

## Pesticides Act

### ONTARIO REGULATION 63/09 GENERAL

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*This is the English version of a bilingual regulation.*

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## INTERPRETATION

### Definitions

#### 1. (1) In this Regulation,

“adequate respiratory protection” means, in respect of a pesticide, a respiratory device or devices that,

- (a) protect the user from adverse effects that might result from breathing in the pesticide during the handling or use of the pesticide, and
- (b) comply with any requirements respecting respiratory devices that are set out on the pesticide’s label; (“protection respiratoire adéquate”)

“agricultural operation” means an agricultural, aquacultural or horticultural operation and, subject to subsection (2), includes any of the following activities done for the purposes of any of those operations:

1. Growing, producing or raising farm animals.
2. The production of agricultural crops, including greenhouse crops, maple syrup, mushrooms, nursery stock, tobacco, trees and turf grass, and any additional agricultural crops prescribed by the regulations made under the *Nutrient Management Act, 2002*.
3. The production of eggs, cream and milk.

**Note: On May 1, 2020, paragraph 3 of the definition of “agricultural operation” in subsection 1 (1) of the Regulation is amended by striking out “and milk” at the end and substituting “or milk”. (See: O. Reg. 134/20, s. 1 (1))**

4. The operation of agricultural machinery and equipment.
5. The processing by a farmer of the products produced primarily from the farmer’s agricultural operation.
6. Activities that are a necessary but ancillary part of an agricultural operation such as the use of transport vehicles or storage containers or maintenance of a shelterbelt for the purposes of the agricultural operation.
7. The management of materials containing nutrients for farm purposes.
8. The production of wood from a farm woodlot, if at least one of the activities described in paragraphs 1 to 7 is carried out on the property where the farm woodlot is located; (“exploitation agricole”)

“application area” means the land on which a land extermination is performed or intended to be performed; (“zone d’application”)

“authorizing certificate” has the same meaning as in subsection 2 (1) of the *Ontario Labour Mobility Act, 2009*; (“certificat d’autorisation”)

**Note: On May 1, 2020, subsection 1 (1) of the Regulation is amended by adding the following definition: (See: O. Reg. 134/20, s. 1 (2))**

“controlled sales pesticide” means,

- (a) a Class B pesticide with a label that indicates a use of repelling any animal and that its only active ingredient is capsaicin or capsaicin and related capsaicinoids, or
- (b) a Class D pesticide described in paragraph 3, 4, 5 or 6 of subsection 97 (1) with a label that indicates a use in, on or over land that is not mentioned in paragraph 3, 4, 5 or 6 of subsection 97 (1); (“pesticide dont la vente est contrôlée”)

“corn” means grain corn and does not include popping corn, sweet corn or corn used for the production of seed; (“maïs”)

“Crown forest” means a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario; (“forêt de la Couronne”)

“custom seed treater” means a person who provides a seed treating service; (“entrepreneur en traitement des semences”)

“farm animal” means,

- (a) livestock, including poultry and ratites,
- (b) fur-bearing animals,
- (c) bees,
- (d) cultured fish,
- (e) deer and elk,
- (f) game animals and birds, or
- (g) any additional animals, birds or fish prescribed by the regulations made under the *Nutrient Management Act, 2002*; (“animal d’élevage”)

“farm property” means an area of land used for an agricultural operation, part of an agricultural operation or more than one agricultural operation; (“bien agricole”)

“farmer” means,

- (a) an individual who owns an agricultural operation, or
- (b) an individual who operates an agricultural operation on a regular basis; (“agriculteur”)

“forest” means a treed area of land that is one hectare in size or larger and that is not used for the production of an agricultural crop as part of an agricultural operation; (“forêt”)

“forestry” means activities relating to any of the following:

- 1. Harvest, renewal, maintenance or establishment of a forest.
- 2. Protection of forest resources derived from a forest.
- 3. Accessing a forest for a purpose mentioned in paragraph 1 or 2; (“activités forestières”)

“fumigant” means a pesticide that is or that produces a gas, vapour, fume or smoke and that functions as a pesticide exclusively or primarily by the action of the gas, vapour, fume or smoke; (“fumigant”)

**Note: On May 1, 2020, the definition of “fumigant” in subsection 1 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 1 (3))**

“fumigant” means a pesticide that is or that produces or evolves a gas or vapour, and that functions as a pesticide exclusively or primarily by the action of the gas or vapour; (“fumigant”)

“fumigant gas” means a fumigant that is a gas at a temperature of 20° C and standard pressure; (“fumigant gazeux”)

**Note: On May 1, 2020, the definition of “fumigant gas” in subsection 1 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 1 (3))**

“fumigant gas” means a fumigant that,

- (a) is a gas at a temperature of 20° C and standard pressure, or
- (b) produces or evolves a gas at a temperature of 20° C and standard pressure and functions as a pesticide exclusively or primarily by the action of the gas; (“fumigant gazeux”)

“fumigation” means a structural extermination performed by means of a fumigant; (“fumigation”)

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct, trestle or any other structure incidental thereto, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof; (“voie publique”)

**Note: On May 1, 2020, subsection 1 (1) of the Regulation is amended by adding the following definition: (See: O. Reg. 134/20, s. 1 (4))**

“listed active ingredient” means an active ingredient that is listed by the Director in the document prescribed for the purpose of paragraph 2 of subsection 7.1 (1) of the Act; (“principe actif inscrit”)

“manufacturer” means a person who carries on business respecting,

- (a) the formulation of a Class 1 pesticide into another pesticide,

**Note: On May 1, 2020, clause (a) of the definition of “manufacturer” in subsection 1 (1) of the Regulation is amended by striking out “Class 1” and substituting “Class A”. (See: O. Reg. 134/20, s. 1 (5))**

- (a.1) the treatment of a seed with a pesticide to produce a treated seed,
- (b) the manufacturing of a pesticide into a product,

(c) the incorporation of a pesticide into a product, or

(d) the packaging or distribution of a pesticide or a product containing a pesticide; (“fabricant”)

“Ministry’s electronic system” has the same meaning as in Ontario Regulation 245/11 (Registrations under Part II.2 of the Act - General) made under the *Environmental Protection Act*; (“système électronique du ministère”)

“occupation” has the same meaning as in subsection 2 (1) of the *Ontario Labour Mobility Act, 2009*; (“métier ou profession”)

“out-of-province regulatory authority” has the same meaning as in subsection 2 (1) of the *Ontario Labour Mobility Act, 2009*; (“autorité de réglementation extraprovinciale”)

“Pest Risk Assessment Guideline” means the document entitled “Pest Risk Assessment Guideline”, as amended from time to time, that is published by the Minister and available through a website of the Government of Ontario and that sets out,

(a) with respect to the pests referred to in the document,

(i) the number of the pests, determined in accordance with the Pest Risk Assessment Guideline, that must be detected during an inspection of soil in order to use a Class 12 pesticide for the purposes of an agricultural operation,

(ii) the percentage of stand loss, determined in accordance with the Pest Risk Assessment Guideline, that must be detected during an inspection of a crop in order to use a Class 12 pesticide for the purposes of an agricultural operation, and

(iii) the pest risk criteria that must be met during an inspection in order to use a Class 12 pesticide for the purposes of an agricultural operation, and

(b) the methods to be used to determine the number of pests mentioned in subclause (a) (i) and the percentage of stand loss mentioned in subclause (a) (ii); (“Ligne directrice pour l’évaluation des risques phytosanitaires”)

**Note: On May 1, 2020, the definition of “Pest Risk Assessment Guideline” is amended by striking out “Class 12” wherever it appears and substituting “Class E”. (See: O. Reg. 134/20, s. 1 (8))**

“pest risk assessment report” means a report described in section 3; (“rapport d’évaluation des risques phytosanitaires”)

“professional engineer” means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act*; (“ingénieur”)

**Note: On May 1, 2020, the definition of “professional engineer” in subsection 1 (1) of the Regulation is revoked. (See: O. Reg. 134/20, s. 1 (10))**

“public work” means a structure that provides a benefit to the public and that is owned or operated by the Government of Ontario or Canada or by any board or commission thereof, or by any municipal corporation, public utility commission or by private enterprise and includes any railway, canal, highway, bridge, power works including all property used for the generation, transformation, transmission, distribution or supply of hydraulic or electrical power, gas works, water works, public utility or other work; (“ouvrage public”)

“regulated occupation” has the same meaning as in subsection 2 (1) of the *Ontario Labour Mobility Act, 2009*; (“métier ou profession réglementé”)

“residential area” means a lot or parcel of land,

(a) on which there are no buildings other than,

(i) detached houses, semi-detached houses or rowhouses, and

(ii) buildings or structures that are accessory to the buildings mentioned in subclause (i), and

(b) on which there is at least one and not more than four detached houses, semi-detached houses or rowhouses; (“zone résidentielle”)

“rural area” means,

(a) an area that is not within the geographic limits of an area of settlement within the meaning of the *Planning Act*, or

(b) an area in which there are fewer than twenty dwelling units within one kilometre of any given location; (“zone rurale”)

“sales outlet” means the premises on, in or from which a pesticide is or will be sold, offered for sale or transferred; (“point de vente”)

“seed treating service” means a service that is provided to a person who is not required to hold a vendor’s licence of the Treated Seed class and that produces a treated seed through the treatment of corn seed or soybean seed with a pesticide that contains imidacloprid, clothianidin or thiamethoxam, but does not include a service that is provided with respect to a seed production contract mentioned in section 13.1; (“service de traitement des semences”)

“stand loss” means crop damage, such as,

- (a) the failure of plants to emerge; or
- (b) stunted, damaged or dead plants that occur as the result of a lack of plant vigour; (“perte de plants”)

“suspension in air” means a pesticide that is not a fumigant and that has been formulated for application as an aerosol, mist or fog or formulated for ultra low volume or ultra low dosage application; (“substance en suspension dans l’air”)

“technician” means a person who is at least 16 years of age and,

- (a) has successfully completed, within the previous 24 months, a course approved by the Director for technicians concerning basic pesticide safety, or
- (b) has satisfied the Director that he or she has equivalent qualifications to the qualifications described in clause (a); (“technicien”)

**Note: On May 1, 2020, the definition of “technician” in subsection 1 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 1 (12))**

“technician” means a person who is at least 16 years of age and who has, within the previous 24 months,

- (a) successfully completed a course approved by the Director for technicians concerning basic pesticide safety, or
- (b) satisfied the Director that he or she has equivalent qualifications to the qualifications described in clause (a); (“technicien”)

“trainee” means a person, other than a technician or licensed exterminator, who is at least 16 years of age and who performs exterminations or assists in the performance of exterminations under the supervision of a licensed exterminator. (“apprenti”)

“treated seed” means a seed that, as a result of being treated, is coated with or contains one or more pesticides; (“semence traitée”)

“treated seed sales representative” means an individual who represents a person who is required to hold a vendor’s licence of the Treated Seed class by,

- (a) having direct contact with purchasers of Class 12 pesticides, and
- (b) facilitating the sale or transfer of Class 12 pesticides. (“représentant commercial en semences traitées”)

**Note: On May 1, 2020, the definition of “treated seed sales representative” in subsection 1 (1) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”. (See: O. Reg. 134/20, s. 1 (13))**

**Note: On May 1, 2020, subsection 1 (1) of the Regulation is amended by adding the following definition: (See: O. Reg. 134/20, s. 1 (14))**

“unlisted pesticide” means a pesticide that contains an active ingredient that is not a listed active ingredient. (“pesticide non inscrit”)

O. Reg. 63/09, s. 1 (1); O. Reg. 469/10, s. 1; O. Reg. 42/13, s. 1; O. Reg. 139/15, ss. 1 (1, 2, 6); O. Reg. 228/18, s. 1; O. Reg. 134/20, s. 1 (6, 7, 9, 11).

(2) For the purposes of the definition of “agricultural operation” in subsection (1), production does not include,

- (a) production primarily for use or consumption by members of the household of the owner or operator of the agricultural operation;
- (b) production primarily for the purposes of a pastime or recreation;
- (c) production related to the growing of trees in a Crown forest;
- (d) production related to the growing of plants in a park, cemetery, on a lawn or similar location where the plants are grown primarily for display purposes; or
- (e) production related to the growing of agricultural crops in a park, on a property used primarily for residential purposes or in a garden located in a public space. O. Reg. 63/09, s. 1 (2).

(2.1) In this Regulation, a reference to the Director means,

- (a) the Director appointed under section 3 of the Act in respect of the section of this Regulation in which the reference appears; or
- (b) if a Director described in clause (a) has not been appointed, any Director appointed under section 3 of the Act in respect of section 11 of the Act. O. Reg. 139/15, s. 1 (3).

(3) For the purposes of the definition of “farmer” in subsection (1), more than one individual may, at the same time, operate an agricultural operation on a regular basis. O. Reg. 63/09, s. 1 (3).

(3.1) REVOKED: O. Reg. 134/20, s. 1 (15).

(4) In this Regulation, a reference to a Class 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 or 11 pesticide is a reference to a pesticide that has been classified into that class by the designated person mentioned in subsection 4 (1). O. Reg. 63/09, s. 1 (4).

**Note: On May 1, 2020, subsection 1 (4) of the Regulation is revoked. (See: O. Reg. 134/20, s. 1 (16))**

(4.1) In this Regulation, a reference to a Class 12 pesticide is a reference to a pesticide that has been classified into that class under section 8.1. O. Reg. 139/15, s. 1 (3).

**Note: On May 1, 2020, subsection 1 (4.1) of the Regulation is revoked. (See: O. Reg. 134/20, s. 1 (16))**

(4.2) In this Regulation, a reference to a pesticide that is used to treat a seed so that it becomes a Class 12 pesticide is a reference to a pesticide that contains imidacloprid, clothianidin or thiamethoxam. O. Reg. 139/15, s. 1 (3).

**Note: On May 1, 2020, subsection 1 (4.2) of the Regulation is amended by striking out “Class 12” and substituting “Class E”. (See: O. Reg. 134/20, s. 1 (17))**

(5) In this Regulation, a reference to Sign A, B, C, D, E, F or G is to the sign with that letter set out in Column 1 of the Table to this subsection that has the name set out opposite the sign letter in Column 2 of the Table and that conforms with the illustration of the sign that is available on a website of the Government of Ontario and that is dated as set out in Column 3 of the Table.

TABLE

Item	Column 1 Sign Letter	Column 2 Sign Name	Column 3 Date of illustration of sign
1.	A	Warning — Fumigation/Avertissement — fumigation	February 24, 2009
2.	B	Warning — Structural extermination	February 24, 2009
3.	C	Notice — Residential area land extermination	June 22, 2009
4.	D	Warning — Residential area land extermination	February 24, 2009
5.	E	Notice — Non-residential area land extermination	June 22, 2009
6.	F	Warning — Non-residential area land extermination	February 24, 2009
7.	G	Warning — Storage	June 22, 2009

O. Reg. 63/09, s. 1 (5); O. Reg. 279/09, s. 1 (1); O. Reg. 139/15, ss. 1 (4, 5).

**Note: On May 1, 2020, items 3 and 5 of the Table to subsection 1 (5) of the Regulation are revoked and the following substituted: (See: O. Reg. 134/20, s. 1 (18))**

3.	C	Notice — Residential area land extermination	May 1, 2020
5.	E	Notice — Non-residential area land extermination	May 1, 2020

(6) Despite the fact that an illustration of a sign mentioned in subsection (5) may include the date of the illustration as set out in Column 3 of the Table to that subsection, that date is not required to appear on the sign. O. Reg. 279/09, s. 1 (2).

## GENERAL

### Form of submissions

**1.1** With respect to any document that a person submits to the Committee, the Director, the Minister or a provincial officer under this Regulation,

**Note: On May 1, 2020, section 1.1 of the Regulation is amended by striking out “the Committee” in the portion before clause (a). (See: O. Reg. 134/20, s. 2 (1))**

- (a) if the Director has approved a form in which to submit the document, the person shall submit it in that form;
- (b) if the Director has specified an electronic format in which to submit the document, the person shall submit it in that format; and
- (c) if the Director or this Regulation specifies that the document be submitted using the Ministry’s electronic system,
  - (i) the person shall submit the document using the electronic system, or
  - (ii) if the Ministry’s electronic system is not capable of receiving a document by direct electronic transmission, the person shall submit the document by another means. O. Reg. 139/15, s. 2, O. Reg. 228/18, s. 2.

**Note: On May 1, 2020, clause 1.1 (c) of the Regulation is amended by striking out “or” at the end of subclause (i), by adding “or” at the end of subclause (ii) and by adding the following subclause: (See: O. Reg. 134/20, s. 2 (2))**

- (iii) the person shall submit the document by such other means as may be specified by the Director in writing in cases where, after the Director has taken into consideration the circumstances of the person, the Director has specified an alternate means of submission by the person.

### Form of records and reports

**1.2** With respect to any records or reports that a person prepares under this Regulation,



- (a) if the Director has approved a form in which to prepare the record or report, the person shall prepare it in that form; and
- (b) if the Director has specified an electronic format in which to prepare the record or report, the person shall prepare it in that format. O. Reg. 139/15, s. 2.

#### PESTICIDES ADVISORY COMMITTEE

##### Committee business

- 2. (1) The Committee shall meet,
  - (a) at the request of the Minister;
  - (b) at the request of the chair; or
  - (c) at the request of any three members of the Committee. O. Reg. 63/09, s. 2 (1).
- (2) The secretary of the Committee shall,
  - (a) keep a record of all business transacted at a meeting of the Committee;
  - (b) have the custody of all documents received by the Committee; and
  - (c) produce the records mentioned in clause (a) and documents mentioned in clause (b) for inspection when requested by the Minister or the designated person mentioned in subsection 4 (1). O. Reg. 63/09, s. 2 (2).

**Note:** On May 1, 2020, the heading immediately before section 2 and section 2 of the Regulation are revoked and the following substituted: (See: O. Reg. 134/20, s. 3)

#### CLASSIFICATION OF PESTICIDES

##### Classification of pesticides

- 2. (1) A pesticide is a Class A pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pest control product of the Manufacturing class. O. Reg. 134/20, s. 3.
- (2) A pesticide is a Class B pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pest control product of the Restricted class. O. Reg. 134/20, s. 3.
- (3) A pesticide is a Class C pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pest control product of the Commercial class. O. Reg. 134/20, s. 3.
- (4) A pesticide is a Class D pesticide if it is registered under the *Pest Control Products Act* (Canada) and designated under that Act as a pest control product of the Domestic class or if it is registered under the *Fertilizers Act* (Canada). O. Reg. 134/20, s. 3.
- (5) A pesticide is a Class E pesticide if it is a corn seed or soybean seed that is treated with a pesticide that contains imidacloprid, clothianidin or thiamethoxam. O. Reg. 134/20, s. 3.

#### CLASSIFICATION OF PESTICIDES

##### Compendium of Classified Pesticides

- 3. (1) The Director shall maintain a record known as the Compendium of Classified Pesticides that sets out the following information:
  - 1. With respect to each pesticide that is classified under section 4,
    - i. the name of the pesticide,
    - ii. the class into which the pesticide has been classified, and
    - iii. if the pesticide is classified into Class 1, 2, 3, 4, 5, 6, 7 or 8,
      - A. each pesticide ingredient that it contains,
      - B. the registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada), and
      - C. the name and address of the person who registered it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada), and if it is registered under the *Pest Control Products Act* (Canada), the name and address of the Canadian agent, if any, of that person.
  - 2. The amendments that have been made to the record and the date on which each amendment was made. O. Reg. 63/09, s. 3 (1); O. Reg. 139/15, s. 3 (1).

(2) Despite any discrepancy between the name of a pesticide as set out in a pesticide's registration certificate or its label and the name of a pesticide as set out in the Compendium of Classified Pesticides, if a pesticide has the same registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada) as a registration number that is set out in the Compendium of Classified Pesticides, the pesticide is deemed to be the pesticide named in the Compendium of Classified Pesticides. O. Reg. 63/09, s. 3 (2).

(3) The Director shall ensure that the Compendium of Classified Pesticides is available for inspection by the public at the following locations:

1. At the Ministry's Public Information Centre, during ordinary business hours.
2. On a website of the Government of Ontario. O. Reg. 63/09, s. 3 (3); O. Reg. 139/15, s. 3 (2).

**Note: On May 1, 2020, the heading immediately before section 3 and section 3 of the Regulation are revoked and the following substituted: (See: O. Reg. 134/20, s. 3)**

#### TREATED SEEDS

##### **Pest risk assessment report**

**3. (1)** A pest risk assessment report must contain the following with respect to one or more farm properties that are used for an agricultural operation and in respect of which a Class E pesticide is intended to be used:

1. The location of each farm property in respect of which the report is prepared, identified by one of the following:
  - i. The municipal address of the farm property including, where applicable, the street number or other assigned property address number, street name, street direction, unit number, rural route number, town or city and postal code.
  - ii. If there is no municipal address, the legal description of the farm property including, where applicable, every assessment roll number or property identifier number that relates to the farm property.
2. The acreage of each farm property in respect of which the report is prepared.
3. Subject to subsection (2), a confirmation of one of the following with respect to each farm property in respect of which the report is prepared:
  - i. An inspection of the soil was conducted at the farm property in accordance with the Pest Risk Assessment Guideline and the presence of one or more of the pests referred to in the Guideline was detected in a number that was equal to or greater than the applicable number required to be detected under the Guideline in order to use a Class E pesticide.
  - ii. An inspection of a crop was conducted at the farm property in accordance with the Pest Risk Assessment Guideline and the inspection detected a percentage of stand loss caused by one or more of the pests referred to in the Guideline that was equal to or greater than the applicable percentage required to be detected under the Guideline in order to use a Class E pesticide.
  - iii. An inspection was conducted at the farm property and one or more of the pest risk criteria set out in the Pest Risk Assessment Guideline were met.
4. If an inspection confirmed under paragraph 3 was an inspection of soil in respect of a farm property, the following information:
  - i. An identification of the pest or pests detected.
  - ii. A sketch of the farm property showing each location, identified in accordance with the Pest Risk Assessment Guideline, in which the pest or pests were detected.
  - iii. The number of pests detected in each location referred to in subparagraph ii.
5. If an inspection confirmed under paragraph 3 was an inspection of a crop in respect of a farm property, the following information:
  - i. An identification of the pest or pests that caused the stand loss.
  - ii. The rationale for determining that the stand loss was caused by one or more of the pests referred to in the Pest Risk Assessment Guideline.
  - iii. A sketch of the farm property showing each location, identified in accordance with the Pest Risk Assessment Guideline, that was inspected for stand loss and each location, identified in accordance with the Guideline, in which there was no stand loss evident.
  - iv. The number of plants unaffected by crop damage in each location referred to in subparagraph iii, determined in accordance with the Pest Risk Assessment Guideline.

- v. The average number of plants per acre unaffected by crop damage, determined in accordance with the Pest Risk Assessment Guideline.
  - vi. The percentage of stand loss determined in accordance with the Pest Risk Assessment Guideline.
6. The method used in the inspection confirmed under paragraph 3.
  7. The date on which the inspection confirmed under paragraph 3 was conducted.
  8. The name of the person who conducted the inspection confirmed under paragraph 3.
  9. The name of the person who prepared and signed the report.
  10. The name of the owner or operator of the agricultural operation for which each farm property referred to in paragraph 1 is used. O. Reg. 134/20, s. 3.
- (2) An inspection referred to in paragraph 3 of subsection (1) shall be conducted by a person referred to in clause 45.1 (1) (a) and the person shall prepare and sign the pest risk assessment report. O. Reg. 134/20, s. 3.
- (3) A pest assessment report that has been prepared and signed under this Regulation no later than the day subsection 4 (1) of Ontario Regulation 134/20 made under the Act comes into force is deemed to be a pest risk assessment report and to have met the requirements in respect of a pest risk assessment report. O. Reg. 134/20, s. 3.

