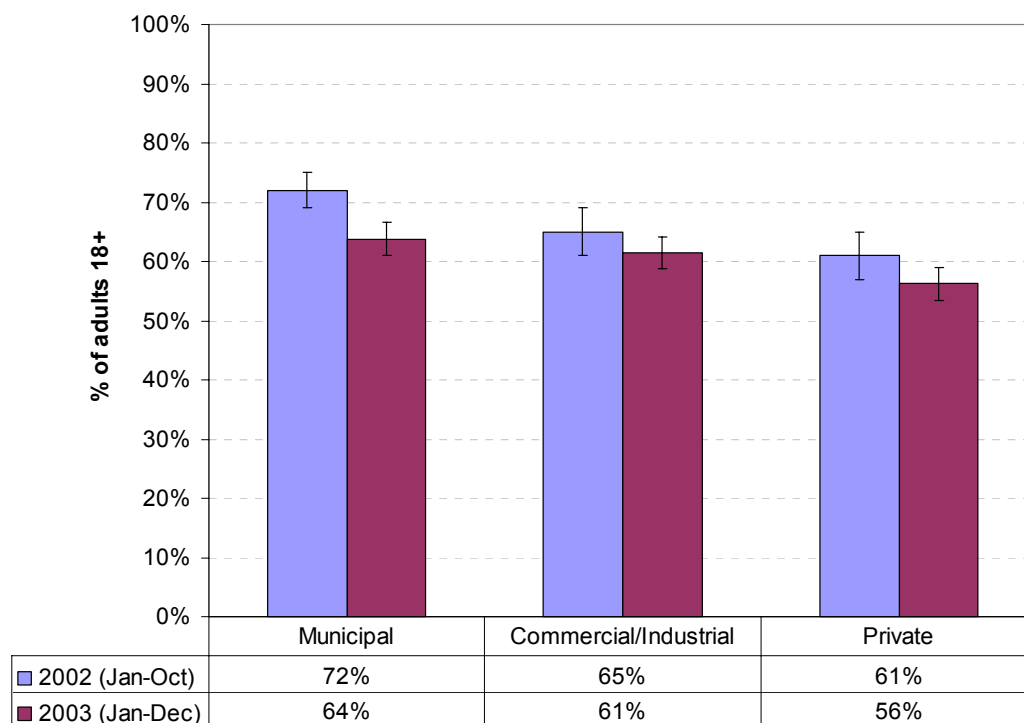
4.3 Response to Municipal Interest in a Potential Regional By-law

On January 29, 2003, as directed by Regional Council at its December 2002 meeting, the Health Services Department corresponded with the mayors of the nine area municipalities to solicit their interest in pursuing a Regional by-law restricting the non-essential use of pesticides within York Region. Responses indicated that municipalities are involved in their own pesticide reduction initiatives, including reducing the use of pesticides on municipal lands and educational programs to reduce community use. However, the majority of municipalities did not express an interest in pursuing a Regional by-law (*see Attachment 1*).

4.4 Rapid Risk Factor Surveillance System Survey – Pesticide By-Law Module

An on-going telephone survey conducted by a number of Ontario public health units called the Rapid Risk Factor Surveillance System (RRFSS) includes a Pesticide By-Law Module. As part of this module, questions were posed to determine the percentage of adults (18 years of age and over) who support/oppose by-laws that would restrict the use of pesticides on municipal properties, commercial or industrial properties, and private properties. The results of the York Region survey covering the period January 2002 to December 2003 are found below (*see Figure 1*).

Figure 1 - Support for Pesticide By-laws York Region 2002-2003



Source: York Region Health Services, 2004 based on RRFSS Jan. 2002-Dec. 2003.

Note: Margin of error (+/-) shown at top of each bar.

In 2003, 64% of respondents strongly or somewhat supported a by-law restricting pesticide use on municipal properties, whereas only 56% strongly or somewhat supported a by-law restricting pesticide use on private properties. In 2003 as compared to 2002, support for by-laws restricting pesticide use on municipal properties declined 8% and support for by-laws restricting the use of pesticides on private properties decreased by 5%.

4.5 The Healthy Lawns Working Group

The Healthy Lawns Working Group was formed in 2000 under the Federal/Provincial/Territorial Committee on Pest Management and Pesticides and is responsible for administering the Healthy Lawns Strategy. This is a partnership effort between PMRA and the provincial and territorial governments. The strategy is designed to reduce the reliance on pesticide use for lawn care through the application of Integrated Pest Management (IPM) principles, emphasis on pest prevention and the application of pesticides only when necessary. The Association of Municipalities of Ontario (AMO) has requested representation on this Working Group as municipalities are dealing with the issue of pesticide reduction at the local level. To date, area municipalities are not represented on this Working Group. Since this is a federal initiative, the Federal Minister of Health should be requested to include area municipalities as participants on the Healthy Lawns Working Group.

5. FINANCIAL IMPLICATIONS

5.1 Existing Regional Pesticide Reduction Strategy

Education and outreach initiatives of the existing regional pesticide reduction strategy have been incorporated into the 2004 Public Health budget. The phasing-in of the Pesticides Reduction Guidelines on Lands Owned by The Regional Municipality of York has been incorporated into the appropriate Regional department budgets.

6. LOCAL MUNICIPAL IMPACT

The Health Services Department continues to collaborate with municipalities on pesticide reduction initiatives. The Health Services Department staff are available to area municipalities in assisting them in furthering individual municipal pesticide reduction strategies.

7. CONCLUSION

Federal, provincial and municipal governments are active in promoting pesticide reduction and reduced reliance on pesticide use for lawn care. It is recommended that the Regional Chair write a letter to the Federal Minister of Health requesting that municipalities be included in the Healthy Lawns Working Group.

The Senior Management Group has reviewed this report.

(A copy of the attachment referred to in the foregoing has been forwarded to each Member of Council with the April 15, 2004 Health and Emergency Medical Services Committee agenda and a copy thereof is on file in the Office of the Regional Clerk.)