#### Minister's designate to classify pesticides

4. (1) The Minister shall designate a person for the purposes of this section. O. Reg. 63/09, s. 4 (1).
- (2) Subject to subsection (3) and section 8.1, the designated person shall,
  - (a) classify a pesticide into a class set out in Column 2 of the Table to this section if the pesticide meets the criteria set out opposite the class in Column 1 of the Table;
  - (b) classify a pesticide other than in accordance with clause (a) if, in the designated person's opinion, it is in the public interest to do so; or
  - (c) refuse to classify a pesticide if, in the designated person's opinion,
    - (i) he or she does not have sufficient information to classify the pesticide,
    - (ii) proper use of the pesticide, as described in the directions on the pesticide's label and in accordance with the Act and this Regulation, is likely to have one or more of the effects mentioned in subsection 49 (3) of the Act, to an extent that is excessive, unreasonable or unnecessary, or
    - (iii) it is not in the public interest to classify the pesticide. O. Reg. 63/09, s. 4 (2); O. Reg. 139/15, s. 4 (1).
- (3) In classifying or refusing to classify a pesticide, the designated person shall have regard to any recommendation that has been made by the Committee under this Regulation with respect to the classification. O. Reg. 63/09, s. 4 (3).
- (4) The designated person may classify a pesticide that, on the day before Regulation 914 of the Revised Regulations of Ontario, 1990 (General) made under the Act was revoked, was classified to Schedule 1, 2, 3, 4, 5 or 6 as set out in the Compendium of Scheduled Pesticides maintained under that regulation. O. Reg. 63/09, s. 4 (4).
- (5) A reference in the Table to this section to the Guideline is to the document entitled "Pesticide Classification Guideline for Ontario", published by the designated person and available on a website of the Government of Ontario, as amended from time to time. O. Reg. 63/09, s. 4 (5); O. Reg. 139/15, s. 4 (2).

TABLE

Item	Column 1 Criteria	Column 2 Classification
1.	The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Manufacturing class or is registered under the <i>Fertilizers Act</i> (Canada).	Class 1
2.	<ol style="list-style-type: none"> <li>1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Commercial or Restricted class or is registered under the <i>Fertilizers Act</i> (Canada).</li> <li>2. The pesticide meets the description of Very Hazardous in the Guideline mentioned in subsection 4 (5).</li> <li>3. The pesticide does not meet the description of a Controlled Sales pesticide in the Guideline mentioned in subsection 4 (5).</li> </ol>	Class 2
3.	<ol style="list-style-type: none"> <li>1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Commercial or Restricted class or is registered under the <i>Fertilizers Act</i> (Canada).</li> <li>2. The pesticide meets the description of Moderately Hazardous in the Guideline mentioned in subsection 4 (5).</li> <li>3. The pesticide does not meet the description of a Controlled Sales pesticide in the Guideline mentioned in subsection 4 (5).</li> </ol>	Class 3

4.	<ol style="list-style-type: none"> <li>1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Commercial or Restricted class or is registered under the <i>Fertilizers Act</i> (Canada).</li> <li>2. The pesticide meets the description of Less or Least Hazardous in the Guideline mentioned in subsection 4 (5).</li> <li>3. The pesticide does not meet the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4 (5).</li> </ol>	Class 4
5.	<ol style="list-style-type: none"> <li>1. The pesticide is, <ol style="list-style-type: none"> <li>i. designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic class and meets the description of Less Hazardous in the Guideline mentioned in subsection 4 (5), or</li> <li>ii. registered under the <i>Fertilizers Act</i> (Canada) and the size of its container is greater than 1 kilogram or 1 litre.</li> </ol> </li> <li>2. If the pesticide may be used in, on or over land, <ol style="list-style-type: none"> <li>i. the only pesticide ingredient it contains is a Class 11 pesticide, or</li> <li>ii. every use set out on the pesticide's label is a use mentioned in subsection 7.1 (2) of the Act.</li> </ol> </li> </ol>	Class 5
6.	<ol style="list-style-type: none"> <li>1. The pesticide is, <ol style="list-style-type: none"> <li>i. designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic class and meets the description of Least Hazardous in the Guideline mentioned in subsection 4 (5), or</li> <li>ii. registered under the <i>Fertilizers Act</i> (Canada) and the size of its container is less than or equal to 1 kilogram or 1 litre.</li> </ol> </li> <li>2. If the pesticide may be used in, on or over land, <ol style="list-style-type: none"> <li>i. the only pesticide ingredient it contains is a Class 11 pesticide, or</li> <li>ii. every use set out on the pesticide's label is a use mentioned in subsection 7.1 (2) of the Act.</li> </ol> </li> </ol>	Class 6
7.	<ol style="list-style-type: none"> <li>1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic or Restricted class.</li> <li>2. The pesticide may be used in, on or over land.</li> <li>3. The pesticide meets the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4 (5).</li> </ol>	Class 7
8.	<ol style="list-style-type: none"> <li>1. The pesticide is designated under the <i>Pest Control Products Act</i> (Canada) as a pesticide of the Domestic class or is registered under the <i>Fertilizers Act</i> (Canada).</li> <li>2. The pesticide may be used in, on or over land.</li> <li>3. The pesticide contains a Class 9 pesticide.</li> <li>4. The pesticide meets one of the following descriptions: <ol style="list-style-type: none"> <li>i. Its label does not set out any of the uses mentioned in subsection 7.1 (2) of the Act.</li> <li>ii. If its label sets out a use mentioned in paragraph 4 of subsection 7.1 (2) of the Act, the pesticide does not meet the description of a Controlled Sales pesticide set out in the Guideline mentioned in subsection 4 (5).</li> </ol> </li> </ol>	Class 8
9.	<ol style="list-style-type: none"> <li>1. The pesticide is an ingredient in a Class 2, 3, 4, 5, 6, 7 or 8 pesticide.</li> <li>2. The label of the Class 2, 3, 4, 5, 6, 7 or 8 pesticide sets out at least one use that is not a use mentioned in subsection 7.1 (2) of the Act.</li> <li>3. The pesticide does not meet the description of a Category I pesticide in the Guideline mentioned in subsection 4 (5).</li> </ol>	Class 9
10.	<ol style="list-style-type: none"> <li>1. The pesticide is a Class 9 pesticide.</li> <li>2. The pesticide meets the description of a Category II pesticide in the Guideline mentioned in subsection 4 (5).</li> </ol>	Class 10
11.	<ol style="list-style-type: none"> <li>1. The pesticide is an ingredient in a Class 2, 3, 4, 5, 6 or 7 pesticide.</li> <li>2. The pesticide meets the description of a Category I pesticide in the Guideline mentioned in subsection 4 (5).</li> </ol>	Class 11

O. Reg. 63/09, s. 4, Table; O. Reg. 279/09, s. 2.

**Note:** On May 1, 2020, section 4 of the Regulation is revoked. (See: O. Reg. 134/20, s. 3)

#### Applications for classification

5. (1) The following persons may submit to the Committee an application for the classification of a pesticide, other than a pesticide classified under section 8.1:

1. A person who has registered the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada).
2. The Canadian agent of the person mentioned in paragraph 1, if the pesticide is registered under the *Pest Control Products Act* (Canada). O. Reg. 63/09, s. 5 (1); O. Reg. 139/15, s. 5.

(2) The Committee shall receive applications for the classification of pesticides and shall consider the applications. O. Reg. 63/09, s. 5 (2).

(3) After considering an application for the classification of a pesticide, the Committee shall provide a written recommendation to the designated person mentioned in subsection 4 (1) with respect to the classification of the pesticide in accordance with the following rules:

1. Subject to paragraphs 2 and 4, if the pesticide meets the criteria set out in Column 1 of the Table to section 4 opposite Class 1, 2, 3, 4, 5 or 6, the Committee shall recommend that the pesticide be classified into that class.
2. The Committee may recommend that the pesticide be classified other than in accordance with paragraph 1 if the Committee considers it to be in the public interest to do so.
3. If the Committee makes a recommendation under paragraph 2, the Committee shall provide written reasons for the recommendation, which may include reference to the toxicity, persistence, container size and mobility of the pesticide.
4. The Committee may recommend that the designated person mentioned in subsection 4 (1) refuse to classify the pesticide if the Committee is of the opinion that,
  - i. it does not have sufficient information to recommend that the pesticide be classified,
  - ii. proper use of the pesticide, as described in the directions on the pesticide's label and in accordance with the Act and this Regulation, is likely to have one or more of the effects mentioned in subsection 49 (3) of the Act, to an extent that is excessive, unreasonable or unnecessary, or
  - iii. it is not in the public interest to classify the pesticide. O. Reg. 63/09, s. 5 (3).

**Note: On May 1, 2020, section 5 of the Regulation is revoked. (See: O. Reg. 134/20, s. 3)**

#### Reclassification

6. (1) The designated person mentioned in subsection 4 (1) may reclassify a pesticide, other than a pesticide classified under section 8.1, having regard to the Act, this Regulation and any recommendation made by the Committee under this Regulation, if,

- (a) the person who registered the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada) requests the reclassification or consents to the reclassification; or
- (b) the designated person mentioned in subsection 4 (1) has notified the person mentioned in clause (a) that he or she intends to reclassify the pesticide and has considered any submissions made by that person. O. Reg. 63/09, s. 6 (1); O. Reg. 139/15, s. 6.

(2) The designated person mentioned in subsection 4 (1) may request that the Committee recommend whether a Class 1, 2, 3, 4, 5 or 6 pesticide should be reclassified, and if he or she does so, the Committee shall provide the recommendation in writing, having regard to the Act and this Regulation. O. Reg. 63/09, s. 6 (2).

(3) The Committee may, on its own initiative, recommend in writing to the designated person mentioned in subsection 4 (1) that he or she reclassify a Class 1, 2, 3, 4, 5 or 6 pesticide if it considers it appropriate to do so, having regard to the Act and this Regulation. O. Reg. 63/09, s. 6 (3).

(4) A reference in subsection (1) to the person who registered the pesticide under the *Pest Control Products Act* (Canada) includes the Canadian agent of that person. O. Reg. 63/09, s. 6 (4).

**Note: On May 1, 2020, section 6 of the Regulation is revoked. (See: O. Reg. 134/20, s. 3)**

#### Declassification

7. (1) The designated person mentioned in subsection 4 (1) may declassify a pesticide, other than a pesticide classified under section 8.1, having regard to the Act, this Regulation and any recommendation made by the Committee under this Regulation, if,

- (a) the person who registered the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada) requests the declassification or consents to the declassification;
- (b) the pesticide is no longer registered under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada);
- (c) the designated person mentioned in subsection 4 (1) has notified the person mentioned in clause (a) in writing of relevant scientific or other information suggesting that proper use of the pesticide, as described in the directions on the label and in accordance with the Act and this Regulation, is likely to have one or more of the effects mentioned in subsection 49 (3) of the Act, to an extent that is excessive, unreasonable or unnecessary and the designated person mentioned in subsection 4 (1) has considered any submissions made by the person with respect to that information; or
- (d) the designated person mentioned in subsection 4 (1) has notified the person mentioned in clause (a) in writing of newly available scientific or other information suggesting that it is no longer in the public interest that the pesticide be classified and the designated person mentioned in subsection 4 (1) has considered any submissions made by the person with respect to that information. O. Reg. 63/09, s. 7 (1); O. Reg. 139/15, s. 7.

(2) The designated person mentioned in subsection 4 (1) may request that the Committee recommend whether a Class 1, 2, 3, 4, 5 or 6 pesticide should be declassified, and if he or she does so, the Committee shall provide the recommendation in writing, having regard to the Act and this Regulation. O. Reg. 63/09, s. 7 (2).

(3) The Committee may, on its own initiative, recommend in writing to the designated person mentioned in subsection 4 (1) that he or she declassify a Class 1, 2, 3, 4, 5 or 6 pesticide if it considers it appropriate to do so, having regard to the Act and this Regulation. O. Reg. 63/09, s. 7 (3).

(4) A reference in subsection (1) to the person who registered the pesticide under the *Pest Control Products Act* (Canada) includes the Canadian agent of that person. O. Reg. 63/09, s. 7 (4).

**Note: On May 1, 2020, section 7 of the Regulation is revoked. (See: O. Reg. 134/20, s. 3)**

#### Notice of change in registration, label

**8.** (1) If a pesticide is classified under this Regulation as a Class 1, 2, 3, 4, 5, 6 or 7 pesticide, the person who registered the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada) or, if the pesticide was registered under the *Pest Control Products Act* (Canada), the Canadian agent of that person, shall notify the Committee of any change in the pesticide's registration or label within 30 days after the person is notified of the change. O. Reg. 63/09, s. 8 (1).

(2) If the Committee receives notification of a change under subsection (1), the Committee shall inform the designated person mentioned in subsection 4 (1) of the change within 30 days after the Committee is notified and that person shall, if necessary, amend the Compendium of Classified Pesticides accordingly. O. Reg. 63/09, s. 8 (2).

**Note: On May 1, 2020, section 8 of the Regulation is revoked. (See: O. Reg. 134/20, s. 3)**

### TREATED SEEDS

#### Classification, treated seeds

**8.1** (1) A treated seed is a Class 12 pesticide if it is a corn seed or soybean seed that is treated with a pesticide that contains imidacloprid, clothianidin or thiamethoxam. O. Reg. 139/15, s. 8 (1).

(2) For greater certainty, sections 3, 4, 5, 6 and 7 do not apply to a Class 12 pesticide. O. Reg. 139/15, s. 8 (1).

**Note: On May 1, 2020, section 8.1 of the Regulation is revoked. (See: O. Reg. 134/20, s. 3)**

#### Pest risk assessment report

**8.2** (1) A pest risk assessment report must contain the following with respect to one or more farm properties that are used for an agricultural operation and in respect of which a Class 12 pesticide is intended to be used:

1. The location of each farm property in respect of which the report is prepared, identified by one of the following:
  - i. The municipal address of the farm property including, where applicable, the street number or other assigned property address number, street name, street direction, unit number, rural route number, town or city and postal code.
  - ii. If there is no municipal address, the legal description of the farm property including, where applicable, every assessment roll number or property identifier number that relates to the farm property.
2. The acreage of each farm property in respect of which the report is prepared.
3. Subject to subsection (2), a confirmation of one of the following with respect to each farm property in respect of which the report is prepared:
  - i. An inspection of the soil was conducted at the farm property in accordance with the Pest Risk Assessment Guideline and the presence of one or more of the pests referred to in the Guideline was detected in a number that was equal to or greater than the applicable number required to be detected under the Guideline in order to use a Class 12 pesticide.
  - ii. An inspection of a crop was conducted at the farm property in accordance with the Pest Risk Assessment Guideline and the inspection detected a percentage of stand loss caused by one or more of the pests referred to in the Guideline that was equal to or greater than the applicable percentage required to be detected under the Guideline in order to use a Class 12 pesticide.
  - iii. An inspection was conducted at the farm property and one or more of the pest risk criteria set out in the Pest Risk Assessment Guideline were met.
4. If an inspection confirmed under paragraph 3 was an inspection of soil in respect of a farm property, the following information:
  - i. An identification of the pest or pests detected.
  - ii. A sketch of the farm property showing each location, identified in accordance with the Pest Risk Assessment Guideline, in which the pest or pests were detected.

- iii. The number of pests detected in each location referred to in subparagraph ii.
- 5. If an inspection confirmed under paragraph 3 was an inspection of a crop in respect of a farm property, the following information:
  - i. An identification of the pest or pests that caused the stand loss.
  - ii. The rationale for determining that the stand loss was caused by one or more of the pests referred to in the Pest Risk Assessment Guideline.
  - iii. A sketch of the farm property showing each location, identified in accordance with the Pest Risk Assessment Guideline, that was inspected for stand loss and each location, identified in accordance with the Guideline, in which there was no stand loss evident.
  - iv. The number of plants unaffected by crop damage in each location referred to in subparagraph iii, determined in accordance with the Pest Risk Assessment Guideline.
  - v. The average number of plants per acre unaffected by crop damage, determined in accordance with the Pest Risk Assessment Guideline.
  - vi. The percentage of stand loss determined in accordance with the Pest Risk Assessment Guideline.
- 6. The method used in the inspection confirmed under paragraph 3.
- 7. The date on which the inspection confirmed under paragraph 3 was conducted.
- 8. The name of the person who conducted the inspection confirmed under paragraph 3.
- 9. The name of the person who prepared and signed the report.
- 10. The name of the owner or operator of the agricultural operation for which each farm property referred to in paragraph 1 is used. O. Reg. 134/20, s. 4 (1).

(2) An inspection referred to in paragraph 3 of subsection (1) shall be conducted by a person referred to in clause 45.1 (1) (a) and the person shall prepare and sign the pest risk assessment report. O. Reg. 134/20, s. 4 (1).

(3) A pest assessment report that has been prepared and signed under this Regulation no later than the day subsection 4 (1) of Ontario Regulation 134/20 made under the Act comes into force is deemed to be a pest risk assessment report and to have met the requirements in respect of a pest risk assessment report. O. Reg. 134/20, s. 4 (1).

**Note:** On May 1, 2020, section 8.2 of the Regulation is revoked. (See: O. Reg. 134/20, s. 4 (2))

**8.3 REVOKED:** O. Reg. 139/15, s. 8 (3).

## GENERAL PROHIBITIONS AND EXEMPTIONS

### Prohibition, use of pesticides

- 9.** (1) Subject to sections 10, 13, 13.1, 14 and 15, no person shall use a pesticide unless it is,
- (a) classified under this Regulation as a Class 1, 2, 3, 4, 5, 6 or 7 pesticide and registered under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada); or

**Note:** On May 1, 2020, clause 9 (1) (a) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 5)

- (a) classified under this Regulation as a Class A, B, C or D pesticide; or
- (b) an imported pesticide for which,
  - (i) an equivalency certificate issued under section 39 of the *Pest Control Products Regulations* (Canada) is in effect, and
  - (ii) an own-use import certificate issued under section 41 of the *Pest Control Products Regulations* (Canada) is in effect. O. Reg. 63/09, s. 9 (1); O. Reg. 139/15, s. 9.

(2) Subject to sections 10, 13, 13.1, 14 and 15, the provisions of this Regulation that govern the use of a pesticide referred to in clause (1) (a) also apply to an imported pesticide referred to in clause (1) (b) if the equivalency certificate for the imported pesticide states that the imported pesticide is equivalent to the pesticide referred to in clause (1) (a). O. Reg. 63/09, s. 9 (2); O. Reg. 139/15, s. 9.

(3) Subject to sections 10, 13, 13.1, 14 and 15, no person shall use a pesticide except in accordance with the label for the pesticide and this Regulation. O. Reg. 63/09, s. 9 (3); O. Reg. 139/15, s. 9.

### Use of Class E pesticides

**9.1** (1), (2) REVOKED: O. Reg. 134/20, s. 6 (1).

(3) No person shall use a treated seed that is a Class 12 pesticide except in accordance with the directions that are required to be set out on the label or tag for the treated seed that is the Class 12 pesticide, as described in subsection (4). O. Reg. 139/15, s. 10.

**Note: On May 1, 2020, subsection 9.1 (3) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”. (See: O. Reg. 134/20, s. 6 (2))**

(4) The directions that are required to be set out on the label or tag referred to in subsection (3) are the directions that are required, with respect to the pesticide that was used to treat the seed so that it became the Class 12 pesticide, to be set out on the label or tag for the treated seed by the Pesticide Product Information Database, available on a website of the Government of Canada as amended from time to time. O. Reg. 139/15, s. 10.

**Note: On May 1, 2020, subsection 9.1 (4) of the Regulation is amended by striking out “Class 12” and substituting “Class E”. (See: O. Reg. 134/20, s. 6 (3))**

#### **Exemption, scientific purposes**

**10.** (1) A person is exempt from sections 9 and 9.1 of this Regulation and from subsections 5 (1) and 7 (1) of the Act with respect to the use of a pesticide if,

- (a) the person uses the pesticide for the purpose of research or a test;
- (b) the person uses the pesticide on the premises of a research centre, university or other institution of learning, or on experimental properties used for the purpose of the research or test; and
- (c) the person who uses the pesticide is,
  - (i) a person affiliated with a research centre, university or other institution of learning,
  - (ii) a professional researcher from industry, the Government of Ontario or the Government of Canada, or
  - (iii) a person under the supervision or authority of a person mentioned in subclause (ii). O. Reg. 63/09, s. 10 (1); O. Reg. 139/15, s. 11.

(2) A person who uses a pesticide for the purpose of research or a test who does not meet the requirements mentioned in clauses (1) (b) and (c) is exempt from section 9 of this Regulation and from subsections 5 (1) and 7 (1) of the Act with respect to the extermination if written approval to use the pesticide is obtained from the Director at least seven days before the use. O. Reg. 63/09, s. 10 (2).

(3) In providing an approval under subsection (2), the Director shall specify the time period, not exceeding five years, during which the approval is valid. O. Reg. 63/09, s. 10 (3).

(4) A person who uses a pesticide pursuant to an approval provided under subsection (2) shall,

- (a) use the pesticide for the purpose identified in the approval; and
- (b) carry a copy of the approval or have it readily available at the extermination site. O. Reg. 63/09, s. 10 (4).

#### **Prohibition, DDT, etc.**

**11.** (1) No person shall use, handle, store, display, dispose of, sell, offer for sale, transfer or transport any of the following pesticides:

- 1. Aldrin.
- 2. Chlordane.
- 3. Chlordecone.
- 4. Dichlorodiphenyltrichloroethane (DDT).
- 5. Dieldrin.
- 6. Endrin. O. Reg. 63/09, s. 11 (1).

(2) Despite subsection (1), a pesticide mentioned in that subsection may be managed and disposed of as a hazardous waste in accordance with the *Environmental Protection Act* and the regulations under that Act. O. Reg. 63/09, s. 11 (2).

#### **Prohibition, use of water**

**12.** (1) No person shall use water from a well or from a lake, river or other body of surface water in an extermination unless the person takes measures to prevent the backflow of pesticides into the water. O. Reg. 63/09, s. 12 (1).

(2) No person shall wash any equipment used in an extermination in or near a well or in or near a lake, river or other body of surface water in a manner that causes or may cause a pesticide to be directly or indirectly discharged into the well, or into the lake, river or other body of surface water. O. Reg. 63/09, s. 12 (2).

#### **Exemption, specified pesticides**



13. The Act and the regulations do not apply with respect to the use, handling, storage, display, disposal, sale, offer for sale, transfer or transportation of the following:

1. A pesticide that is a machine, apparatus or piece of equipment that does not use a pesticide classified under this Regulation, a chemical agent or a microbiological agent.

**Note: On May 1, 2020, paragraph 1 of section 13 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 7 (1))**

1. A pesticide that is a machine, apparatus or piece of equipment, if it does not contain or use another pesticide classified under this Regulation, a chemical agent or a microbiological agent.
2. A pesticide, including an algacide, slimicide or bactericide, that is not classified under this Regulation but is registered under the *Pest Control Products Act* (Canada) and is used only in the extermination of micro-organisms.

**Note: On May 1, 2020, paragraph 2 of section 13 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 7 (1))**

2. A pesticide that is an algacide, slimicide, bactericide, cleanser or disinfectant that meets the following criteria:
  - i. It is registered under the *Pest Control Products Act* (Canada).
  - ii. Its label does not indicate use in, on or over land or surface water.
  - iii. Its label only indicates use for the extermination of micro-organisms or for manufacturing.
3. A pesticide that is a living animal that is not classified under this Regulation and that is not registered under the *Pest Control Products Act* (Canada).

**Note: On May 1, 2020, paragraph 3 of section 13 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 7 (1))**

3. Except if it is a Class E pesticide or a pesticide registered under the *Fertilizers Act* (Canada),
  - i. a pesticide that is not an imported pesticide and that is exempt from the application of the *Pest Control Products Act* (Canada), and
  - ii. a pesticide that is exempt from subsection 6 (1) of the *Pest Control Products Act* (Canada).
- 3.1 A pesticide that is a living animal that is not classified under this Regulation.

4. A pesticide that is a treated seed but is not a Class 12 pesticide. O. Reg. 63/09, s. 13; O. Reg. 139/15, s. 12.

**Note: On May 1, 2020, paragraph 4 of section 13 of the Regulation is amended by striking out “Class 12” and substituting “Class E”. (See: O. Reg. 134/20, s. 7 (2))**

#### **Exemption, Class 12 pesticides**

**13.1** (1) Sections 9, 107 and 114 do not apply with respect to the use, storage and transportation of a Class 12 pesticide. O. Reg. 139/15, s. 13.

(2) The Act and the regulations do not apply with respect to the use, sale and transfer of a Class 12 pesticide that is to be used in accordance with a seed production contract for the purpose of producing a soybean seed crop of certified status, as defined in subsection 2 (2) of the Seeds Regulations made under the *Seeds Act* (Canada). O. Reg. 139/15, s. 13.

(3) Every person who uses, sells or transfers a Class 12 pesticide for the purpose described in subsection (2) shall keep a copy of the seed production contract for a period of at least two years from the date of the expiry of the contract. O. Reg. 139/15, s. 13.

**Note: On May 1, 2020, section 13.1 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 8)**

#### **Exemptions, Class E pesticides**

**13.1** (1) Sections 9, 107 and 114 do not apply with respect to the use, storage and transportation of a Class E pesticide. O. Reg. 134/20, s. 8.

(2) The Act and the regulations do not apply with respect to the use, sale and transfer of a Class E pesticide that is to be used in accordance with a seed production contract for the purpose of producing a soybean seed crop of certified status, as defined in subsection 2 (2) of the Seeds Regulations made under the *Seeds Act* (Canada). O. Reg. 134/20, s. 8.

(3) Every person who uses, sells or transfers a Class E pesticide for the purpose described in subsection (2) shall keep a copy of the seed production contract for a period of at least two years from the date of the expiry of the contract. O. Reg. 134/20, s. 8.

#### **Exemption, specified persons**

**14.** The following persons are exempt from the Act and the regulations with respect to the use, storage, sale, offer for sale, transfer or transportation of a pesticide in carrying out their professional duties:

1. A member of a College as defined in the *Regulated Health Professions Act, 1991*.

2. A medical officer of health or a member of the staff of a board of health under the *Health Protection and Promotion Act*.
3. A member of the College of Veterinarians of Ontario. O. Reg. 63/09, s. 14.

**Exemption, attachment of molluscs to works**

**15.** A person is exempt from the Act and the regulations with respect to the use, handling, storage, display, disposal, sale, offer for sale, transfer or transportation of a pesticide if,

- (a) the use of the pesticide is authorized under the *Ontario Water Resources Act* for the purpose of discouraging or eliminating the attachment of molluscs to works under that Act; or
- (b) the use of the pesticide is authorized under the *Safe Drinking Water Act, 2002* for the purpose of discouraging or eliminating the attachment of molluscs to works under that Act. O. Reg. 279/09, s. 3.

**USE OF PESTICIDES FOR COSMETIC PURPOSES**

**Prescribed pesticides, s. 7.1 (1) of the Act**

**16.** Class 9 pesticides are prescribed for the purposes of subsection 7.1 (1) of the Act. O. Reg. 63/09, s. 16.

**Note: On May 1, 2020, the heading immediately before section 16 and section of the Regulation are revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

**USE OF PESTICIDES FOR COSMETIC PURPOSES — SECTION 7.1 OF THE ACT**

**Definitions of terms used in Act**

**16.** For the purposes of subsection 7.1 (2) of the Act,

“agriculture” means an agricultural operation as defined in subsection 1 (1) that is carried out in, on or over land; (“agriculture”)

“forestry” means forestry as defined in subsection 1 (1); (“activités forestières”)

“golf courses” means the areas used or intended to be used as playing surfaces in the game of golf, including tees, fairways, greens and rough; (“terrains de golf”)

“promotion of public health or safety” means,

- (a) the destruction, prevention or control of animals that bite, sting, are venomous or carry disease, including wasps, mosquitoes and ticks,
- (b) the destruction, prevention or control of plants that are poisonous to humans by touch, including poison ivy, poison sumac and giant hogweed, or
- (c) the destruction, prevention or control of plants, fungi or animals that affect public works and other buildings and structures, including carpenter ants and termites. (“promotion de la santé ou de la sécurité publiques”) O. Reg. 134/20, s. 9.

**Definitions of terms used in Act**

**17.** For the purposes of subsection 7.1 (2) of the Act,

“agriculture” means an agricultural operation as defined in subsection 1 (1) that is carried out in, on or over land; (“agriculture”)

“forestry” means forestry as defined in subsection 1 (1); (“activités forestières”)

“golf courses” means the areas used or intended to be used as playing surfaces in the game of golf, including tees, fairways, greens and rough; (“terrains de golf”)

“promotion of public health or safety” means,

- (a) the destruction, prevention or control of animals that bite, sting, are venomous or carry disease, including wasps, mosquitoes and ticks,
- (b) the destruction, prevention or control of plants that are poisonous to humans by touch, including poison ivy, poison sumac and giant hogweed, or
- (c) the destruction, prevention or control of plants, fungi or animals that affect public works and other buildings and structures, including carpenter ants and termites. (“promotion de la santé ou de la sécurité publiques”) O. Reg. 63/09, s. 17.

**Note: On May 1, 2020, section 17 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

**Listed active ingredients, cosmetic purpose**

**17. (1)** For the purposes of paragraph 1 of subsection 7.1 (1) of the Act, the Director shall apply the following rules for the purpose of determining whether an active ingredient is appropriate for use for a cosmetic purpose:

1. An active ingredient is appropriate for use for a cosmetic purpose only if it is contained in a Class C or D pesticide with a label that indicates at least one use that is not mentioned in subsection 7.1 (2) of the Act.
2. An active ingredient is appropriate for use for a cosmetic purpose only if the Director is satisfied that,
  - i. the active ingredient is a biopesticide, or
  - ii. based on consideration of the following factors, the active ingredient poses a low risk to human health and the environment:
    - A. The active ingredient has a low inherent toxicity to non-target organisms.
    - B. The products in which the active ingredient is contained have a low potential for their use to result in significant human or environmental exposure.
    - C. The active ingredient is not persistent in the environment.
    - D. The active ingredient is widely available to the public and has a history of safe use for a purpose other than as a pesticide.
    - E. The active ingredient has a mode of action that is not the result of toxicity to the target organism. O. Reg. 134/20, s. 9.

(2) The following persons may submit to the Director a request that the Director determine whether an active ingredient is appropriate for use for a cosmetic purpose:

1. A person who has registered a pesticide that contains the active ingredient under the *Pest Control Products Act* (Canada).
2. The Canadian agent of a person mentioned in paragraph 1. O. Reg. 134/20, s. 9.

**Golf courses, accreditation by integrated pest management body**

**18. (1)** If a pesticide mentioned in section 16 is used in relation to a golf course, the owner or operator of the golf course must ensure that the golf course is accredited by an integrated pest management body that has been approved by the Director for the purposes of this section. O. Reg. 63/09, s. 18 (1).

(2) Subject to subsection (3), the owner or operator of a golf course is exempt from subsection (1) until the later of the following dates:

1. April 22, 2012.
2. The second anniversary of the first day pesticides are used on the golf course. O. Reg. 63/09, s. 18 (2).

(3) Subsection (2) applies if the golf course is registered by an integrated pest management body mentioned in subsection (1) before the later of the following dates and the registration is maintained:

1. April 22, 2010.
2. The first day pesticides are used on the golf course. O. Reg. 63/09, s. 18 (3).

(4) If the owner or operator of a golf course has taken steps to meet the condition set out in subsection (3) and the Director is of the opinion that meeting that condition would cause undue hardship to the owner or operator of the golf course, the Director may, in writing, specify a later date by which the golf course must be registered by an integrated pest management body mentioned in subsection (1) for the purposes of subsection (3). O. Reg. 63/09, s. 18 (4).

(5) For the purposes of this section and sections 19, 20 and 21, the operator of a golf course is a person who is responsible for managing or supervising the golf course and includes a golf course superintendent or manager. O. Reg. 63/09, s. 18 (5).

**Note: On May 1, 2020, section 18 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

**Prescribed document, listed active ingredients**

**18.** For the purposes of paragraph 2 of subsection 7.1 (1) of the Act, the document entitled “List of Active Ingredients Authorized for Cosmetic Uses (Allowable List)” is the prescribed document in which the Director must list the active ingredients determined under section 17 of this Regulation to be appropriate for use for a cosmetic purpose. O. Reg. 134/20, s. 9.

**Golf courses, annual report**

**19. (1)** The owner or operator of a golf course on which a pesticide mentioned in section 16 is used shall ensure that an annual report is prepared in accordance with this section. O. Reg. 63/09, s. 19 (1).

(2) The annual report mentioned in subsection (1) shall cover the period from January 1 to December 31 in a year in which a pesticide mentioned in section 16 is used on the golf course and shall be prepared before June 30 in the following year. O. Reg. 63/09, s. 19 (2).

(3) The annual report mentioned in subsection (1) shall be prepared in a form approved by the Director. O. Reg. 63/09, s. 19 (3).

(4) The annual report mentioned in subsection (1) shall set out the following information with respect to the use of Class 2, 3, 4, 5, 6 and 7 pesticides on the golf course:

1. The name of each pesticide ingredient contained in the pesticides used and the reasons for the use of pesticides containing those ingredients.
2. The quantity in kilograms of each pesticide ingredient used.
3. If an annual report was prepared previously, an explanation of any differences between the information provided under paragraphs 1 and 2 and the information provided under those paragraphs in the most recently prepared annual report.
4. A map or plan of the golf course showing all application areas.
5. An explanation of how maintaining accreditation by the integrated pest management body minimized the use of the pesticide ingredients on the golf course and how it will minimize the use during the year in which the report is prepared.
6. The name, contact information, registration number and signature of the golf course's integrated pest management agent or another person approved in writing by the integrated pest management body for the purposes of this section.
7. Confirmation by the owner or a representative of the owner of the golf course that the report is complete.
8. Any other information that, in the opinion of the Director, is relevant to the use of pesticides and with respect to which the Director has notified the owner or operator of the golf course. O. Reg. 63/09, s. 19 (4).

(5) Subsection (1) does not apply until January 1, 2010. O. Reg. 63/09, s. 19 (5).

**Note: On May 1, 2020, section 19 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Annual reports**

**19. (1)** The owner or operator of any of the following shall ensure that an annual report is prepared in accordance with this section if an unlisted pesticide is used in, on or over land that forms part of any of the following:

1. A golf course.
2. A public work.
3. Specialty turf mentioned in subsection 24 (1).
4. A cemetery within the meaning of section 27. O. Reg. 134/20, s. 9.

(2) The annual report shall cover the use of unlisted pesticides in, on or over land during the period from January 1 to December 31 in a year and shall be prepared before January 31 in the following year. O. Reg. 134/20, s. 9.

(3) The annual report shall be in a form approved by the Director. O. Reg. 134/20, s. 9.

(4) The annual report shall set out the following information with respect to the use of unlisted pesticides in, on or over land during the year:

1. The name of each active ingredient used.
2. The quantity in kilograms of each active ingredient used.
3. The reason for using each active ingredient.
4. Except in the case of the owner or operator of a golf course, the method of use for each active ingredient.
5. A map or plan showing the location of all application areas.
6. Except in the case of the owner or operator of a golf course, an explanation of how future use of each active ingredient used will be minimized.
7. The signature of the integrated pest management agent or another person who is certified by an integrated pest management body approved by the Director and who used, supervised the use of or provided any written instructions on the use of unlisted pesticides. O. Reg. 134/20, s. 9.

(5) In the case of the owner or operator of a golf course, in addition to complying with subsection (4), the annual report shall set out the following additional information with respect to the use of unlisted pesticides in, on or over land:

1. If an annual report was prepared previously,

- i. the information provided under paragraphs 1 and 2 of subsection (4) in the most recently prepared annual report, and
  - ii. an explanation of any differences between the information provided in the current annual report and the information mentioned in subparagraph i.
2. An explanation of how the employment of integrated pest management principles and maintaining accreditation of the golf course by the integrated pest management body has minimized the use of the active ingredients during the year covered by the report and how it will minimize the use during the year in which the report is prepared.
  3. The name, contact information, registration number and signature of the golf course's integrated pest management agent or another person approved in writing by the integrated pest management body for the purposes of this section.
  4. Confirmation by the owner or a representative of the owner of the golf course that the report is complete.
  5. Any other information that, in the opinion of the Director, is relevant to the use of pesticides and with respect to which the Director has notified the owner or operator of the golf course. O. Reg. 134/20, s. 9.
- (6) For a period of at least five years after an annual report is prepared, a copy of the annual report shall be,
- (a) kept at the head office of the applicable owner or operator mentioned in subsection (1);
  - (b) on request, given immediately to a provincial officer or the Director; and
  - (c) on request, given to any person free of charge within seven days after the request. O. Reg. 134/20, s. 9.
- (7) In the case of an owner or operator of a golf course,
- (a) the annual report shall be posted on a website approved by the Director for a period of at least five years; and
  - (b) for a period of at least one year after an annual report is prepared, a copy of the annual report shall be displayed in a prominent place on the property where the golf course is located,
    - (i) in a building that is accessible to the public, if such a building exists, or
    - (ii) if no building that is accessible to the public exists, in a building to which members and guests of the golf course have access. O. Reg. 134/20, s. 9.
- (8) For the purposes of this section, the operator of a golf course is a person who is responsible for managing or supervising the golf course and includes a golf course superintendent or manager. O. Reg. 134/20, s. 9.

**Golf courses, public inspection of annual report**

**20.** (1) The owner or operator of a golf course on which a pesticide mentioned in section 16 is used shall ensure that, on an annual basis, the annual report mentioned in subsection 19 (1) is made available for inspection by members of the public in accordance with the following rules:

1. The annual report shall be made available for inspection before December 1 in the year in which it is required to be prepared.
  2. Not later than 15 days before the annual report is made available for inspection, the report shall be prepared and clauses (6) (a) and (c) shall have been complied with.
  3. Not later than 15 days before the annual report is made available for inspection,
    - i. notice shall be published in a newspaper having general circulation in the area where the golf course is located, setting out,
      - A. the name and address of the golf course,
      - B. the name and telephone number of the owner or a representative of the owner of the golf course, and
      - C. the date on which and the time and place at which the annual report will be available for inspection, and
    - ii. subject to subsection (2), a copy of the notice shall be given to the occupants of each property that abuts or is within 100 metres of the golf course.
  4. A copy of the notice mentioned in subparagraph 3 i shall be kept by the owner or operator for a period of at least two years after its publication. O. Reg. 63/09, s. 20 (1).
- (2) For the purpose of clause 38 (1) (c) of the Act, if more than 50 persons must be notified in order to meet the requirement in subparagraph 3 ii of subsection (1) and the Director is satisfied that it would be unduly onerous to give notice in accordance with clause 38 (1) (a) or (b) of the Act or Ontario Regulation 228/07 (Service of Documents) made under the Act, the notice is sufficiently given if it is given in a manner approved by the Director. O. Reg. 63/09, s. 20 (2).

(3) In approving a manner of giving notice under subsection (2), the Director may specify that the manner of giving notice is sufficient for the purpose of subsequent inspections of annual reports as long as there is no change in the circumstances relevant to the Director's approval. O. Reg. 63/09, s. 20 (3).

(4) The owner or operator of the golf course or a representative of the owner or operator of the golf course shall notify the Director of any changes in the circumstances referred to in subsection (3). O. Reg. 63/09, s. 20 (4).

(5) For a period of at least five years after an annual report mentioned in subsection 19 (1) is prepared,

(a) if the property where the golf course is located has a building that is accessible to the public, a copy of the annual report shall be kept in the building and given, on request, free of charge to any person who presents himself or herself at the building;

(b) if the property where the golf course is located does not have a building that is accessible to the public, a copy of the annual report shall be kept in a building on the property to which members and guests of the golf course have access and shall be given, on request, free of charge to any person who has access to the building;

(c) a copy of the annual report shall be given, on request, to a provincial officer or the Director immediately; and

(d) a copy of the annual report shall be given, on request, to any person free of charge within seven days after the request. O. Reg. 63/09, s. 20 (5).

(6) A copy of the most recently prepared annual report mentioned in subsection 19 (1),

(a) shall be displayed in a prominent place in the building mentioned in clause (5) (a) or (b);

(b) shall be given to any person free of charge, if the person requests a copy during ordinary business hours at the building mentioned in clause (5) (a) or (b); and

(c) shall be posted on a website approved by the Director. O. Reg. 63/09, s. 20 (6).

(7) Subsection (1) does not apply until January 1, 2012. O. Reg. 63/09, s. 20 (7).

**Note: On May 1, 2020, section 20 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Golf courses**

**20.** (1) If an unlisted pesticide is used in, on or over land that forms part of a golf course, the owner or operator of the golf course must ensure that the golf course is accredited by an integrated pest management body that has been approved by the Director for the purposes of this section. O. Reg. 134/20, s. 9.

(2) If a golf course is registered but not yet accredited by an integrated pest management body mentioned in subsection (1) before the first day unlisted pesticides are used in, on or over land that forms part of the golf course and the registration is maintained, the owner and operator of the golf course are exempt from subsection (1) until the second anniversary of the first day unlisted pesticides are used in, on or over land. O. Reg. 134/20, s. 9.

(3) If the owner or operator of a golf course has taken steps to have the golf course registered as described in subsection (2) and the Director is of the opinion that undue hardship would be caused to the owner or operator of the golf course in obtaining registration before the first day unlisted pesticides are used in, on or over land that forms part of the golf course, the Director may, in writing, specify a later date by which the golf course must be registered by an integrated pest management body mentioned in subsection (1) for the purposes of the exemption in subsection (2). O. Reg. 134/20, s. 9.

(4) For the purposes of this section, the operator of a golf course is a person who is responsible for managing or supervising the golf course and includes a golf course superintendent or manager. O. Reg. 134/20, s. 9.

#### **Golf courses, public meeting**

**21.** If an annual report is required to be made available for inspection by members of the public under section 20, the owner or operator of the golf course or a representative of the owner or operator must attend at the date, time and place of the inspection and present the annual report to the members of the public who are present. O. Reg. 63/09, s. 21.

**Note: On May 1, 2020, section 21 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Promotion of public health or safety: public works**

**21.** (1) No person shall use an unlisted pesticide in, on or over land that forms part of a public work to destroy, prevent or control plants, fungi or animals, including carpenter ants and termites, that affect the public work, unless,

(a) the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under the written instructions of a person who is so certified; and

(b) the extermination is performed,

(i) to prevent damage to the structural integrity of the public work, if the potential damage caused to the public work by the plant, fungus or animal would place the health or safety of a person at risk,

- (ii) to facilitate essential maintenance of the public work, if the plant, fungus or animal would interfere with or prevent the maintenance,
- (iii) to allow for emergency access to the public work, if the plant, fungus or animal would interfere with or prevent the access, or
- (iv) to ensure the security of the public work, if the plant, fungus or animal would place the security at risk. O. Reg. 134/20, s. 9.

(2) If the person using the unlisted pesticide is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued to the person by the integrated pest management body. O. Reg. 134/20, s. 9.

(3) If the person using the unlisted pesticide is working under the written instructions of a person who is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site a copy of the following:

- 1. The certificate issued to the certified person.
- 2. The written instructions. O. Reg. 134/20, s. 9.

(4) Despite subsection (1), no person shall use an unlisted pesticide in, on or over land that forms part of a portion of a highway that is intended for pedestrian access or other portions where the public is invited to stop, including a rest area or picnic area. O. Reg. 134/20, s. 9.

#### **Health or safety, poisonous plants**

**22.** (1) No person shall use a pesticide mentioned in section 16 to destroy, prevent or control plants that are poisonous to humans by touch, including poison ivy, poison sumac and giant hogweed, unless,

- (a) the person is a licensed exterminator authorized to perform the extermination; and
- (b) the person uses,
  - (i) a Class 2, 3 or 4 herbicide whose only pesticide ingredient is a Class 10 pesticide, or
  - (ii) a Class 5, 6 or 7 herbicide. O. Reg. 63/09, s. 22 (1).

(2) Despite subsection (1), any person may use a Class 5, 6 or 7 herbicide to destroy, prevent or control a plant mentioned in subsection (1) if the person uses the herbicide on land that he or she owns or occupies. O. Reg. 63/09, s. 22 (2).

**Note: On May 1, 2020, section 22 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Promotion of public health or safety: other buildings, structures**

**22.** No person shall use an unlisted pesticide in, on or over land on which a building or structure that is not part of a public work is located to destroy, prevent or control plants, fungi or animals, including carpenter ants and termites, that affect the building or structure, unless,

- (a) the extermination is performed to prevent damage to the structural integrity of the building or structure, if the potential damage caused to the building or structure by the plant, fungus or animal would place the health or safety of a person at risk; and
- (b) if the unlisted pesticide is an herbicide, it is a Class B or C herbicide with a label that indicates that its only active ingredient is glufosinate ammonium or glyphosate or both. O. Reg. 134/20, s. 9.

#### **Health or safety, buildings and structures**

**23.** (1) No person shall use a pesticide mentioned in section 16 to destroy, prevent or control plants, fungi or animals that affect public works and other buildings and structures, including carpenter ants and termites, unless the person uses the pesticide,

- (a) to prevent damage to the structural integrity of a public work, if the potential damage caused to the public work by the plant, fungus or animal would place the health or safety of a person at risk;
- (b) to facilitate essential maintenance of a public work, if the plant, fungus or animal would interfere with or prevent the maintenance;
- (c) to allow for emergency access to a public work, if the plant, fungus or animal would interfere with or prevent the access;
- (d) to ensure the security of a public work, if the plant, fungus or animal would place the security at risk; or
- (e) to prevent damage to the structural integrity of a building or other structure that is not part of a public work, if the potential damage caused to the building or structure by the plant, fungus or animal would place the health or safety of a person at risk. O. Reg. 63/09, s. 23 (1).

(2) Despite subsection (1), no person shall use a pesticide mentioned in section 16 on a portion of a highway to which pedestrians have access on a regular basis or other portions where the public is invited to stop, including a rest area or picnic area. O. Reg. 63/09, s. 23 (2).

**Note: On May 1, 2020, section 23 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

**Promotion of public health or safety: poisonous plants**

**23.** (1) No person shall use an unlisted pesticide in, on or over land to destroy, prevent or control plants that are poisonous to humans by touch, including poison ivy, poison sumac and giant hogweed, unless the person only uses a Class B, C or D herbicide with a label that indicates that its only active ingredient is glufosinate ammonium or glyphosate or both. O. Reg. 134/20, s. 9.

(2) No person shall use an unlisted pesticide that is a Class D herbicide with a label described in subsection (1) in, on or over land for a use described in that subsection if its label also indicates that mixing or dilution is required in order for the pesticide to be used. O. Reg. 134/20, s. 9.

**Health or safety, public works**

**24.** (1) No person shall use a pesticide mentioned in section 16 in an extermination with respect to a public work to destroy, prevent or control plants, fungi or animals that affect the public work unless the person is,

- (a) a licensed exterminator whose licence authorizes the performance of the extermination and who is certified by an integrated pest management body approved by the Director for the purposes of this section;
- (b) a licensed exterminator whose licence authorizes the performance of the extermination, working under written instructions of a licensed exterminator mentioned in clause (a); or
- (c) a person mentioned in Column 1 of the Table to section 46 who meets the conditions and requirements that apply to the person under section 46 and who,
  - (i) is supervised in accordance with section 48 by a licensed exterminator mentioned in clause (a) or (b), and
  - (ii) is working under written instructions of a licensed exterminator mentioned in clause (a). O. Reg. 63/09, s. 24 (1).

(2) If the person using the pesticide is a licensed exterminator mentioned in clause (1) (a), the person shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued to him or her by the integrated pest management body. O. Reg. 63/09, s. 24 (2).

(3) If the person using the pesticide is a licensed exterminator mentioned in clause (1) (b), the person shall carry or have readily available at the extermination site,

- (a) a copy of the certificate issued to the licensed exterminator mentioned in clause (1) (a); and
- (b) a copy of the written instructions of the licensed exterminator mentioned in clause (1) (a). O. Reg. 63/09, s. 24 (3).

(4) If a licensed exterminator whose licence authorizes the performance of the extermination mentioned in subsection (1) is not present during the performance of the extermination, the person using the pesticide shall carry or have readily available at the extermination site,

- (a) a copy of the certificate issued to the licensed exterminator mentioned in clause (1) (a); and
- (b) a copy of the written instructions of the licensed exterminator mentioned in clause (1) (a). O. Reg. 63/09, s. 24 (4).

**Note: On May 1, 2020, section 24 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

**Specialty turf**

**24.** (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in, on or over land to maintain specialty turf is a prescribed use if,

- (a) the specialty turf is used for lawn bowling, cricket, lawn tennis or croquet; and
- (b) the specialty turf is the same kind of turf that is used on golf course greens. O. Reg. 134/20, s. 9.

(2) No person shall use an unlisted pesticide in, on or over land to maintain specialty turf described in subsection (1) unless the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under the written instructions of a person so certified. O. Reg. 134/20, s. 9.

(3) If the person using the unlisted pesticide is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued to the person by the integrated pest management body. O. Reg. 134/20, s. 9.

(4) If the person using the unlisted pesticide is working under the written instructions of a person who is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site a copy of the following:



1. The certificate issued to the certified person.
2. The written instructions. O. Reg. 134/20, s. 9.

#### **Health or safety, public works, annual report**

**25.** (1) The owner or operator of a public work with respect to which a pesticide mentioned in section 16 is used shall ensure that an annual report is prepared in accordance with this section. O. Reg. 63/09, s. 25 (1).

(2) The annual report mentioned in subsection (1) shall cover the period from January 1 to December 31 in a year and shall be prepared before April 1 in the following year. O. Reg. 63/09, s. 25 (2).

(3) The annual report mentioned in subsection (1) shall be in a form approved by the Director. O. Reg. 63/09, s. 25 (3).

(4) The annual report mentioned in subsection (1) shall set out the following information with respect to the use of Class 2, 3, 4, 5, 6 and 7 pesticides in land exterminations:

1. The name of each pesticide ingredient contained in the pesticides used.
2. The quantity in kilograms of each pesticide ingredient used.
3. The reason for using each pesticide ingredient.
4. The method of use for each pesticide ingredient.
5. The location of all application areas.
6. An explanation of how future use of each pesticide ingredient used will be minimized.
7. The signature of the person who is certified as described in clause 24 (1) (a) and who used the pesticides, supervised the use or provided any written instructions on the use. O. Reg. 63/09, s. 25 (4).

(5) For a period of at least five years after an annual report mentioned in subsection (1) is prepared, a copy of the annual report shall be,

- (a) kept at the head office of the owner of the public work;
- (b) on request, given immediately to a provincial officer or the Director; and
- (c) on request, given to any person free of charge within seven days after the request. O. Reg. 63/09, s. 25 (5).

**Note: On May 1, 2020, section 25 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Arboriculture**

**25.** (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use in, on or over land of an unlisted pesticide that is a Class B or C pesticide, including an injection into a tree, is prescribed if it is used to maintain the health of a tree. O. Reg. 134/20, s. 9.

(2) No person shall use an unlisted pesticide that is mentioned in subsection (1) in, on or over land to maintain the health of a tree unless,

- (a) the person has obtained a written opinion described in subsections (3) and (4); and
- (b) the use is in accordance with any condition that forms a part of the written opinion. O. Reg. 134/20, s. 9.

(3) The written opinion shall be an opinion from one of the following persons stating that the use of the unlisted pesticide is necessary to maintain the health of the tree:

1. A person certified as an arborist by the International Society of Arboriculture.
2. A person registered as a member under the *Professional Foresters Act, 2000*.
3. A person who has been issued a certificate of qualification as an arborist or a utility arborist under the *Ontario College of Trades and Apprenticeship Act, 2009* or another certificate of qualification that, in the opinion of the Director, is equivalent to one of those certificates.
4. A person who, in the opinion of the Director, has qualifications that are equivalent to those of a person mentioned in paragraph 1, 2 or 3. O. Reg. 134/20, s. 9.

(4) The written opinion shall specify the maximum number of applications of the unlisted pesticide necessary to maintain the health of the tree over a period ending on December 31 in the year in which the opinion is given. O. Reg. 134/20, s. 9.

(5) The person who provides the written opinion shall apply integrated pest management principles in determining whether the use of the unlisted pesticide is necessary to maintain the health of the tree and shall refuse to provide an opinion if he or she determines that the use of the unlisted pesticide is not necessary to maintain the health of the tree. O. Reg. 134/20, s. 9.

(6) At least 24 hours before but not more than seven days before using the unlisted pesticide in, on or over land, the person who will be using the unlisted pesticide shall give written notice setting out the information listed in subsection 80 (1) to the occupants of all properties in a residential area that abut the application area and comply with subsections 80 (2) and (3). O. Reg. 134/20, s. 9.

(7) The person using the unlisted pesticide shall carry or have readily available at the extermination site the written opinion or a copy of it. O. Reg. 134/20, s. 9.

(8) The person who uses the unlisted pesticide shall retain the written opinion or a copy of it for at least 24 months following the completion of the extermination. O. Reg. 134/20, s. 9.

#### **Specialty turf**

**26.** (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of a pesticide mentioned in section 16 in an extermination to maintain specialty turf is a prescribed use if,

(a) the specialty turf is used for lawn bowling, cricket, lawn tennis or croquet; and

(b) the specialty turf is the same kind of turf that is used on golf course greens. O. Reg. 63/09, s. 26 (1).

(2) No person shall use a pesticide mentioned in section 16 on specialty turf described in subsection (1) unless the person is,

(a) a licensed exterminator whose licence authorizes the performance of the extermination and who is certified by an integrated pest management body approved by the Director for the purposes of this section;

(b) a licensed exterminator whose licence authorizes the performance of the extermination, working under written instructions of a licensed exterminator mentioned in clause (a); or

(c) a person mentioned in Column 1 of the Table to section 46 who meets the conditions and requirements that apply to the person under section 46 and who,

(i) is supervised in accordance with section 48 by a licensed exterminator mentioned in clause (a), and

(ii) is working under written instructions of a licensed exterminator mentioned in clause (a). O. Reg. 63/09, s. 26 (2).

(3) If the person using the pesticide is a licensed exterminator mentioned in clause (2) (a), the person shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued to him or her by the integrated pest management body. O. Reg. 63/09, s. 26 (3).

(4) If the person using the pesticide is a licensed exterminator mentioned in clause (2) (b), the person shall carry or have readily available at the extermination site,

(a) a copy of the certificate issued to the licensed exterminator mentioned in clause (2) (a); and

(b) a copy of the written instructions of the licensed exterminator mentioned in clause (2) (a). O. Reg. 63/09, s. 26 (4).

(5) If a licensed exterminator whose licence authorizes the performance of the extermination mentioned in subsection (1) is not present during the performance of the extermination, the person using the pesticide shall carry or have readily available at the extermination site,

(a) a copy of the certificate issued to the licensed exterminator mentioned in clause (2) (a); and

(b) a copy of the written instructions of the licensed exterminator mentioned in clause (2) (a). O. Reg. 63/09, s. 26 (5).

**Note: On May 1, 2020, section 26 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Specified sports fields**

**26.** (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in, on or over land to maintain a sports field for a national or international sporting event is prescribed. O. Reg. 134/20, s. 9.

(2) No person shall use an unlisted pesticide in, on or over land for a use described in subsection (1) unless the following conditions are satisfied:

1. The Minister must approve in writing the use of the unlisted pesticide for the event.

2. The use of the unlisted pesticide must stop when the event concludes.

3. The person who uses the unlisted pesticide must comply with any conditions or limitations imposed by the Minister under subsection (4). O. Reg. 134/20, s. 9.

(3) A request for approval of the use of the unlisted pesticide for the event, including a description of the application area, the purpose of the use and the expected duration of the use, must be submitted to the Minister at least six months before the intended use, or by such other time as may be approved by the Minister. O. Reg. 134/20, s. 9.

(4) In approving the use of an unlisted pesticide for an event under this section, the Minister may impose any conditions or limitations that the Minister considers appropriate. O. Reg. 134/20, s. 9.

(5) No person shall use an unlisted pesticide for an event under this section unless the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under written instructions of a person so certified. O. Reg. 134/20, s. 9.

(6) The person using the unlisted pesticide shall carry or have readily available at the extermination site the Minister's approval mentioned in paragraph 1 of subsection (2) or a copy of the approval. O. Reg. 134/20, s. 9.

(7) If the person using the unlisted pesticide is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued to the person by the integrated pest management body. O. Reg. 134/20, s. 9.

(8) If the person using the unlisted pesticide is working under the written instructions of a person who is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site a copy of the following:

1. The certificate issued to the certified person.
2. The written instructions. O. Reg. 134/20, s. 9.

(9) The Minister may approve the use of an unlisted pesticide for an event under this section only if he or she is of the opinion that,

- (a) the use of the unlisted pesticide is necessary for the hosting of the event; and
- (b) the use of the unlisted pesticide is in the public interest. O. Reg. 134/20, s. 9.

#### **Specialty turf, annual report**

27. (1) The owner or operator of specialty turf mentioned in subsection 26 (1) on which a pesticide mentioned in section 16 is used shall ensure that an annual report is prepared in accordance with this section. O. Reg. 63/09, s. 27 (1).

(2) The annual report mentioned in subsection (1) shall cover the period from January 1 to December 31 in a year and shall be prepared before April 1 in the following year. O. Reg. 63/09, s. 27 (2).

(3) The annual report mentioned in subsection (1) shall be in a form approved by the Director. O. Reg. 63/09, s. 27 (3).

(4) The annual report mentioned in subsection (1) shall set out the following information with respect to the use of Class 2, 3, 4, 5, 6 and 7 pesticides in land exterminations:

1. The name of each pesticide ingredient contained in the pesticides used.
2. The quantity in kilograms of each pesticide ingredient used.
3. The reason for using each pesticide ingredient.
4. The method of use for each pesticide ingredient.
5. The location of all application areas.
6. An explanation of how future use of each pesticide ingredient used will be minimized.
7. The signature of the person who is certified as described in clause 26 (2) (a) and who used the pesticides, supervised the use or provided any written instructions on the use. O. Reg. 63/09, s. 27 (4).

(5) For a period of at least five years after an annual report mentioned in subsection (1) is prepared, a copy of the annual report shall be,

- (a) kept at the head office of the owner of the turf;
- (b) on request, given immediately to a provincial officer or the Director; and
- (c) on request, given to any person free of charge within seven days after the request. O. Reg. 63/09, s. 27 (5).

**Note: On May 1, 2020, section 27 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Cemeteries**

27. (1) For the purpose of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in, on or over land to maintain turf on a lot in a cemetery is a prescribed use. O. Reg. 134/20, s. 9.

(2) No person shall use an unlisted pesticide in, on or over land as described in subsection (1) unless the person is certified by an integrated pest management body approved by the Director for the purposes of this section or working under written instructions of a person so certified. O. Reg. 134/20, s. 9.

(3) If the person using the unlisted pesticide is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site the certificate or a copy of the certificate issued to the person by the integrated pest management body. O. Reg. 134/20, s. 9.

(4) If the person using the unlisted pesticide is working under the written instructions of a person who is certified by an integrated pest management body, the person shall carry or have readily available at the extermination site a copy of the following:

1. The certificate issued to the certified person.
2. The written instructions. O. Reg. 134/20, s. 9.

(5) In this section, the following terms have the same meaning as in the *Funeral, Burial and Cremation Services Act, 2002*:

1. Cemetery.
2. Lot. O. Reg. 134/20, s. 9.

#### **Arboriculture**

**28.** (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, use of the following pesticides is prescribed:

1. A Class 5, 6 or 7 pesticide that is an injection into a tree and that contains a pesticide mentioned in section 16.
2. A Class 2, 3 or 4 pesticide that is an injection into a tree and that contains a pesticide mentioned in section 16.
3. Any pesticide that contains a pesticide mentioned in section 16, other than an injection into a tree, if the pesticide is used to maintain the health of a tree. O. Reg. 63/09, s. 28 (1).

(2) No person shall use a pesticide mentioned in paragraph 2 or 3 of subsection (1) with respect to a tree unless the person using the pesticide obtains a written opinion, stating that the use of the pesticide is necessary to maintain the health of the tree, from one of the following persons:

1. A person certified as an arborist by the International Society of Arboriculture.
2. A person registered as a member under the *Professional Foresters Act, 2000*.
3. A person who has been issued a certificate of qualification as an arborist or a utility arborist under the *Ontario College of Trades and Apprenticeship Act, 2009*, or another certificate of qualification that, in the opinion of the Director, is equivalent to those certificates.
4. A person who, in the opinion of the Director, has qualifications that are equivalent to those of a person mentioned in paragraph 1, 2 or 3. O. Reg. 63/09, s. 28 (2); O. Reg. 42/13, s. 2.

(3) The person who provides a written opinion under subsection (2) shall apply integrated pest management principles in determining whether the use of the pesticide is necessary to maintain the health of the tree and shall refuse to provide an opinion if he or she determines that the use of the pesticide is not necessary to maintain the health of the tree. O. Reg. 63/09, s. 28 (3).

(4) At least 24 hours before but not more than seven days before performing an extermination by means of a pesticide mentioned in paragraph 2 or 3 of subsection (1), the person using the pesticide shall give written notice to the occupants of all properties in a residential area that abut the application area, setting out the following information:

1. The date the extermination is to take place.
2. A description of the application area.
3. The name of the pest to be exterminated.
4. The name of the Class 2, 3, 4, 5, 6 or 7 pesticide to be used and the registration number assigned to it under the *Pest Control Products Act (Canada)* or the *Fertilizers Act (Canada)*.
5. The pesticide ingredients contained in the Class 2, 3, 4, 5, 6 or 7 pesticide to be used.
6. The telephone number of a representative of the person using the pesticide who can provide more information about it. O. Reg. 63/09, s. 28 (4).

(5) If the telephone number that is required to appear on the notice mentioned in subsection (4) is a number to which long distance rates apply from telephones located near the application area, the person who performs the extermination shall ensure that all collect calls are accepted at that number. O. Reg. 63/09, s. 28 (5).

**Note: On May 1, 2020, section 28 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Natural resources**

28. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act and subject to subsection (7), the use of an unlisted pesticide that is a Class B or C pesticide in, on or over land for the purpose of managing, protecting, establishing or restoring natural resources is prescribed if,

- (a) the person who uses the unlisted pesticide is,
  - (i) an employee of, or a person who is providing a service to, the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks who is using the unlisted pesticide in the course of their employment,
  - (ii) an employee of, or a person who is providing a service to, a body responsible for managing a natural resources management project who is using the unlisted pesticide in the course of their employment, if the Ministry of Natural Resources and Forestry or the Ministry of the Environment, Conservation and Parks has entered into a written agreement with the body respecting the project, or
  - (iii) an employee of, or a person who is providing a service to, a conservation authority established under the *Conservation Authorities Act* who is using the unlisted pesticide in the course of their employment; or
- (b) the person who uses the unlisted pesticide is a person other than a person mentioned in clause (a) and a Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or a Director of the Ministry of the Environment, Conservation and Parks has provided a written opinion stating that the use of the unlisted pesticide meets the criteria set out in subsection (2). O. Reg. 134/20, s. 9.

(2) A Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or a Director of the Ministry of the Environment, Conservation and Parks may provide a written opinion mentioned in clause (1) (b) only if he or she is of the opinion that the following criteria are met:

- 1. The purpose for which the unlisted pesticide is to be used is,
  - i. to control an invasive species that may be detrimental to the health of persons or the environment or economy of Ontario,
  - ii. to benefit a species of flora or fauna that is native to Ontario through the protection of the species or its habitat, or the establishment, restoration or management of the species' habitat, or
  - iii. to protect or restore a rare ecosystem or its components.
- 2. The use of the unlisted pesticide would be in accordance with integrated pest management principles. O. Reg. 134/20, s. 9.

(3) A Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or a Director of the Ministry of the Environment, Conservation and Parks may refuse to provide a written opinion mentioned in clause (1) (b) if, in his or her opinion, it would not be in the public interest to do so. O. Reg. 134/20, s. 9.

(4) A person may apply to a Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or a Director of the Ministry of the Environment, Conservation and Parks for a written opinion mentioned in clause (1) (b) and the application must be in writing. O. Reg. 134/20, s. 9.

(5) In providing a written opinion mentioned in clause (1) (b), a Regional Director or Branch Director of the Ministry of Natural Resources and Forestry or a Director of the Ministry of the Environment, Conservation and Parks shall set out,

- (a) the name of the person authorized to use the unlisted pesticide;
  - (b) the street address or legal description of the property or properties that contain the application area;
  - (c) the purpose for which the unlisted pesticide is to be used; and
  - (d) the time period, not exceeding five years, during which the opinion is valid. O. Reg. 134/20, s. 9.
- (6) A person who uses an unlisted pesticide under clause (1) (b) shall,
- (a) use the unlisted pesticide for the purpose identified in the written opinion; and
  - (b) carry a copy of the written opinion or have it readily available at the extermination site. O. Reg. 134/20, s. 9.

(7) Subsection (1) applies only if the use of the unlisted pesticide is not otherwise authorized under subsection 7.1 (2) of the Act. O. Reg. 134/20, s. 9.

#### **Specified sports fields**

29. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of a pesticide mentioned in section 16 for the purpose of maintaining a sports field for a national or international sporting event is prescribed. O. Reg. 63/09, s. 29 (1).

- (2) If the pesticide is used for the purpose mentioned in subsection (1), the following conditions apply:

1. At least six months before the intended use of the pesticide for the event, or by such other time as may be approved by the Minister, the person who intends to use the pesticide must,
    - i. submit to the Minister a description of the application area, the purpose and expected duration of the use, and
    - ii. request that the Minister approve the use.
  2. The Minister must approve in writing the use of the pesticide for the event.
  3. The use of the pesticide must stop when the event concludes.
  4. The person mentioned in paragraph 1 must comply with any conditions or limitations imposed by the Minister under subsection (3). O. Reg. 63/09, s. 29 (2); O. Reg. 279/09, s. 4 (1, 2); O. Reg. 139/15, s. 14.
- (3) In approving the use of a pesticide for an event under this section, the Minister may impose any conditions or limitations that the Minister considers appropriate. O. Reg. 279/09, s. 4 (3).
- (4) The Minister may approve the use of a pesticide for an event under this section only if he or she is of the opinion that,
- (a) the use of the pesticide is necessary for the hosting of the event; and
  - (b) the use of the pesticide is in the public interest. O. Reg. 279/09, s. 4 (3).

**Note: On May 1, 2020, section 29 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Other legislative requirements**

**29.** For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide that is a Class B or C pesticide in, on or over land for the purpose of complying with a requirement under an Act of Canada or Ontario is prescribed if the use of the unlisted pesticide is the only effective and practical means of complying with the requirement. O. Reg. 134/20, s. 9.

#### **Uses integral to structural extermination**

**30.** For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of a pesticide mentioned in section 16 in, on or over land is prescribed if the use is integral to a structural extermination. O. Reg. 63/09, s. 30.

**Note: On May 1, 2020, section 30 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Uses integral to structural extermination**

**30.** For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in, on or over land is prescribed if the use is integral to a structural extermination. O. Reg. 134/20, s. 9.

#### **Scientific purposes**

**31.** (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of a pesticide mentioned in section 16 for the purpose of research, a test or the preservation of a germplasm collection is prescribed. O. Reg. 63/09, s. 31 (1).

(2) Subject to subsection (3), no person shall use a pesticide mentioned in section 16 for the purpose of research or a test unless,

- (a) the person uses the pesticide on the premises of a research centre, university or other institution of learning, or on experimental properties used for the purpose of the research or test; and
- (b) the person who uses the pesticide is,
  - (i) a person affiliated with a research centre, university or other institution of learning,
  - (ii) a professional researcher from industry, the Government of Ontario or the Government of Canada, or
  - (iii) a person under the supervision or authority of a person mentioned in subclause (ii). O. Reg. 63/09, s. 31 (2).

(3) If a person does not meet the requirements mentioned in clauses (2) (a) and (b), the person shall obtain a written approval to use the pesticide from the Director at least seven days before using the pesticide for the purpose of research or a test. O. Reg. 63/09, s. 31 (3).

(4) In providing an approval under subsection (3), the Director shall specify the time period, not exceeding five years, during which the approval is valid. O. Reg. 63/09, s. 31 (4).

(5) No person shall use a pesticide mentioned in section 16 for the purpose of preserving a germplasm collection unless he or she obtains from the Director a written approval issued in accordance with subsection (6). O. Reg. 63/09, s. 31 (5).

(6) The Director may provide an approval mentioned in subsection (5) only if he or she is of the opinion that the following criteria are met:

1. The purpose for which the pesticide is to be used is in the public interest.
2. The purpose for which the pesticide is to be used is to preserve a germplasm collection.

3. The use of the pesticide is the only effective and practical means of preserving the germplasm collection. O. Reg. 63/09, s. 31 (6).
- (7) In providing an approval mentioned in subsection (5), the Director shall set out,
  - (a) the name of the person authorized to use the pesticide;
  - (b) a description of the application area;
  - (c) the reason the use of the pesticide is the only effective and practical means to preserve the germplasm collection; and
  - (d) the time period, not exceeding five years, during which the approval is valid. O. Reg. 63/09, s. 31 (7).
- (8) A person who uses a pesticide mentioned in section 16 pursuant to an approval provided under subsection (3) or (5) shall,
  - (a) use the pesticide for the purpose identified in the approval; and
  - (b) carry a copy of the approval or have it readily available at the extermination site. O. Reg. 63/09, s. 31 (8).

**Note: On May 1, 2020, section 31 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 9)**

#### **Scientific purposes**

**31.** (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act, the use of an unlisted pesticide in, on or over land for the purpose of research, a test or the preservation of a germplasm collection is prescribed. O. Reg. 134/20, s. 9.

(2) Subject to subsection (3), no person shall use an unlisted pesticide in, on or over land for the purpose of research or a test unless,

- (a) the person uses the unlisted pesticide on the premises of a research centre, university or other institution of learning, or on experimental properties used for the purpose of the research or test; and
- (b) the person who uses the unlisted pesticide is,
  - (i) a person affiliated with a research centre, university or other institution of learning,
  - (ii) a professional researcher from industry, the Government of Ontario or the Government of Canada, or
  - (iii) a person under the supervision or authority of a person mentioned in subclause (ii). O. Reg. 134/20, s. 9.

(3) If a person does not meet the requirements mentioned in clauses (2) (a) and (b), the person shall obtain a written approval to use the unlisted pesticide from the Director at least seven days before using the unlisted pesticide for the purpose of research or a test. O. Reg. 134/20, s. 9.

(4) In providing an approval under subsection (3), the Director shall specify the time period, not exceeding five years, during which the approval is valid. O. Reg. 134/20, s. 9.

(5) No person shall use an unlisted pesticide in, on or over land for the purpose of preserving a germplasm collection unless he or she obtains from the Director a written approval issued in accordance with subsection (6). O. Reg. 134/20, s. 9.

(6) The Director may provide an approval mentioned in subsection (5) only if he or she is of the opinion that the following criteria are met:

1. The purpose for which the unlisted pesticide is to be used is in the public interest.
2. The purpose for which the unlisted pesticide is to be used is to preserve a germplasm collection.
3. The use of the unlisted pesticide is the only effective and practical means of preserving the germplasm collection. O. Reg. 134/20, s. 9.

(7) In providing an approval mentioned in subsection (5), the Director shall set out,

- (a) the name of the person authorized to use the unlisted pesticide;
  - (b) a description of the application area;
  - (c) the reason the use of the unlisted pesticide is the only effective and practical means to preserve the germplasm collection; and
  - (d) the time period, not exceeding five years, during which the approval is valid. O. Reg. 134/20, s. 9.
- (8) A person who uses an unlisted pesticide pursuant to an approval provided under subsection (3) or (5) shall,
- (a) use the unlisted pesticide for the purpose identified in the approval; and
  - (b) carry a copy of the approval or have it readily available at the extermination site. O. Reg. 134/20, s. 9.

#### **Other legislative requirements**

32. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act and subject to subsection (2), the use of a pesticide mentioned in section 16 for the purpose of complying with a requirement under an Act of Canada or Ontario is prescribed. O. Reg. 63/09, s. 32 (1).

(2) Subsection (1) applies only if the use of the pesticide is the only effective and practical means of complying with the requirement mentioned in subsection (1). O. Reg. 63/09, s. 32 (2).

**Note: On May 1, 2020, section 32 of the Regulation is revoked. (See: O. Reg. 134/20, s. 9)**

#### Natural resources

33. (1) For the purposes of paragraph 5 of subsection 7.1 (2) of the Act and subject to subsection (7), the use of a pesticide mentioned in section 16 to manage, protect, establish or restore natural resources is prescribed if,

- (a) the person who uses the pesticide is,
  - (i) an employee of the Ministry of Natural Resources,
  - (ii) an employee of a body responsible for managing a natural resources management project, if the Ministry of Natural Resources has entered into a written agreement with the body respecting the project,
  - (iii) an employee of a conservation authority established under the *Conservation Authorities Act*, or
  - (iv) a licensed exterminator authorized to use the pesticide who is providing a service to,
    - (A) the Ministry of Natural Resources,
    - (B) a body responsible for managing a natural resources management project mentioned in subclause (ii), or
    - (C) a conservation authority mentioned in subclause (iii); or
- (b) the person who uses the pesticide is a person other than a person mentioned in clause (a) and a Regional Director or Branch Director of the Ministry of Natural Resources has provided a written opinion stating that the use of the pesticide meets the criteria set out in subsection (2). O. Reg. 63/09, s. 33 (1).

(2) A Regional Director or Branch Director of the Ministry of Natural Resources may provide an opinion mentioned in clause (1) (b) only if he or she is of the opinion that the following criteria are met:

- 1. The purpose for which the pesticide is to be used is,
  - i. to control an invasive species that may be detrimental to the health of persons or the environment or economy of Ontario,
  - ii. to benefit a species of flora or fauna that is native to Ontario through the protection of the species or its habitat, or the establishment, restoration or management of the species' habitat, or
  - iii. to protect or restore a rare ecosystem or its components.

- 2. The use of the pesticide would be in accordance with integrated pest management principles. O. Reg. 63/09, s. 33 (2).

(3) A Regional Director or Branch Director of the Ministry of Natural Resources may refuse to provide an opinion mentioned in clause (1) (b) if, in his or her opinion, it would not be in the public interest to do so. O. Reg. 63/09, s. 33 (3).

(4) A person may apply to the Regional Director or Branch Director of the Ministry of Natural Resources for an opinion mentioned in clause (1) (b) and the application must be in writing. O. Reg. 63/09, s. 33 (4).

(5) In providing an opinion mentioned in clause (1) (b), the Regional Director or Branch Director of the Ministry of Natural Resources shall set out,

- (a) the name of the person authorized to use the pesticide;
- (b) the street address or legal description of the property or properties that contain the application area;
- (c) the purpose for which the pesticide is to be used; and
- (d) the time period, not exceeding five years, during which the opinion is valid. O. Reg. 63/09, s. 33 (5).

(6) A person who uses a pesticide under clause (1) (b) shall,

- (a) use the pesticide for the purpose identified in the written opinion; and
- (b) carry a copy of the written opinion or have it readily available at the extermination site. O. Reg. 63/09, s. 33 (6).

(7) Subsection (1) applies only if the use of the pesticide is not otherwise authorized under subsection 7.1 (2) of the Act. O. Reg. 63/09, s. 33 (7).

**Note: On May 1, 2020, section 33 of the Regulation is revoked. (See: O. Reg. 134/20, s. 9)**



## APPLICATIONS FOR LICENCES AND PERMITS

### Application for licence

**34.** (1) An applicant for the issuance or renewal of a licence shall submit an application and any accompanying documents to the Director using the Ministry's electronic system. O. Reg. 228/18, s. 3.

(2) In addition to anything else required in this Regulation, an application for the issuance or renewal of a licence shall include such information and documents as the Director may require for the purpose of issuing or renewing a licence, determining a fee or ensuring compliance with the licence, the Act and this Regulation. O. Reg. 228/18, s. 3.

(3) An applicant or, if the applicant is a corporation or partnership, a person listed in the application as an official representative of the corporation or partnership in accordance with subsections 38 (7) or 40 (1.1), shall use the Ministry's electronic system to certify that the information in the application and accompanying documents is complete and accurate. O. Reg. 228/18, s. 3.

(4) An application shall not be submitted to the Director unless it complies with this section. O. Reg. 228/18, s. 3.

(5) A person who holds an exterminator's licence shall not submit an application to the Director for the issuance of an exterminator's licence of the same class. O. Reg. 228/18, s. 3.

(6) A person who holds an operator's licence shall not submit an application to the Director for the issuance of an operator's licence of the same class. O. Reg. 228/18, s. 3.

(7) A person who holds a vendor's licence shall not submit an application to the Director for the issuance of a vendor's licence of the same class that is in respect of the same sales outlet for which the licence the person holds was issued. O. Reg. 228/18, s. 3.

### Renewal of licence - timing

**34.1** An applicant for the renewal of a licence shall make the application not earlier than 90 days prior to its expiry date and not later than the expiry date. O. Reg. 228/18, s. 3.

### Expiry date of licence

**34.2** (1) An operator's licence, if not renewed, expires on December 31 of the year in which the licence or the most recent renewal of the licence takes effect. O. Reg. 228/18, s. 3.

(2) A vendor's licence, if not renewed, expires on the fifth anniversary of the day on which the licence or the most recent renewal of the licence takes effect. O. Reg. 228/18, s. 3.

(3) An exterminator's licence, if not renewed, expires on the fifth anniversary of the day on which the licence or the most recent renewal of the licence takes effect. O. Reg. 228/18, s. 3.

(4) Despite subsection (3), an exterminator's licence issued to an applicant in accordance with section 36.1, if not renewed, expires on the earlier of,

(a) the day provided as the expiry date on the applicant's authorizing certificate; and

(b) the fifth anniversary of the day on which the licence takes effect. O. Reg. 228/18, s. 3.

### No expiry date, vendor's licence of Treated Seed Class

**34.2.1** Despite subsection 34.2 (2), a vendor's licence of the Treated Seed Class does not expire. O. Reg. 134/20, s. 10.

### Updating information

**34.3** (1) An applicant for the issuance or renewal of a licence whose application is in the process of being considered shall notify the Director in writing of any change in the information required to be provided in or with the applicant's application or under this subsection within 10 days after the effective date of the change. O. Reg. 228/18, s. 3.

(2) A holder of a licence shall notify the Director, using the Ministry's electronic system, of any change in the information provided in or with the application for the issuance of the licence or under this section within 10 days after the effective date of the change. O. Reg. 228/18, s. 3.

### Effective date of issuance and renewal

**34.4** (1) A licence takes effect on the day it is issued. O. Reg. 228/18, s. 3.

(2) A renewal of an exterminator's licence or vendor's licence takes effect on the day the licence would expire if not renewed. O. Reg. 228/18, s. 3.

(3) A renewal of an operator's licence takes effect on the day following the day the licence would expire if not renewed. O. Reg. 228/18, s. 3.

(4) Despite subsections (2) and (3), if the Director does not renew a licence until after its expiry date, the renewal of the licence takes effect on the day it is renewed. O. Reg. 228/18, s. 3.

**Exterminator's licence, classes**

**35.** For the purposes of subsection 5 (1) of the Act, the Director may issue an exterminator's licence of a class set out in Column 2 of the Table to this section, authorizing the performance of an extermination set out opposite the class in Column 1 of the Table.

TABLE

Item	Column 1 Extermination	Column 2 Classes of licence
1.	Structural	1. Fumigation Commodity. 2. Fumigation General. 3. Fumigation Soil. 4. Fumigation Vault. 5. Greenhouse/Interior Plant. 6. Structural. 7. Termite.
2.	Land	1. Aerial. 2. Agriculture. 3. Forestry. 4. Industrial Vegetation. 5. Landscape.
3.	Water	1. Aquatic Vegetation. 2. Fish/Mollusc. 3. Mosquito/Biting Flies.

O. Reg. 63/09, s. 35.

**Exterminator's licence, requirements**

**36.** (1) An applicant for the issuance or renewal of an exterminator's licence shall meet the following requirements:

1. The applicant shall be at least 16 years of age.
2. REVOKED: O. Reg. 228/18, s. 4 (1).
3. The applicant shall have successfully completed, within 12 months before submitting the application, a course approved by the Director for licensed exterminators of the relevant class or shall have other qualifications that the Director considers equivalent.
4. REVOKED: O. Reg. 228/18, s. 4 (1).

O. Reg. 63/09, s. 36 (1); O. Reg. 228/18, s. 4 (1).

(2) If in the course of his or her employment the applicant performs exterminations for his or her employer, the applicant shall submit to the Director the name of the employer. O. Reg. 228/18, s. 4 (2).

(3) Paragraph 3 of subsection (1) does not apply to the following:

1. An applicant who applies for the renewal of an exterminator's licence within the time period set out in section 34.1.
2. An applicant who applies for the issuance of an exterminator's licence within 24 months after the expiry date of an exterminator's licence that was issued to the applicant, if the licence was of the same class and was not suspended or revoked prior to its expiry. O. Reg. 228/18, s. 4 (2).

(4) Subsection (1) does not apply to an applicant for the issuance of an exterminator's licence in accordance with section 36.1. O. Reg. 228/18, s. 4 (2).

(5) REVOKED: O. Reg. 228/18, s. 4 (2).

**Exterminator's licence, requirements for issuance to out-of-province applicant**

**36.1** (1) REVOKED: O. Reg. 228/18, s. 5 (1).

(2) Subject to subsection 11 (2) of the Act, the Director shall issue an exterminator's licence to an applicant who holds an authorizing certificate issued by an out-of-province regulatory authority in respect of an occupation if,

- (0.a) the applicant applies in accordance with section 34 of this Regulation for the issuance of an exterminator's licence in respect of the same occupation;
- (a) the applicant provides the Director with a copy of the applicant's authorizing certificate;
- (b) the exterminator's licence is, in the opinion of the Director, in respect of the same occupation as the applicant's authorizing certificate;
- (c) the applicant certifies that,

- (i) the out-of-province regulatory authority issued the applicant's authorizing certificate,
- (ii) the authorizing certificate has not expired, and
- (iii) the authorizing certificate has not been cancelled, suspended or revoked; and
- (d) the applicant certifies,
  - (i) the applicant has obtained the training material for the course mentioned in paragraph 3 of subsection 36 (1), and
  - (ii) the applicant is, in his or her opinion, knowledgeable about the legislation and regulations that govern the practice of the occupation of exterminator in Ontario. O. Reg. 469/10, s. 2; O. Reg. 228/18, s. 5 (2-5).

**Operator's licence, class**

**37.** For the purposes of subsection 5 (2) of the Act, the Director may issue an operator's licence of the General class. O. Reg. 63/09, s. 37.

**Operator's licence, requirements**

- 38.** (1) An applicant for the issuance or renewal of an operator's licence shall,
- (a) if the applicant is an individual, be at least 18 years of age; or
  - (b) if the applicant is a corporation or partnership, have one or more official representatives who are directors, officers or partners of the applicant and who are at least 18 years of age. O. Reg. 63/09, s. 38 (1); O. Reg. 228/18, s. 6 (1, 2).
- (2) If an applicant for the issuance or renewal of an operator's licence is an individual, he or she shall be a licensed exterminator. O. Reg. 63/09, s. 38 (2).
- (3), (4) REVOKED: O. Reg. 228/18, s. 6 (3).
- (5) For the purpose of applying subsection 11 (2) of the Act, an applicant for the issuance or renewal of an operator's licence shall submit information required by the Director with respect to,
- (a) if the applicant is comprised of one or more individuals, the character, qualifications and financial responsibility of the applicant or applicants; or
  - (b) if the applicant is a corporation, the corporation and the character, qualifications and financial responsibility of the directors and officers of the corporation. O. Reg. 63/09, s. 38 (5); O. Reg. 228/18, s. 6 (4).
- (6) An applicant for the issuance of an operator's licence shall submit to the Director a list of the names and licence numbers of all licensed exterminators employed by the applicant. O. Reg. 63/09, s. 38 (6).
- (7) If an applicant for the issuance or renewal of an operator's licence is a corporation or a partnership, the applicant shall submit to the Director a list of the official representatives mentioned in clause (1) (b). O. Reg. 228/18, s. 6 (5).
- (8) The official representatives mentioned in clause (1) (b) shall ensure that the corporation or partnership, as the case may be, complies with the Act and the regulations. O. Reg. 228/18, s. 6 (5).
- (9)-(12) REVOKED: O. Reg. 228/18, s. 6 (5).

**Vendor's licence, classes**

**39.** For the purposes of section 6 of the Act, the Director may issue a vendor's licence of the General, Limited or Treated Seed class. O. Reg. 63/09, s. 39; O. Reg. 139/15, s. 17.

**Vendor's licence, requirements**

- 40.** (1) An applicant for the issuance or renewal of a vendor's licence shall,
- (a) if the applicant is an individual, be at least 18 years of age; or
  - (b) if the applicant is a corporation or partnership, have one or more official representatives who are directors, officers or partners of the applicant and who are at least 18 years of age. O. Reg. 63/09, s. 40 (1); O. Reg. 228/18, s. 7 (1, 2).
- (1.1) If an applicant for the issuance or renewal of a vendor's licence is a corporation or a partnership, the applicant shall submit to the Director a list of the official representatives mentioned in clause (1) (b). O. Reg. 228/18, s. 7 (3).
- (2) The official representatives mentioned in clause (1) (b) shall ensure compliance with the Act and the regulations by the corporation or partnership. O. Reg. 63/09, s. 40 (2).
- (3) An applicant for the issuance or renewal of a vendor's licence shall submit an application including the following:
- 1. The name, email address, if any, and mailing address of the sales outlet to be covered by the licence.
  - 2. If the sales outlet is to be covered by a vendor's licence of the General class, the name and address of at least one outlet representative employed to work at the sales outlet and proof that the outlet representative has complied with clause 99 (2) (e) or subsection 99 (2.1), whichever applies.

2.1 If the application is in respect of a vendor's licence of the Treated Seed class, the name, email address, if any, and mailing address of each treated seed sales representative who represents the applicant.

3. REVOKED: O. Reg. 228/18, s. 7 (4).

O. Reg. 63/09, s. 40 (3); O. Reg. 469/10, s. 3; O. Reg. 139/15, s. 18; O. Reg. 228/18, s. 7 (4).

(4) REVOKED: O. Reg. 228/18, s. 7 (5).

#### Permit

41. (1) An application for the issuance of a permit for the purpose of section 7 of the Act shall be made to the Director on a form approved by the Director. O. Reg. 63/09, s. 41 (1).

**Note: On May 1, 2020, subsection 41 (1) of the Regulation is amended by striking out "on a form approved by the Director" at the end. (See: O. Reg. 134/20, s. 11)**

(2) A permit expires on the day specified in the permit. O. Reg. 63/09, s. 41 (2).

(3) A person carrying out an activity authorized by a permit shall carry the permit or a copy of the permit when carrying out the activity. O. Reg. 228/18, s. 8 (1).

(4) A person performing an extermination for which a permit is required may have the permit or a copy of the permit readily available at the extermination site instead of carrying it. O. Reg. 63/09, s. 41 (4); O. Reg. 228/18, s. 8 (2).

#### EXTERMINATOR'S LICENCE — EXEMPTIONS FOR FARMERS

##### Exemption, Class 4, 5, 6 or 7 pesticide

42. A farmer is exempt from subsection 5 (1) of the Act in respect of an extermination that he or she performs for the purposes of the agricultural operation that he or she owns or operates on a regular basis if the extermination is performed by means of a Class 4, 5, 6 or 7 pesticide and is not performed by aerial application. O. Reg. 63/09, s. 42.

**Note: On May 1, 2020, section 42 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 12 (1))**

##### Exemption, Class D pesticide

42. A farmer is exempt from subsection 5 (1) of the Act in respect of an extermination that he or she performs for the purposes of the agricultural operation that he or she owns or operates on a regular basis if the extermination is performed by means of a Class D pesticide or by means of a Class C pesticide that was classified as a Class 4 pesticide under this Regulation immediately before section 3 of Ontario Regulation 134/20 came into force. O. Reg. 134/20, s. 12 (1).

**Note: On January 1, 2021, section 42 of the Regulation is amended by striking out "or by means of a Class C pesticide that was classified as a Class 4 pesticide under this Regulation immediately before section 3 of Ontario Regulation 134/20 came into force" at the end. (See: O. Reg. 134/20, s. 12 (2))**

##### Exemptions, qualified farmer

43. (1) A farmer is exempt from subsection 5 (1) of the Act in respect of an extermination that he or she performs if,

(a) the extermination meets a description set out in Column 1 of the Table to this section;

(b) the farmer meets the conditions set out opposite the extermination in Column 2 of the Table to this section;

(c) the farmer is at least 16 years of age and,

(i) has successfully completed, within the last 60 months or within such other period of time as may be specified by the Director, a course that has been approved by the Director with respect to the handling and use of pesticides for the purposes of an agricultural operation and has been issued a document by the body that offers the approved course confirming the farmer's successful completion of the course, or

(ii) possesses experience that in the Director's opinion makes it unnecessary for the farmer to have completed the course mentioned in subclause (i) and has been issued a document by the Director confirming the Director's opinion; and

(d) the farmer carries or has readily available at the extermination site a copy of the document confirming that the conditions in subclause (c) (i) or (ii) have been met. O. Reg. 63/09, s. 43 (1).

(2) For the purposes of subclause (1) (c) (i), the Director may specify a period of time other than 60 months if the Director considers it to be appropriate in the circumstances. O. Reg. 63/09, s. 43 (2).

TABLE

Item	Column 1 Description of extermination that may be performed	Column 2 Conditions related to the extermination
1.	A fumigation of groundhog burrows performed in the ground for the purpose of controlling groundhogs by means of a fumigant gas that	1. The extermination must be performed for the purposes of the agricultural operation owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1).

	contains aluminum phosphide.	<p>2. The farmer must ensure that,</p> <ul style="list-style-type: none"> <li>i. the burrows do not open into a building,</li> <li>ii. all burrow entrances are at least 10 metres from a building, and</li> <li>iii. the farmer and every other person present have adequate respiratory protection during the introduction of the fumigant gas.</li> </ul> <p>3. The extermination must not be performed by aerial application.</p>
2.	<p>An extermination that is performed by means of one of the following:</p> <ul style="list-style-type: none"> <li>1. A Class 2 pesticide that is not a fumigant gas.</li> <li>2. A Class 3 pesticide.</li> </ul>	<p>1. The extermination must be performed for the purposes of the agricultural operation owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1).</p> <p>2. If the extermination is a structural extermination, the farmer must meet the following conditions:</p> <ul style="list-style-type: none"> <li>i. If the extermination is performed by means of a pesticide containing 4-amino-pyridine, strychnine or zinc phosphide, he or she must meet the requirements set out in section 66.</li> <li>ii. If the extermination is performed by means of a suspension in air or a fumigant that is not a fumigant gas, <ul style="list-style-type: none"> <li>A. if the extermination is performed by means of a Class 2 pesticide, another farmer who meets the conditions set out in clauses 43 (1) (c) and (d) or a licensed exterminator whose licence authorizes the performance of the extermination must be present during the extermination,</li> <li>B. if the extermination is performed by means of a Class 3 pesticide, another farmer who meets the conditions set out in clauses 43 (1) (c) and (d) or a licensed exterminator of any class must be present during the extermination, and</li> <li>C. if the extermination is performed by means of a Class 2 or 3 pesticide, the farmer must meet the requirements set out in subsection 67 (6).</li> </ul> </li> </ul> <p>3. The extermination must not be performed by aerial application.</p>
3.	<p>A land extermination performed by means of one of the following:</p> <ul style="list-style-type: none"> <li>1. A Class 2 pesticide that is not a fumigant gas.</li> <li>2. A Class 3, 4, 5, 6 or 7 pesticide.</li> </ul>	<p>1. The extermination must be performed for the purposes of an agricultural operation other than the operation that is owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1).</p> <p>2. If the farmer who is exempt under subsection 43 (1) uses a piece of equipment to apply the pesticide, only one piece of equipment must be used at any time and that equipment must be normally used on an agricultural operation that he or she owns or operates on a regular basis.</p> <p>3. No money must be paid for the extermination.</p> <p>4. The extermination must not be performed by aerial application.</p> <p>5. The farmer who is exempt under subsection 43 (1) must not be assisted in the performance of the extermination by any person other than another farmer who meets the conditions set out in clauses 43 (1) (c) and (d).</p>

O. Reg. 63/09, s. 43, Table; O. Reg. 228/18, s. 9.

**Note:** On May 1, 2020, section 43 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 13)

**Exemptions, certified farmer**

- 43.** (1) A farmer is exempt from subsection 5 (1) of the Act in respect of an extermination that he or she performs if,
- (a) the extermination meets a description set out in Column 1 of the Table to this section;
  - (b) the farmer meets the conditions set out opposite the extermination in Column 2 of the Table to this section;
  - (c) the farmer is at least 16 years of age and has been issued a certificate by a body that offers a course that has been approved by the Director with respect to the handling and use of pesticides for the purposes of an agricultural operation; and
  - (d) the farmer carries or has readily available at the extermination site a copy of the certificate. O. Reg. 134/20, s. 13.
- (2) A body that offers a course mentioned in clause (1) (c) shall issue a certificate to,
- (a) a farmer upon the successful completion of the course; or
  - (b) a farmer who has provided the body with,
    - (i) a copy of an authorizing certificate issued to the farmer by an out-of-province regulatory authority in respect of the occupation of certified farmer, and

(ii) a signed statement confirming that,

- (A) the farmer holds the authorizing certificate mentioned in subclause (i) and that it has not expired or been cancelled, suspended or revoked,
- (B) the farmer has obtained the training material for the course mentioned in clause (1) (c), and
- (C) the farmer is, in his or her own opinion, knowledgeable about the legislation and regulations that govern the practice of the occupation of certified farmer in Ontario. O. Reg. 134/20, s. 13.

(3) The certificate issued under subsection (2) shall expire on the earliest of 60 months after the day on which the certificate is issued and the expiry date, if any, indicated on the authorizing certificate. O. Reg. 134/20, s. 13.

(4) For the purposes of subsection (3), the Director may specify a period of time other than 60 months if the Director considers it to be appropriate in the circumstances. O. Reg. 134/20, s. 13.

TABLE

Item	Column 1 Description of extermination that may be performed	Column 2 Conditions related to the extermination
1.	A fumigation of groundhog burrows performed in the ground for the purpose of controlling groundhogs by means of a fumigant gas with a label that indicates that it contains aluminum phosphide.	1. The extermination must be performed for the purposes of the agricultural operation owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1). 2. The farmer must ensure that, i. the burrows do not open into a building, ii. all burrow entrances are at least 30 metres from a building, and iii. the farmer and every other person present have adequate respiratory protection during the introduction of the fumigant gas.
2.	Any of the following exterminations: 1. An extermination performed by means of a Class B pesticide that is not a fumigant gas. 2. An extermination performed by means of a Class C pesticide. 3. An extermination described in subsection 67 (1).	1. The extermination must be performed for the purposes of the agricultural operation owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1). 2. If the extermination is a structural extermination, the farmer must meet the following conditions: i. If the extermination is performed by means of a pesticide with a label that indicates that it contains 4-amino-pyridine, strychnine or zinc phosphide, he or she must meet the requirements set out in subsections 66 (1) and (2). ii. If the extermination is an extermination mentioned in subsection 67 (1), the farmer must meet the requirements set out in subsection 67 (3) and another farmer who meets the conditions set out in clauses 43 (1) (c) and (d) or a licensed exterminator whose licence authorizes the performance of the extermination must be present during the extermination. 3. The extermination must not be performed by aerial application.
3.	A land extermination performed by means of one of the following: 1. A Class B pesticide that is not a fumigant gas. 2. A Class C pesticide. 3. A Class D pesticide.	1. The extermination must be performed for the purposes of an agricultural operation other than the operation that is owned or operated on a regular basis by the farmer who is exempt under subsection 43 (1). 2. If the farmer who is exempt under subsection 43 (1) uses a piece of equipment to apply the pesticide, only one piece of equipment must be used at any time and that equipment must be normally used on an agricultural operation that he or she owns or operates on a regular basis. 3. No money must be paid for the extermination. 4. The extermination must not be performed by aerial application. 5. The farmer who is exempt under subsection 43 (1) must not be assisted in the performance of the extermination by any person other than another farmer who meets the conditions set out in clauses 43 (1) (c) and (d).

O. Reg. 134/20, s. 13.

#### Exemption, supervised farmer

44. (1) A farmer is exempt from subsection 5 (1) of the Act with respect to the performance of an extermination described in Item 1 or 2 of the Table to section 43 if,

- (a) the farmer meets the conditions set out in Column 1 of the Table to this section;
- (b) the farmer is supervised by a farmer who,
  - (i) owns or operates on a regular basis the agricultural operation with respect to which the extermination is being performed,
  - (ii) meets the conditions set out in clauses 43 (1) (c) and (d), and
  - (iii) meets the conditions set out in Column 2 of the Table to this section;

(c) the farmer is at least 16 years of age and, within the last 60 months or within such other period of time as may be specified by the Director, has successfully completed a course that has been approved for the purposes of this section by the Director with respect to assisting a farmer in the handling and use of pesticides for the purposes of an agricultural operation; and

(d) the farmer carries or has readily available at the extermination site a copy of a document issued by the body offering the approved course mentioned in clause (c), confirming the farmer's successful completion of the course. O. Reg. 63/09, s. 44 (1).

(2) For the purposes of clause (1) (c), the Director may specify a period of time other than 60 months if the Director considers it to be appropriate in the circumstances. O. Reg. 63/09, s. 44 (2).

TABLE

Item	Column 1 Conditions related to the performance of the extermination	Column 2 Conditions related to the supervision
1.	<ol style="list-style-type: none"> <li>1. The farmer must not,               <ol style="list-style-type: none"> <li>i. purchase, recommend or select the pesticide,</li> <li>ii. use a Class 2 suspension in air in a structural extermination,</li> <li>iii. select the application rate of the pesticide,</li> <li>iv. calibrate equipment used to apply the pesticide,</li> <li>v. select the appropriate means of storage of the pesticide,</li> <li>vi. select the appropriate means of disposal or recycling of an empty container that has held the pesticide, or</li> <li>vii. transport or dispose of the pesticide that has become waste.</li> </ol> </li> <li>2. If the farmer uses a Class 3 pesticide containing 4-amino-pyridine, strychnine or zinc phosphide in a structural extermination, he or she must meet all of the requirements set out under section 66.</li> </ol>	<ol style="list-style-type: none"> <li>1. The supervising farmer must be present at the extermination site or be available as described in paragraph 2.</li> <li>2. The supervising farmer may be available for the purposes of supervision by one of the following means:               <ol style="list-style-type: none"> <li>i. In the case of an extermination involving the use of a Class 2 pesticide, providing the supervisee with written instructions for the proper use of the pesticide and ensuring that the instructions are readily available at the extermination site.</li> <li>ii. In the case of an extermination involving a Class 2 or 3 pesticide, being available for immediate response through an effective communication system and being able to attend at the extermination site to respond to an emergency situation within a period of time that is reasonable in the circumstances.</li> </ol> </li> <li>3. The supervising farmer must not supervise, at any one time, more than three farmers who are exempt under subsection 44 (1).</li> <li>4. The supervising farmer must ensure that the use, storage, transportation and disposal of pesticides for the purposes of the agricultural operation are carried out in accordance with the Act and this Regulation.</li> <li>5. The supervising farmer must ensure that the conditions applicable to the extermination set out in Column 2 of the Table to section 43 are met.</li> </ol>

O. Reg. 63/09, s. 44, Table.

**Note: On May 1, 2020, the Table to section 44 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 14)**

Item	Column 1 Conditions related to the performance of the extermination	Column 2 Conditions related to the supervision
1.	<ol style="list-style-type: none"> <li>1. The farmer must not,               <ol style="list-style-type: none"> <li>i. purchase, recommend or select the pesticide,</li> <li>ii. select the application rate of the pesticide,</li> <li>iii. calibrate equipment used to apply the pesticide,</li> <li>iv. select the appropriate means of storage of the pesticide,</li> <li>v. select the appropriate means of disposal or recycling of an empty container that has held the pesticide, or</li> <li>vi. transport or dispose of the pesticide that has become waste.</li> </ol> </li> <li>2. If the farmer uses a Class B or C pesticide with a label that indicates that it contains 4-amino-pyridine, strychnine or zinc phosphide in a structural extermination, he or she must meet the requirements set out in subsections 66 (1) and (2).</li> <li>3. The farmer must not perform an extermination mentioned in subsection 67 (1).</li> </ol>	<ol style="list-style-type: none"> <li>1. The supervising farmer must be present at the extermination site or the supervising farmer must,               <ol style="list-style-type: none"> <li>i. provide the supervisee with written instructions for the proper use of the pesticide,</li> <li>ii. ensure that the instructions are readily available at the extermination site,</li> <li>iii. be available for immediate response through an effective communication system, and</li> <li>iv. be able to attend at the extermination site to respond to an emergency situation within a period of time that is reasonable in the circumstances.</li> </ol> </li> <li>2. The supervising farmer must not supervise, at any one time, more than three farmers who are exempt under subsection 44 (1).</li> <li>3. The supervising farmer must ensure that the use, storage, transportation and disposal of pesticides for the purposes of the agricultural operation are carried out in accordance with the Act and this Regulation.</li> <li>4. The supervising farmer must ensure that the conditions applicable to the extermination set out in Column 2 of the Table to section 43 are met.</li> </ol>

O. Reg. 134/20, s. 14.

#### Assistance to farmer

45. (1) A person who assists a farmer in the performance of an extermination must be a farmer. O. Reg. 63/09, s. 45 (1).

(2) If a person assists a farmer in the performance of an extermination described in Item 1 or 2 of the Table to section 43, the person must,

- (a) meet the conditions set out in Column 1 of the Table to section 44;
- (b) be supervised by a farmer who,
  - (i) owns or operates on a regular basis the agricultural operation with respect to which the extermination is being performed,
  - (ii) meets the conditions set out in clauses 43 (1) (c) and (d), and
  - (iii) meets the conditions set out in Column 2 of the Table to section 44; and
- (c) meet the conditions set out in clauses 44 (1) (c) and (d). O. Reg. 63/09, s. 45 (2).

#### EXTERMINATOR'S LICENCE — EXEMPTIONS FOR PERSONS PLANTING TREATED SEEDS

##### Exemptions, persons planting treated seeds

**45.1** (1) Subject to subsection (2), a person is exempt from subsection 5 (1) of the Act with respect to the performance of an extermination by means of a Class 12 pesticide for the purposes of an agricultural operation if,

**Note: On May 1, 2020, subsection 45.1 (1) of the Regulation is amended by striking out “Class 12” in the portion before clause (a) and substituting “Class E”. (See: O. Reg. 134/20, s. 15 (1))**

- (a) the person,
  - (i) is at least 16 years of age,
  - (ii) has successfully completed a course described in subsection (6), and
  - (iii) has been issued a document by the body that provided the course referred to in subclause (ii), confirming the person's successful completion of the course; or
- (b) the person meets the conditions set out in subsection (4) with respect to a supervisee and is supervised by a person referred to in clause (a). O. Reg. 139/15, s. 19 (2); O. Reg. 134/20, s. 15 (2).

(2) Subsection (1) does not apply to a person unless the person is performing the extermination on a farm property that is identified in a pest risk assessment report referred to in paragraph 3 of subsection 98 (2) that was provided to the treated seed sales representative, vendor or custom seed treater in respect of the Class 12 pesticide. O. Reg. 134/20, s. 15 (3).

**Note: On May 1, 2020, subsection 45.1 (2) of the Regulation is amended by striking out “paragraph 3 of subsection 98 (2)” and substituting “subsection 98.3 (2)” and by striking out “Class 12” and substituting “Class E”. (See: O. Reg. 134/20, s. 15 (4))**

(3) A person referred to in clause (1) (a) who performs an extermination by means of a Class 12 pesticide or who supervises a person referred to in clause (1) (b) who performs an extermination by means of a Class 12 pesticide shall,

- (a) carry or have readily available at the extermination site,
  - (i) a copy of the document issued by the body that provided the course described in subsection (6), confirming the person's successful completion of the course,
  - (ii) a copy of a pest risk assessment report referred to in subsection (2); and
  - (iii) if the extermination is performed using a Class 12 pesticide treated by a custom seed treater, a copy of the written confirmation referred to in paragraph 2 of section 45.2; and
- (b) prepare a record of each extermination as described in subsection (8). O. Reg. 139/15, s. 19 (2); O. Reg. 134/20, s. 15 (6, 7).

**Note: On May 1, 2020, subsection 45.1 (3) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”. (See: O. Reg. 134/20, s. 15 (5))**

- (4) The conditions referred to in clause (1) (b) with respect to a supervisee are the following:
  1. The supervisee must not select the pesticide, the application area or the application rate of the pesticide.
  2. The supervisee must have received instructions respecting the extermination that include the following:
    - i. The location of each application area in or on which the Class 12 pesticide is to be used at the farm property.
    - ii. The application rate of each Class 12 pesticide to be used in the extermination.
    - iii. The directions referred to in subsection 9.1 (3) with respect to the use of each Class 12 pesticide to be used in the extermination and instructions to comply with those directions. O. Reg. 139/15, s. 19 (2); O. Reg. 134/20, s. 15 (8).



**Note: On May 1, 2020, paragraph 2 of subsection 45.1 (4) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”. (See: O. Reg. 134/20, s. 15 (9))**

- (5) If a person referred to in clause (1) (a) acts as a supervisor for the purposes of clause (1) (b), the person,
  - (a) shall provide the supervisee with instructions for the proper use of the Class 12 pesticide, including the information referred to in paragraph 2 of subsection (4), and ensure that the instructions are readily available at the extermination site;

**Note: On May 1, 2020, clause 45.1 (5) (a) of the Regulation is amended by striking out “Class 12” and substituting “Class E”. (See: O. Reg. 134/20, s. 15 (11))**

- (b) shall be present at the extermination site or available for immediate response through an effective communication system and be able to attend at the extermination site to respond to an emergency situation within a period of time that is reasonable in the circumstances;
  - (c) REVOKED: O. Reg. 134/20, s. 12.
  - (d) shall ensure that the supervisee complies with the conditions set out in subsection (4); and
  - (e) shall ensure that the requirements and directions set out in subsection 9.1 (3) have been met with respect to the use of Class 12 pesticides. O. Reg. 139/15, s. 19 (2); O. Reg. 134/20, s. 15 (10, 12, 13).

**Note: On May 1, 2020, clause 45.1 (5) (e) of the Regulation is amended by striking out “Class 12” and substituting “Class E”. (See: O. Reg. 134/20, s. 15 (14))**

(6) The course referred to in subclause (1) (a) (ii) must be a course approved by the Director that relates to the handling and use of Class 12 pesticides and that provides training and instruction on the following matters:

1. The importance of pollinators in the ecosystem.
2. The protection of pollinators from pesticide exposure.
3. The employment of integrated pest management practices, including:
  - i. The identification of corn and soybean pests, particularly each pest referred to in the Pest Risk Assessment Guideline.
  - ii. The methods to use to ascertain the presence of a pest, particularly the methods referred to in the Pest Risk Assessment Guideline.
  - iii. The use of pest management options other than the use of pesticides.
  - iv. The use of pesticides in a targeted, as opposed to prophylactic, manner.
4. The requirements set out in this Regulation with respect to the use, sale or transfer of Class 12 pesticides.
5. The record-keeping requirements set out in this Regulation with respect to Class 12 pesticides.
6. Best management practices relating to the use of Class 12 pesticides. O. Reg. 139/15, s. 19 (2); O. Reg. 134/20, s. 15 (16).

**Note: On May 1, 2020, subsection 45.1 (6) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”. (See: O. Reg. 134/20, s. 15 (15))**

- (7) REVOKED: O. Reg. 134/20, s. 15 (17).
- (8) A record of extermination referred to in clause (3) (b) shall include the following information:
  1. The date of the extermination.
  2. The location of the farm property at which the extermination was performed, identified by one of the following:
    - i. The municipal address of the farm property including, where applicable, the street number or other assigned property address number, street name, street direction, unit number, rural route number, town or city and postal code.
    - ii. If there is no municipal address, the legal description of the farm property including, where applicable, every assessment roll number or property identifier number that relates to the farm property.
  3. A sketch of the farm property at which the extermination was performed showing the following:
    - i. The location and acreage of the farm property.
    - ii. The location and acreage of each application area in or on which the Class 12 pesticide was used at the farm property.
- iii. REVOKED: O. Reg. 134/20, s. 15 (19).

4. The amount, in kilograms, of each Class 12 pesticide used in the extermination.
5. The name of the Class 12 pesticide used in the extermination or the name of the custom seed treater who treated the Class 12 pesticide used in the extermination.

**Note:** On May 1, 2020, paragraph 5 of subsection 45.1 (8) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”. (See: O. Reg. 134/20, s. 15 (21))

6. The name of the person who performed the extermination.
7. If the extermination was performed by a person exempt under clause (1) (a), the number of the document issued to the person by the body that provided the course described in subsection (6), confirming the person’s successful completion of the course.
8. If the extermination was performed by a person who was supervised, the name of the supervisor and the number of the document issued to the supervisor by the body that provided the course described in subsection (6), confirming the supervisor’s successful completion of the course. O. Reg. 139/15, s. 19 (2); O. Reg. 134/20, s. 15 (19, 20, 22, 23).

**Note:** On May 1, 2020, subsection 45.1 (8) of the Regulation is amended by striking out “Class 12” wherever it appears and substituting in each case “Class E”. (See: O. Reg. 134/20, s. 15 (18))

- (9) Every person who performs an extermination or who supervises a person who performs an extermination shall,
  - (a) keep a copy of each record prepared under clause (3) (b) for a period of at least two years after it is prepared;
  - (b) REVOKED: O. Reg. 134/20, s. 15 (24).
  - (c) keep a copy of each pest risk assessment report referred to in subparagraph 98 (2) 3 ii and each written declaration referred to in subparagraph 98 (2) 3 iii that relates to the extermination for a period of at least two years after the extermination is complete; and

**Note:** On May 1, 2020, clause 45.1 (9) (c) of the Regulation is amended by striking out “subparagraph 98 (2) 3 ii” and substituting “paragraph 2 of subsection 98.3 (2)” and by striking out “subparagraph 98 (2) 3 iii” and substituting “paragraph 3 of subsection 98.3 (2)”. (See: O. Reg. 134/20, s. 15 (26))

- (d) keep a copy of each record or document required to be kept under clauses 45.1 (2) (c) and (d), as they read on August 30, 2016, for the duration of the period required under that subsection. O. Reg. 139/15, s. 19 (2); O. Reg. 134/20, s. 15 (24, 25).

#### Use of seeds treated by custom seed treaters

**45.2** A Class 12 pesticide treated by a custom seed treater shall not be used in an extermination for the purposes of an agricultural operation unless the following criteria are met:

1. The person who requested the seed treating service provided the custom seed treater with the information and documents referred to in paragraph 3 of subsection 98 (2) that are required to be provided by a person mentioned in that subsection.
2. The custom seed treater provided to the person who requested the seed treating service a written confirmation, in a form approved by the Director, that the person who requested the seed treating service provided a copy of the pest risk assessment report to the custom seed treater. O. Reg. 134/20, s. 16 (1).

**Note:** On May 1, 2020, section 45.2 of the Regulation is amended by striking out “Class 12” in the portion before paragraph 1 and substituting “Class E” and by striking out “paragraph 3 of subsection 98 (2)” in paragraph 1 and substituting “subsection 98.3 (2)”. (See: O. Reg. 134/20, s. 16 (2))

### EXTERMINATOR’S LICENCE — EXEMPTIONS FOR SUPERVISED PERSONS

#### Exemption, person supervised by licensed exterminator

**46.** (1) A person mentioned in Column 1 of the Table to this section is exempt from subsection 5 (1) of the Act with respect to the performance of an extermination if,

- (a) the person meets the conditions set out opposite the person in Column 2 of the Table; and
- (b) the person is supervised by a licensed exterminator authorized to perform the extermination and the supervising licensed exterminator meets the requirements set out in section 48. O. Reg. 63/09, s. 46 (1).

(2) If the person exempt under subsection (1) is a licensed exterminator, the person shall carry or have readily available at the extermination site a copy of his or her licence. O. Reg. 63/09, s. 46 (2).

(3) If the person exempt under subsection (1) is a technician, the person shall carry or have readily available at the extermination site,

- (a) a copy of a document confirming that he or she has successfully completed, within the previous 24 months, a course approved by the Director for technicians concerning basic pesticide safety; or

- (b) a copy of a document confirming that the Director is otherwise satisfied that the technician is qualified to work as a technician. O. Reg. 63/09, s. 46 (3).

**Note: On May 1, 2020, clause 46 (3) (b) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 17 (1))**

- (b) a copy of a document confirming that within the previous 24 months the Director has been satisfied that the technician has qualifications equivalent to having successfully completed the course mentioned in clause (a).

(4) If the person exempt under subsection (1) is a trainee, the person shall carry or have readily available at the extermination site a copy of the identification document supplied by his or her employer confirming that the trainee works for the employer as a trainee. O. Reg. 63/09, s. 46 (4).

TABLE

Item	Column 1 Supervisee who may be exempt	Column 2 Conditions related to the extermination
1.	<ol style="list-style-type: none"> <li>Licensed exterminator of a class other than a class that authorizes the performance of the extermination.</li> <li>Technician.</li> </ol>	<ol style="list-style-type: none"> <li>The supervisee must not do any of the following: <ol style="list-style-type: none"> <li>Select or recommend to a person a pesticide for use in an extermination.</li> <li>Select the method of application or the rate of application of a pesticide used in an extermination.</li> <li>Use a Class 2 pesticide.</li> <li>Use a Class 3 pesticide that is an avicide, rodenticide, fumigant or suspension in air, except in the presence of a licensed exterminator authorized to use the pesticide.</li> </ol> </li> <li>The supervisee must have readily available at the extermination site a work order, invoice, job sheet or other form of written instructions respecting the extermination, including the following information: <ol style="list-style-type: none"> <li>The location of the extermination site.</li> <li>The pest to be exterminated.</li> <li>The name of the pesticide to be used and its registration number assigned to it under the <i>Pest Control Products Act</i> (Canada) or the <i>Fertilizers Act</i> (Canada).</li> <li>The name and licence number of the supervising licensed exterminator.</li> <li>A unique number or other identifier by which the extermination is identified in the business records of the supervisee's employer.</li> </ol> </li> <li>When visited by the supervising licensed exterminator at the extermination site, the supervisee must request that the supervising licensed exterminator enter his or her licence number, signature and the date on the written instructions.</li> <li>The supervisee must carry or have readily available at any extermination site all written instructions that have been signed over the last 30 days by a supervising licensed exterminator.</li> </ol>
2.	Trainee	<p>The trainee must not do any of the following:</p> <ol style="list-style-type: none"> <li>Select or recommend to a person a pesticide for use in an extermination.</li> <li>Select the method of application or the rate of application of a pesticide used in an extermination.</li> <li>Use a Class 2 pesticide.</li> </ol>

O. Reg. 63/09, s. 46, Table.

**Note: On May 1, 2020, item 1 of the Table to section 46 of the Regulation is amended by striking out "Class 2" in subparagraph 1 iii of Column 2 and substituting "Class B". (See: O. Reg. 134/20, s. 17 (2))**

**Note: On May 1, 2020, item 1 of the Table to section 46 of the Regulation is amended by striking out subparagraph 1 iv of Column 2 and substituting the following: (See: O. Reg. 134/20, s. 17 (3))**

- Perform an extermination mentioned in subsection 66 (1), except in the presence of a licensed exterminator authorized to use the pesticide.
- Use a Class C rodenticide with a label that indicates that mixing or dilution is required in order for the pesticide to be used, except in the presence of a licensed exterminator authorized to use the pesticide.
- Use a Class C pesticide for a purpose that is indicated as a restricted use on the label.
- Perform an extermination mentioned in subsection 67 (1).

**Note: On May 1, 2020, item 2 of the Table to section 46 of the Regulation is amended by striking out "Class 2" in paragraph 3 of Column 2 and substituting "Class B". (See: O. Reg. 134/20, s. 17 (4))**

**Note: On May 1, 2020, item 2 of the Table to section 46 of the Regulation is amended by adding the following paragraphs in Column 2: (See: O. Reg. 134/20, s. 17 (5))**

- Use a Class C or D pesticide, except in the presence of a licensed exterminator authorized to use the pesticide.
- Perform an extermination mentioned in subsection 67 (1).

Assistance to exterminator

47. (1) No person shall assist an exterminator in the performance of an extermination to which subsection 5 (1) of the Act applies unless,

**Note: On May 1, 2020, subsection 47 (1) of the Regulation is amended by striking out the portion before clause (a) and substituting the following: (See: O. Reg. 134/20, s. 18 (1))**

**Assistance to exterminator**

(1) If an exterminator requires assistance in the performance of an extermination to which subsection 5 (1) of the Act applies, no person, other than a licensed exterminator authorized to perform the extermination, shall assist with the extermination unless,

- (a) the person is a person described in Column 1 of the Table to section 46;
- (b) the person meets the conditions set out opposite the person in Column 2 of the Table to section 46; and
- (c) the person is supervised by a licensed exterminator authorized to perform the extermination and the supervising licensed exterminator meets the requirements set out in section 48. O. Reg. 63/09, s. 47 (1).

(2), (3) REVOKED: O. Reg. 228/18, s. 10.

(4) If the person who provides assistance under subsection (1) is a licensed exterminator, the person shall carry or have readily available at the extermination site a copy of his or her licence. O. Reg. 63/09, s. 47 (4).

(5) If the person who provides assistance under subsection (1) is a technician, the person shall carry or have readily available at the extermination site,

- (a) a copy of a document confirming that he or she has successfully completed, within the previous 24 months, a course approved by the Director for technicians concerning basic pesticide safety; or
- (b) a copy of a document confirming that the Director is otherwise satisfied that the technician is qualified to work as a technician. O. Reg. 63/09, s. 47 (5).

**Note: On May 1, 2020, clause 47 (5) (b) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 18 (2))**

- (b) a copy of a document confirming that within the previous 24 months the Director has been satisfied that the technician has qualifications equivalent to having successfully completed the course mentioned in clause (a).

(6) If the person who provides assistance under subsection (1) is a trainee, the person shall carry or have readily available at the extermination site a copy of the identification document supplied by his or her employer confirming that the trainee works for the employer as a trainee. O. Reg. 63/09, s. 47 (6).

**Supervision**

48. (1) For the purposes of this Regulation, if a person who is required to hold an exterminator's licence with respect to an extermination is required to supervise an exterminator, a technician or a trainee for the purposes of the extermination, the supervising exterminator shall,

- (a) provide direction and support with respect to the supervisee's performance of and assistance in exterminations;
- (b) ensure that the supervisee carries out his or her work safely and in accordance with the Act and this Regulation;
- (c) ensure that the supervisee receives any necessary training relating to the specific work that he or she will be performing;
- (d) prepare a record respecting the training mentioned in clause (c);
- (e) if the supervising exterminator is not the supervisee's employer, give a copy of the record mentioned in clause (d) to the employer;
- (f) if the supervision is with respect to a land extermination,
  - (i) ensure that the public notice required by this Regulation is provided, and
  - (ii) ensure that the supervisee does not perform the extermination unless the public notice mentioned in subclause (i) has been provided;
- (g) if the supervisee is a licensed exterminator or a technician,
  - (i) visit the supervisee at an extermination site at least once in each week that the supervisee performs an extermination to observe the performance of an extermination,
  - (ii) ensure that the supervisee complies with the conditions set out in paragraphs 1 and 2 of Column 2 in Item 1 of the Table to section 46, and
  - (iii) on each visit to the extermination site, enter the supervising exterminator's licence number, signature and the date on the written instructions mentioned in paragraph 2 of Column 2 in Item 1 of the Table to section 46; and

- (h) if the supervisee is a trainee, be present at the extermination site at all times when the trainee is performing an extermination or assisting in the performance of an extermination. O. Reg. 63/09, s. 48 (1).
- (2) The employer of a supervisee shall keep the record mentioned in clause (1) (d) for a period of at least two years after the supervisee leaves the employer's employment. O. Reg. 63/09, s. 48 (2).
- (3) Subject to subsection (4), an exterminator shall not supervise at the same time a total of more than three technicians or trainees working at one or more extermination sites. O. Reg. 63/09, s. 48 (3).
- (4) Subsection (3) does not apply if,
  - (a) the exterminator is training a group of technicians or trainees who are working at one or more extermination sites as part of their training, and none of the exterminations in which they take part is performed for payment; or
  - (b) the exterminator is a licensed water exterminator of the Mosquito/Biting Flies class and is supervising at the same time up to seven technicians or trainees who are working at water extermination sites to control mosquito larvae and each extermination is performed pursuant to a permit issued under subsection 7 (2) of the Act authorizing the prevention or control of mosquito-borne disease. O. Reg. 63/09, s. 48 (4).

#### EXTERMINATOR'S LICENCE — GENERAL REQUIREMENTS AND EXEMPTION

##### General requirements

- 49.** (1) REVOKED: O. Reg. 228/18, s. 11 (1).
- (2) Subject to subsection (3), a person who is required to hold an exterminator's licence shall carry his or her licence or a copy of the licence when carrying out an activity authorized by the licence. O. Reg. 63/09, s. 49 (2); O. Reg. 228/18, s. 11 (2).
- (3) When performing an extermination, a person who is required to hold an exterminator's licence may have his or her licence or a copy of the licence readily available at the extermination site instead of carrying it. O. Reg. 63/09, s. 49 (3); O. Reg. 228/18, s. 11 (3).
- (4) No person shall offer to perform an extermination unless the person is authorized to perform the extermination. O. Reg. 63/09, s. 49 (4).

##### Employment and supervision, general

- 50.** (1) This section applies to a person who is required to hold an exterminator's licence for an extermination and who,
  - (a) performs the extermination; or
  - (b) is responsible for the performance of the extermination. O. Reg. 63/09, s. 50 (1).
- (2) A person mentioned in subsection (1) shall not employ a person to perform an extermination to which subsection 5 (1) of the Act applies or to assist in performing an extermination to which subsection 5 (1) of the Act applies unless the person is a licensed exterminator whose licence authorizes the performance of the extermination or a person mentioned in Column 1 of the Table to section 46. O. Reg. 63/09, s. 50 (2).
- (3) A person mentioned in subsection (1) may employ persons other than a licensed exterminator whose licence authorizes the performance of the extermination or a person mentioned in Column 1 of the Table to section 46 to do work in connection with an extermination mentioned in subsection (1) but the person mentioned in subsection (1) shall ensure that the employed persons,
  - (a) do not perform the extermination or assist in the performance of the extermination;
  - (b) do not handle any pesticide unless it is in a sealed container;
  - (c) do not handle any empty plastic, glass or metal container that has been used to hold a Class 2 or 3 pesticide unless the container has been rinsed in accordance with subsection 105 (1);
- (d) do not do anything that is detrimental to the performance of an extermination, to public safety or to the environment; and
- (e) do not suffer any harm as a result of exposure to a pesticide or the performance of an extermination. O. Reg. 63/09, s. 50 (3).
- (4) For every three or fewer technicians or trainees working at one or more extermination sites, a person mentioned in subsection (1) shall employ at least one licensed exterminator whose licence authorizes the performance of the exterminations. O. Reg. 63/09, s. 50 (4).

- (5) Despite subsection (4), if a person mentioned in subsection (1) employs a licensed water exterminator of the Mosquito/Biting Flies class in the circumstances mentioned in clause 48 (4) (b), the person mentioned in subsection (1) shall

employ at least one licensed exterminator of that class for every seven or fewer technicians or trainees. O. Reg. 63/09, s. 50 (5).

(6) A person mentioned in subsection (1) shall ensure that every person mentioned in Column 1 of the Table to section 46 employed by a person mentioned in subsection (1) with respect to an extermination is supervised in accordance with section 48 by a licensed exterminator whose licence authorizes the performance of the extermination. O. Reg. 63/09, s. 50 (6); O. Reg. 279/09, s. 5.

#### Exemption, specified Class D pesticides

**51.** A person is exempt from subsection 5 (1) of the Act with respect to the performance of an extermination if he or she performs the extermination by means of,

- (a) a Class 5, 6 or 7 pesticide that is,

**Note: On May 1, 2020, clause 51 (a) of the Regulation is amended by striking out “Class 5, 6 or 7” in the portion before subclause (i) and substituting “Class D”. (See: O. Reg. 134/20, s. 20 (1))**

- (i) a tree wound dressing,
- (ii) a wood preservative,
- (iii) an insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets, or
- (iv) an injection into trees, stumps or wooden poles; or
- (b) if the extermination is a structural extermination, a Class 5 or 6 pesticide which contains no pesticide ingredients other than,
  - (i) a soap,
  - (ii) a mineral oil, or
  - (iii) silicon dioxide, also known as diatomaceous earth. O. Reg. 63/09, s. 51.

**Note: On May 1, 2020, clause 51 (b) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 20 (2))**

- (b) if the extermination is a structural extermination, a Class D pesticide with a label that indicates that it contains no active ingredient other than a soap or a mineral oil or silicon dioxide, also called diatomaceous earth.

### STRUCTURAL EXTERMINATIONS

#### Deemed structural extermination

**52.** A land extermination that is performed by means of a fumigant gas or a mixture of methyl bromide and chloropicrin is deemed to be a structural extermination for the purposes of the Act and this Regulation. O. Reg. 63/09, s. 52.

#### Authorization to perform structural extermination

**53.** Subject to section 9,

- (a) a structural exterminator’s licence of a class set out in the Table to this section authorizes the use of the pesticides set out opposite the class in Column 2 of the Table; and
- (b) the conditions for use set out in Column 3 of the Table opposite a class of licence are prescribed as conditions for use of the pesticides.

TABLE

Item	Column 1 Class of licence	Column 2 Pesticides authorized for use under the licence	Column 3 Conditions for use
1.	Fumigation Commodity	1. Aluminum phosphide. 2. Magnesium phosphide. 3. Phosphine. 4. A mixture of carbon dioxide and any of the following: aluminum phosphide, magnesium phosphide, or phosphine. 5. Insecticides, including suspensions in air, that are Class 3, 4, 5, 6 or 7 pesticides that are labelled for use in the extermination of pests associated with the commodity being fumigated.	Use in a fumigation of a commodity or other structural extermination of pests associated with a commodity, if the commodity is enclosed in a container including a shipping container, silo, bin, vehicle or vault or under a covering that suppresses the release of gas.
2.	Fumigation General	1. Fumigant gases. 2. Chloropicrin.	Use in any fumigation.

3.	Fumigation Soil	1. Fumigant gases. 2. Chloropicrin.	Use in any of the following: 1. A fumigation of soil inside a building, with gas enclosed under a covering that suppresses the release of gas. 2. A fumigation of soil that is not inside a building, with gas enclosed under a covering that suppresses the release of gas. No use in fumigation of rodent burrows.
4.	Fumigation Vault	1. Methyl bromide. 2. Ethylene oxide. 3. Carbon dioxide.	Use in a fumigation in a vault.
5.	Greenhouse/Interior Plant	All pesticides, including fumigants and suspensions in air, except for the following: 1. Fumigant gases. 2. Chloropicrin. 3. Termiticides.	Use in a structural extermination to control pests of plants growing inside greenhouses and other buildings or structures, including use in areas on or immediately surrounding greenhouses, buildings or structures.
6.	Structural	All pesticides, including fumigants and suspensions in air, except for the following: 1. Fumigant gases. 2. Chloropicrin. 3. Termiticides. 4. Herbicides.	Use in any structural extermination, except for an extermination to control pests of plants.  Use in a land extermination mentioned in subsection 71 (1).
7.	Termite	All termiticides, including fumigants and suspensions in air, except for the following: 1. Fumigant gases. 2. Chloropicrin.	Use in a structural extermination to prevent or control termites.

O. Reg. 63/09, s. 53.

**Note:** On May 1, 2020, paragraph 5 of Column 2 of item 1 of the Table to section 53 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 21 (1))

5. Any other insecticide that is not a fumigant gas and that has a label that indicates use in the extermination of pests associated with the commodity being fumigated.

**Note:** On May 1, 2020, item 1 of the Table to section 53 of the Regulation is amended by adding the following paragraph in Column 2: (See: O. Reg. 134/20, s. 21 (2))

6. A Class C pesticide that is a fumigant gas.

**Note:** On May 1, 2020, item 3 of the Table to section 53 of the Regulation is amended by adding the following paragraph in Column 3: (See: O. Reg. 134/20, s. 21 (3))

3. A land extermination mentioned in subsection 71 (3).

**Note:** On May 1, 2020, paragraph 1 of Column 2 of item 6 of the Table to Section 53 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 21 (4))

1. Class B pesticides that are fumigant gases.

#### Exemption, Class D pesticides

**54.** (1) Subject to subsection (2), a person is exempt from subsection 5 (1) of the Act with respect to the performance of a structural extermination if,

- (a) the person performs the extermination on premises that he or she owns or occupies or on premises owned or occupied by his or her full-time employer; and
- (b) the extermination is performed by means of a Class 5, 6 or 7 pesticide. O. Reg. 63/09, s. 54 (1).

**Note:** On May 1, 2020, clause 54 (1) (b) of the Regulation is amended by striking out “Class 5, 6 or 7” and substituting “Class D”. (See: O. Reg. 134/20, s. 22)

(2) Subsection (1) applies in respect of an extermination of a rental unit within the meaning of the *Residential Tenancies Act, 2006* only if the person who occupies the premises performs the extermination. O. Reg. 63/09, s. 54 (2).

#### Exemptions, bees

**55.** (1) An inspector under the *Bees Act* is exempt from subsection 5 (1) of the Act with respect to the performance of a structural extermination if he or she,

- (a) performs the extermination under the authority of the *Bees Act* for the purpose of destroying bees;
- (b) performs the extermination by means of a Class 2, 3, 4, 5, 6 or 7 pesticide; and

**Note: On May 1, 2020, clause 55 (1) (b) of the Regulation is amended by striking out “Class 2, 3, 4, 5, 6 or 7” and substituting “Class B, C or D”. (See: O. Reg. 134/20, s. 23 (1))**

- (c) holds a permit issued by the Director with respect to the extermination, if the extermination is performed by means of a Class 2 pesticide. O. Reg. 63/09, s. 55 (1).

**Note: On May 1, 2020, clause 55 (1) (c) of the Regulation is amended by striking out “Class 2 pesticide” at the end and substituting “Class B pesticide that is a fumigant gas”. (See: O. Reg. 134/20, s. 23 (2))**

(2) A person is exempt from subsection 5 (1) of the Act with respect to the performance of a structural extermination if he or she,

- (a) has been issued a certificate of registration by the Provincial Apiarist under the *Bees Act*;
- (b) performs the extermination for the purpose of exterminating pests of bees; and
- (c) performs the extermination by means of a Class 3, 4, 5, 6 or 7 pesticide. O. Reg. 63/09, s. 55 (2).

**Note: On May 1, 2020, clause 55 (2) (c) of the Regulation is amended by striking out “Class 3, 4, 5, 6 or 7 pesticide” at the end and substituting “Class B, C or D pesticide that is not a fumigant gas”. (See: O. Reg. 134/20, s. 23 (3))**

#### **Exemption, land exterminator of Agriculture class**

**56.** (1) A licensed land exterminator of the Agriculture class is exempt from subsection 5 (1) of the Act with respect to the performance of a structural extermination if,

- (a) the person performs the extermination on pests of farm animals in a structure used for the purposes of an agricultural operation, other than a building used primarily as a dwelling; or
- (b) subject to subsection (2), the person performs the extermination in groundhog burrows in the ground by means of a fumigant gas that contains aluminum phosphide for the purpose of controlling groundhogs. O. Reg. 63/09, s. 56 (1).

**Note: On May 1, 2020, clause 56 (1) (b) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 24 (1))**

- (b) subject to subsection (2), the person performs the extermination in groundhog burrows in the ground by means of a fumigant gas with a label that indicates that it contains aluminum phosphide for the purpose of controlling groundhogs.

(2) An exterminator who performs an extermination mentioned in clause (1) (b) shall ensure that,

- (a) the groundhog burrows do not open into a building;
- (b) all groundhog burrow entrances are at least 10 metres from a building; and

**Note: On May 1, 2020, clause 56 (2) (b) of the Regulation is amended by striking out “10” and substituting “30”. (See: O. Reg. 134/20, s. 24 (2))**

- (c) the exterminator and every other person present have adequate respiratory protection during the introduction of the fumigant gas. O. Reg. 63/09, s. 56 (2).

#### **Exemption, land exterminator of Industrial Vegetation class**

**57.** A licensed land exterminator of the Industrial Vegetation class is exempt from subsection 5 (1) of the Act with respect to the performance of a structural extermination if the extermination takes place in a sewer. O. Reg. 63/09, s. 57.

#### **Permits**

**58.** (1) A Class 2 pesticide is prescribed for the purposes of subsection 7 (1) of the Act if the pesticide is used in any of the following types of fumigations:

**Note: On May 1, 2020, subsection 58 (1) of the Regulation is amended by adding “Subject to subsection (3)” at the beginning of the portion before paragraph 1 and by striking out “Class 2 pesticide” in the portion before paragraph 1 and substituting “Class B pesticide that is a fumigant gas”. (See: O. Reg. 134/20, s. 25 (1))**

1. A fumigation of a building or a portion of a building, as described in subsection 60 (1).
2. A fumigation in a vehicle or a structure, as described in subsection 63 (1). O. Reg. 63/09, s. 58 (1).

(2) A Class 2 pesticide is prescribed for the purposes of subsection 7 (1) of the Act if the pesticide is used to destroy bees in a structural extermination. O. Reg. 63/09, s. 58 (2).

**Note: On May 1, 2020, subsection 58 (2) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 25 (2))**

(2) For greater certainty, a Class B pesticide that is a fumigant gas is prescribed for the purposes of subsection 7 (1) of the Act if the pesticide is used in a structural extermination to destroy bees. O. Reg. 134/20, s. 25 (2).

(3) A licensed exterminator of the Fumigation Commodity or Fumigation General class is exempt from subsection 7 (1) of the Act with respect to a fumigation mentioned in paragraph 2 of subsection (1) if the licensee complies with sections 59 and 63. O. Reg. 63/09, s. 58 (3).

**Note: On May 1, 2020, subsection 58 (3) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 25 (2))**



(3) Subsection 7 (1) of the Act does not apply with respect to a fumigation mentioned in paragraph 2 of subsection (1) if the extermination is performed by a licensed exterminator of the Fumigation Commodity or Fumigation General class and the licensee complies with sections 59 and 63. O. Reg. 134/20, s. 25 (2).

(4) Sections 59 and 63 do not apply to the holder of a permit who is performing a fumigation mentioned in paragraph 2 of subsection (1) that is authorized by the permit, except to the extent the Director imposes one or more of the requirements set out in those sections as a condition of the permit. O. Reg. 134/20, s. 25 (2).

#### **Fumigations, general requirements**

**59.** (1) A person who is required by this Regulation to have adequate respiratory protection shall have adequate respiratory protection on his or her person and shall use the protection at the times or in the circumstances required by the label of the pesticide being used. O. Reg. 63/09, s. 59 (1).

(2) If tests are required to be performed under this Regulation to determine whether the airing out phase of a fumigation is complete, the tests shall be performed using appropriate gas monitoring equipment or systems that have the ability to detect and measure the gas produced by the pesticide used, with the accuracy appropriate to the concentrations set out in subsection (4). O. Reg. 63/09, s. 59 (2).

(3) For the purposes of this Regulation, a fumigation is not complete until the airing out phase of the fumigation is complete in accordance with subsection (4). O. Reg. 63/09, s. 59 (3).

(4) The airing out phase of a fumigation is not complete until, throughout the building, vault, vehicle or structure in which the fumigation was performed, the concentration of the gas produced by the pesticide used is at or below,

- (a) the concentration specified on the pesticide's label; and
- (b) the concentration specified for the pesticide in Column 2 or 3 of the Table to this section, whichever is appropriate for the measuring device being used. O. Reg. 63/09, s. 59 (4).

TABLE

Item	Column 1 Gas Produced by Pesticide	Column 2 Concentration (mg/m <sup>3</sup> )	Column 3 Concentration (ppm by volume)
1.	Phosphine gas	0.40	0.30
2.	Carbon dioxide	9,000	5,000
3.	Chloropicrin	0.67	0.10
4.	Sulfuryl fluoride	4.2	1.00
5.	Ethylene oxide	1.80	1.00
6.	Methyl bromide	12.00	3.00

O. Reg. 63/09, s. 59, Table.

#### **Indoor fumigations, no covering or sealed container**

**60.** (1) This section applies to a fumigation if,

- (a) the fumigation is performed by means of a fumigant gas;

**Note:** On May 1, 2020, clause 60 (1) (a) of the Regulation is amended by adding "Class B pesticide that is a" before "fumigant gas". (See: O. Reg. 134/20, s. 26)

- (b) the fumigation is performed inside a building or a portion of a building; and

- (c) section 62 does not apply to the fumigation. O. Reg. 63/09, s. 60 (1).

(2) At least 24 hours before but not more than seven days before performing a fumigation mentioned in subsection (1), the exterminator shall deliver a notice in writing,

- (a) to the owner or a representative of the owner of the building where the fumigation is to be performed and, if the building contains one or more dwelling units, to every occupant 16 years of age or over of every dwelling unit;
- (b) to the owner or a person apparently in charge of,
  - (i) every building physically attached to the building where the fumigation is to be performed,
  - (ii) every building on the same parcel of land as the building where the fumigation is to be performed, and
  - (iii) every building so located that the fumigation constitutes an actual or potential hazard to the occupants; and
- (c) to the medical officer of health, the police force and the fire department responsible for the area in which the fumigation is to be performed. O. Reg. 63/09, s. 60 (2).

(3) A notice under subsection (2) shall set out,

- (a) the address where the fumigation is to be performed;

- (b) the name of the licensed exterminator and the licensed exterminator's emergency phone number;
- (c) the fumigant gas;
- (d) the proposed date of the fumigation; and
- (e) that occupants are to vacate and remain out of the building where the fumigation is to be performed, and every building physically attached to that building, at all times during the fumigation. O. Reg. 63/09, s. 60 (3).
- (4) Before performing a fumigation mentioned in subsection (1), the exterminator shall,
  - (a) ensure that the building where the fumigation is to be performed and every building physically attached to that building are unoccupied;
  - (b) seal all openings in the building or the portion of the building where the fumigation is to be performed, including drains, ducts, vents and cracks, in a manner that suppresses the release of gas;
  - (c) remove from the building or the portion of the building where the fumigation is to be performed all substances that are not compatible with the fumigant gas to be used;
  - (d) lock all doors and entrances to the building where the fumigation is to be performed, and all doors and entrances to every building physically attached to that building; and
  - (e) post Sign A, referred to in the Table to subsection 1 (5), at all entrances to the building where the fumigation is to be performed, and at all entrances to every building physically attached to the building, and ensure that each sign is sufficiently illuminated at all times to allow it to be read. O. Reg. 63/09, s. 60 (4).
- (5) At all times during a fumigation mentioned in subsection (1), the exterminator shall ensure that,
  - (a) the signs required to be posted remain posted;
  - (b) no person enters or remains in the building where the fumigation is being performed, or any building physically attached to that building, except a licensed exterminator authorized to use the fumigant gas or emergency personnel;
  - (c) a person mentioned in clause (b) who enters the building where the fumigation is being performed, or any building physically attached to that building, uses adequate respiratory protection and is accompanied by at least one other person mentioned in clause (b) who also uses adequate respiratory protection; and
  - (d) security personnel are posted in a manner sufficient to prevent any unauthorized person from entering the building where the fumigation is being performed, any building physically attached to that building or any area surrounding the buildings in which unauthorized persons might come to harm because of the fumigant gas. O. Reg. 63/09, s. 60 (5).
- (6) During the airing out phase of a fumigation mentioned in subsection (1), the exterminator shall,
  - (a) circulate fresh air to every air space in the building where the fumigation was performed, and to every air space in every building physically attached to that building, so that fresh air is circulated to all of those spaces for whatever period of time is necessary to complete the airing out phase; and
  - (b) perform tests in every room of the building in which the fumigation was performed, and in every room of every building physically attached to that building, to determine whether the airing out phase is complete. O. Reg. 63/09, s. 60 (6).
- (7) Within seven days after a fumigation mentioned in subsection (1) is complete, the exterminator shall notify the Director of the completion and of any unexpected or adverse consequences. O. Reg. 63/09, s. 60 (7).

#### **Fumigations in vaults**

**61.** (1) The person responsible for a vault shall not cause or permit a fumigation performed by means of a fumigant gas to be performed in the vault unless the vault has been confirmed to be gas-tight by the report of a professional engineer issued within the previous five years or, if any work has been done on the vault during the previous five years that could affect whether the vault is gas-tight, by the report of a professional engineer issued since the work was done. O. Reg. 63/09, s. 61 (1).

**Note:** On May 1, 2020, section 61 of the Regulation is amended by adding the following subsection: (See: O. Reg. 134/20, s. 27 (2))

(0.1) In this section,

“licensed engineering practitioner” means a person who holds a licence, limited licence or temporary licence under the *Professional Engineers Act*. O. Reg. 134/20, s. 27 (2).

(2) The person responsible for a vault shall not cause or permit a fumigation to be performed in the vault if he or she is aware that the vault is not gas-tight. O. Reg. 63/09, s. 61 (2).

(3) Within 10 days after receiving a report mentioned in subsection (1), the person responsible for the vault shall submit to the Director a copy of the report. O. Reg. 63/09, s. 61 (3).

- (4) An exterminator who performs a fumigation in a vault shall comply with the following rules:
1. Before the fumigation begins, the exterminator shall inspect the vault and not proceed with the fumigation unless he or she is satisfied that,
    - i. the vault has been confirmed to be gas-tight by the report of a professional engineer mentioned in subsection (1),
    - ii. the vault is free of any obvious damage that would suggest that the vault is not gas-tight, and
    - iii. the vault is equipped with,
      - A. a sheet metal lining having soldered joints and covering the walls and ceilings, or any other lining that is equivalent in the opinion of the Director,
      - B. a floor that is made of material impervious to fumigant gases,
      - C. a gasket that is non-reactive to the fumigant gas,
      - D. an exhaust fan that is,
        1. controlled by a switch from outside the vault,
        2. capable of performing 10 changes of air per hour, and
        3. capable of discharging exhaust gases into the outside atmosphere in a manner that ensures that the exhaust gases will not enter any door, window or opening, and
      - E. a means of introducing gas from outside the vault.
  2. The exterminator shall search the vault before the fumigation begins to ensure that the vault contains no person.
  3. The exterminator shall post Sign A, referred to in the Table to subsection 1 (5), on the vault entrance at the beginning of the fumigation and shall ensure that the sign remains posted at all times during the fumigation.
  4. The exterminator shall have adequate respiratory protection at all times during the fumigation.
  5. The exterminator shall lock the door of the vault by means of an external lock before the fumigation begins, keep the door locked until the airing out phase of the fumigation begins, and keep the keys or other means of unlocking the door in his or her possession at all times during the fumigation.
  6. The exterminator shall, if he or she determines during the fumigation that the vault is not gas-tight, take reasonable steps to temporarily seal the leaks and, within 24 hours after the fumigation is complete, give written notice of the presence of the leaks to the person responsible for the vault and to the Director.
  7. The exterminator shall ensure that no person enters the vault until the fumigation is complete.
  8. The exterminator shall be present at the vault during the airing out phase of the fumigation.
  9. The exterminator shall perform tests at representative locations in the vault to determine whether the airing out phase of the fumigation is complete. O. Reg. 63/09, s. 61 (4).

**Note: On May 1, 2020, section 61 of the Regulation is amended by striking out “professional engineer” wherever it appears and substituting in each case “licensed engineering practitioner”. (See: O. Reg. 134/20, s. 27 (1))**

**Indoor fumigations under coverings or inside sealed containers**

- 62.** (1) This section applies to a fumigation if,
- (a) the fumigation is performed by means of a fumigant gas or chloropicrin;

**Note: On May 1, 2020, clause 62 (1) (a) of the Regulation is amended by adding “Class B pesticide that is a” before “fumigant gas”. (See: O. Reg. 134/20, s. 28)**

- (b) the fumigation, including a fumigation of soil, is performed inside a building; and
  - (c) the fumigant gas or chloropicrin is enclosed during the fumigation inside a sealed container or under a covering that suppresses the release of gas. O. Reg. 63/09, s. 62 (1).
- (2) An exterminator who performs a fumigation mentioned in subsection (1) shall comply with the following rules:
1. The exterminator shall ensure that the building is not attached to another building and that the building is located at a sufficient distance from any other building, structure or area where humans may be exposed to the fumigant gas or chloropicrin, to prevent adverse effects.
  2. Before the fumigation begins, the exterminator shall post Sign A, referred to in the Table to subsection 1 (5), on the covering or sealed container and all entrances to the building.

3. The exterminator shall monitor the air outside the covering or sealed container to ensure that at all times during the fumigation the concentration of the gas produced by the pesticide within the area covered by the distance mentioned in paragraph 1 is at or below the concentration specified in Column 2 or 3 of the Table to section 59.
4. The exterminator shall prepare a record of the concentration of the gas produced by the pesticide during the fumigation within the area covered by the distance mentioned in paragraph 1 and shall keep the record for a period of at least two years after the fumigation is complete.
5. The exterminator shall ensure that no person enters or remains in the building during the fumigation, except a licensed exterminator authorized to use the fumigant gas or chloropicrin or emergency personnel.
6. The exterminator shall ensure that a person mentioned in paragraph 5 who enters the building uses adequate respiratory protection and is accompanied by at least one other person mentioned in paragraph 5 who also uses adequate respiratory protection.
7. The exterminator and at least one other exterminator authorized to use the fumigant gas or chloropicrin shall be present during the introduction of the fumigant gas or chloropicrin and the airing out phase of the fumigation.
8. The exterminator shall ensure that all persons present during the introduction of the fumigant gas or chloropicrin and the airing out phase of the fumigation have adequate respiratory protection.
9. The exterminator shall lock the doors of the building where the fumigation is being performed by means of an external lock immediately after the introduction of the fumigant gas or chloropicrin, keep the doors locked until the airing out phase of the fumigation begins and keep the keys or other means of unlocking the door in his or her possession at all times during the fumigation.
10. The exterminator shall ensure that signs required by this Regulation to be posted remain posted at all times during the fumigation.
11. The exterminator shall perform tests in every room of the building in which the fumigation was performed to determine whether the fumigation is complete. O. Reg. 63/09, s. 62 (2).

(3) Despite paragraph 7 of subsection (2), only one licensed exterminator is required to be present during the introduction of the pesticide and the airing out phase of the fumigation if the fumigation is only performed by means of solid formulations of aluminum phosphide or magnesium phosphide. O. Reg. 63/09, s. 62 (3).

#### **Fumigations in vehicles or specified structures**

**63.** (1) This section applies to a fumigation performed by means of a fumigant gas in a vehicle, including a trailer or other equipment attached to a vehicle, or in any of the following structures:

**Note:** On May 1, 2020, subsection 63 (1) of the Regulation is amended by adding “Class B pesticide that is a” before “fumigant gas” in the portion before paragraph 1. (See: O. Reg. 134/20, s. 29)

1. A shipping container.
  2. A silo or other grain storage container.
  3. A bin.
  4. A hopper.
  5. Any other structure used for the purposes of an agricultural operation other than a building used primarily as a dwelling. O. Reg. 63/09, s. 63 (1).
- (2) An exterminator who performs a fumigation mentioned in subsection (1) shall comply with the following rules:
1. Before the fumigation begins,
    - i. the exterminator shall ensure that the vehicle or structure is capable of being sealed during the fumigation,
    - ii. the exterminator shall ensure that the vehicle or structure is not contained within a larger vehicle or structure,
    - iii. the exterminator shall ensure that the vehicle or structure is located at a sufficient distance from any other building, structure or area where humans may be exposed to the fumigant gas, to prevent adverse effects,
    - iv. the exterminator shall remove from the vehicle or structure all substances that are not compatible with the fumigant gas,
    - v. the exterminator shall search the vehicle or structure to ensure that it contains no person, and
    - vi. the exterminator shall post Sign A, referred to in the Table to subsection 1 (5), on each entrance to the vehicle or structure.

2. Before introducing a fumigant gas from the outside or immediately after introducing a fumigant gas from the inside, the exterminator shall seal the vehicle or structure and lock all doors of the vehicle or structure by means of an external lock.
  3. During the introduction of the fumigant gas and the airing out phase of the fumigation,
    - i. the exterminator and at least one other licensed exterminator authorized to use the fumigant gas shall be present, and
    - ii. all persons present shall have adequate respiratory protection.
  4. The exterminator shall monitor the air outside the vehicle or structure to ensure that, at all times during the fumigation, the concentration of the gas produced by the pesticide within the area covered by the distance mentioned in subparagraph 1 iii is at or below the concentration specified in Column 2 or 3 of the Table to section 59.
  5. The exterminator shall prepare a record of the concentration of the gas produced by the pesticide during the fumigation within the area covered by the distance mentioned in subparagraph 1 iii and shall keep the record for a period of at least two years after the fumigation is complete.
  6. At all times during the fumigation, the exterminator shall ensure that no person enters or remains in the vehicle or structure, except a licensed exterminator authorized to use the fumigant gas or emergency personnel.
  7. The exterminator shall ensure that the signs required to be posted remain posted at all times during the fumigation.
  8. At all times during the fumigation, the exterminator shall keep the vehicle or structure sealed and the doors locked until the airing out phase of the fumigation begins and shall keep in his or her possession the keys or other means of unlocking the doors.
  9. The exterminator shall perform tests in the vehicle or structure to determine whether the fumigation is complete.
  10. During a fumigation using methyl bromide in a vehicle or structure that is movable, the exterminator shall ensure that no person moves the vehicle or structure until the airing out phase of the fumigation is complete, except any emergency personnel in an emergency and with the permission of a licensed exterminator of the Fumigation General class.
  11. The exterminator shall ensure that the fumigation of ships and of mobile units carried by ships complies with the *Canada Shipping Act, 2001* and the *Cargo, Fumigation and Tackle Regulations* (Canada). O. Reg. 63/09, s. 63 (2).
- (3) If a fumigation is performed in which phosphine is used in a truck, trailer or rail car that is in motion while the phosphine is active,
- (a) despite subsection (2), an exterminator is not required to accompany the truck, trailer or rail car while it is in motion; and
  - (b) instead of keeping the keys or other means of unlocking the doors in his or her possession as required in paragraph 8 of subsection (2), the exterminator shall ensure that they are not accessible to anyone other than persons who are assisting in the fumigation or involved in operating the truck, trailer or rail car. O. Reg. 63/09, s. 63 (3).

#### **Fumigations of rodent burrows**

**64.** If an exterminator performs a fumigation of rodent burrows in the ground by means of a fumigant gas, he or she shall ensure that,

- (a) the burrows do not open into a building;
- (b) all rat burrow entrances are at least five metres from a building;
- (c) all groundhog burrow entrances are at least 10 metres from a building; and

**Note:** On May 1, 2020, clause 64 (c) of the Regulation is amended by striking out “10” and substituting “30”. (See: O. Reg. 134/20, s. 30)

- (d) the exterminator and every other person present have adequate respiratory protection during the introduction of the fumigant gas. O. Reg. 63/09, s. 64.

#### **Outdoor fumigations of soil**

**65.** (1) This section applies to a fumigation if,

- (a) the fumigation is performed by means of a fumigant gas or chloropicrin;
- (b) the fumigation is a fumigation of soil that is not inside a building; and
- (c) the fumigant gas or chloropicrin used in the fumigation is enclosed during the fumigation under a covering that suppresses the release of gas. O. Reg. 63/09, s. 65 (1).

**Note:** On May 1, 2020, subsection 65 (1) of the Regulation is amended by adding “and” at the end of clause (a), by striking out “and” at the end of clause (b) and by revoking clause (c). (See: O. Reg. 134/20, s. 31 (1))

- (2) If an exterminator performs a fumigation mentioned in subsection (1),

**Note: On May 1, 2020, subsection 65 (2) of the Regulation is amended by adding the following clause: (See: O. Reg. 134/20, s. 31 (2))**

- (0.a) the exterminator shall ensure that the fumigant gas or chloropicrin used in the fumigation is enclosed during the fumigation under a covering that suppresses the release of gas;
- (a) the exterminator shall ensure that the soil is located at a sufficient distance from any other building, structure or area where humans may be exposed to the fumigant gas or chloropicrin, to prevent adverse effects;
- (b) the exterminator shall monitor the air in the area covered by the distance mentioned in clause (a) to ensure that at all times during the fumigation, the concentration of the gas produced by the pesticide within that area is at or below the concentration specified in Column 2 or 3 of the Table to section 59;
- (c) the exterminator shall prepare a record of the concentration of the gas produced by the pesticide during the fumigation within the area covered by the distance mentioned in clause (a) and shall keep the record for at least two years after the fumigation is complete; and
- (d) the exterminator and every other person present during the fumigation shall have adequate respiratory protection. O. Reg. 63/09, s. 65 (2).

**Note: On May 1, 2020, section 65 of the Regulation is amended by adding the following subsection: (See: O. Reg. 134/20, s. 31 (3))**

(3) This section applies, with necessary modifications, to a land extermination that is performed by means of chloropicrin. O. Reg. 134/20, s. 31 (3).

#### **Structural exterminations, 4-amino-pyridine, strychnine or zinc phosphide**

66. If a pesticide containing 4-amino-pyridine, strychnine or zinc phosphide is used in a structural extermination, the exterminator shall,

**Note: On May 1, 2020, section 66 of the Regulation is amended by striking out “If a pesticide containing” at the beginning of the portion before clause (a) and substituting “If a pesticide with a label that indicates that it contains”. (See: O. Reg. 134/20, s. 32 (1))**

- (a) place the pesticide so that it is inaccessible to humans and to animals that are not targeted by the extermination;
- (b) use the pesticide so that it is unlikely to come into contact with food or drink intended for consumption by humans or animals;
- (c) prepare a record, during the extermination, of each location where the pesticide is placed;

**Note: On May 1, 2020, clause 66 (c) of the Regulation is revoked. (See: O. Reg. 134/20, s. 32 (2))**

- (d) dispose of any exterminated animals on a daily basis in a manner that will prevent contact with humans or other animals; and
- (e) when the extermination is complete, remove the pesticide from every location where it was placed. O. Reg. 63/09, s. 66.

**Note: On May 1, 2020, section 66 of the Regulation is amended by adding the following subsections: (See: O. Reg. 134/20, s. 32 (3))**

(2) A person who performs a structural extermination using a pesticide with a label that indicates that it contains 4-amino-pyridine, strychnine or zinc phosphide shall,

- (a) prepare a record, during the extermination, of each location where the pesticide is placed and keep the record for at least two years after the extermination is complete;
- (b) if the structural extermination is performed for an operator, give a copy of the record mentioned in clause (a) to the operator after the extermination is complete; and
- (c) if the Director requests a copy of the record mentioned in clause (a) during the two years following the completion of the extermination, give it to the Director as soon as practicable. O. Reg. 134/20, s. 32 (3).

(3) An operator shall,

- (a) keep a copy of a record given under clause (2) (b) for at least two years after the extermination is complete; and
- (b) if the Director requests a copy of the record mentioned in clause (a) during the two years following the completion of the extermination, give it to the Director as soon as practicable. O. Reg. 134/20, s. 32 (3).

#### **Structural exterminations, suspensions in air or specified fumigants**

67. (1) This section applies to a structural extermination performed by means of,

- (a) a suspension in air; or
- (b) a fumigant that is not a fumigant gas. O. Reg. 63/09, s. 67 (1).

**Note: On May 1, 2020, subsection 67 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 33 (1))**

**Structural exterminations, specified suspensions in air or fumigants**

- (1) This section applies to a structural extermination performed by means of,
- (a) a Class B fumigant that is not a fumigant gas;
  - (b) a Class B suspension in air;
  - (c) a Class C suspension in air with a label that indicates entrances to the area where the extermination is to be performed are to be locked, barricaded or posted with signs; or
  - (d) a Class C fumigant with a label that indicates entrances to the area where the extermination is to be performed are to be locked, barricaded or posted with signs. O. Reg. 134/20, s. 33 (1).
- (2) An exterminator who performs an extermination mentioned in subsection (1) by means of a Class 2 pesticide shall,

**Note: On May 1, 2020, subsection 67 (2) of the Regulation is amended by striking out the portion before clause (a) and substituting the following: (See: O. Reg. 134/20, s. 33 (2))**

- (2) Unless a person who performs an extermination mentioned in subsection (1) is exempt under section 43, the person shall,
- (a) be a licensed structural exterminator of the Greenhouse/Interior Plant, Structural or Termite class who is authorized to perform the extermination; and

**Note: On May 1, 2020, clause 67 (2) (a) of the Regulation is amended by adding “Fumigation Commodity,” before “Greenhouse/Interior Plant”. (See: O. Reg. 134/20, s. 33 (3))**

- (b) ensure that another licensed exterminator whose licence authorizes the performance of the extermination is present during the extermination. O. Reg. 63/09, s. 67 (2); O. Reg. 228/18, s. 12.
- (3) An exterminator who performs an extermination mentioned in subsection (1) by means of a Class 3 pesticide shall,
- (a) be a licensed exterminator of the Fumigation Commodity, Greenhouse/Interior Plant, Structural or Termite class who is authorized to perform the extermination; or
  - (b) be a person mentioned in Column 1 of the Table to section 46 who meets the conditions and requirements that apply to the person under section 46 and who is supervised in accordance with section 48 by a licensed exterminator whose licence authorizes the performance of the extermination. O. Reg. 63/09, s. 67 (3).

**Note: On May 1, 2020, subsection 67 (3) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 33 (4))**

- (3) A person who performs an extermination mentioned in subsection (1) shall,
- (a) before introduction of the pesticide,
    - (i) lock, from the outside, all doors leading into the building in which the extermination is to be performed, except for the door that the person who performs the extermination will use for access,
    - (ii) post Sign B, referred to in the Table to subsection 1 (5), on the outside of all doors leading into the building, and
    - (iii) ensure that the building is vacant of humans and animals, other than the pests being exterminated; and
  - (b) after introduction of the pesticide,
    - (i) leave the building and lock the remaining unlocked door,
    - (ii) ensure that no person other than emergency personnel or a person authorized under this section to be present during the extermination enters the building until the building is free of the suspension in air or fumigant, and
    - (iii) ensure that a person mentioned in subclause (ii) who enters the building in which the extermination is being performed, or any building physically attached to that building, uses adequate respiratory protection and is accompanied by at least one other person mentioned in subclause (ii) who also uses adequate respiratory protection. O. Reg. 134/20, s. 33 (4).

- (4) If the exterminator who performs an extermination mentioned in subsection (1) is a person mentioned in clause (3) (a), another licensed exterminator whose licence authorizes the performance of the extermination or a person mentioned in Column 1 of the Table to section 46 shall be present during the extermination. O. Reg. 63/09, s. 67 (4); O. Reg. 228/18, s. 12.

**Note: On May 1, 2020, subsection 67 (4) of the Regulation is revoked. (See: O. Reg. 134/20, s. 33 (4))**

- (5) If the exterminator who performs an extermination mentioned in subsection (1) is a person mentioned in clause (3) (b), a licensed exterminator whose licence authorizes the performance of the extermination shall be present during the extermination. O. Reg. 63/09, s. 67 (5).

**Note: On May 1, 2020, subsection 67 (5) of the Regulation is revoked. (See: O. Reg. 134/20, s. 33 (4))**

(6) An exterminator who performs an extermination mentioned in subsection (1) by means of a Class 2 or 3 pesticide shall,

(a) before introduction of the pesticide,

(i) lock, from the outside, all doors leading into the building in which the extermination is to be performed, except for the door that the exterminator will use for access,

(ii) post Sign B, referred to in the Table to subsection 1 (5), on the outside of all doors leading into the building, and

(iii) ensure that the building is vacant of humans and animals, other than the pests being exterminated; and

(b) after introduction of the pesticide,

(i) leave the building and lock the remaining unlocked door,

(ii) ensure that no person other than emergency personnel or a person authorized under this section to be present during the extermination enters the building until the building is free of the suspension in air or fumigant, and

(iii) ensure that a person mentioned in subclause (ii) who enters the building in which the extermination is being performed, or any building physically attached to that building, uses adequate respiratory protection and is accompanied by at least one other person mentioned in subclause (ii) who also uses adequate respiratory protection. O. Reg. 63/09, s. 67 (6).

**Note: On May 1, 2020, subsection 67 (6) of the Regulation is revoked. (See: O. Reg. 134/20, s. 33 (4))**

**Note: On May 1, 2020, the Regulation is amended by adding the following section: (See: O. Reg. 134/20, s. 34)**

#### **Signs, requirement to post**

**67.1** Section 74 applies to a person who performs a structural extermination that involves the use of a pesticide in, on or over land for the purposes of destroying, preventing or controlling arthropods that bite, sting, are venomous or carry disease, unless the area where the extermination is to be performed is less than one square metre or does not extend more than one metre from the structure. O. Reg. 134/20, s. 34.

### **LAND EXTERMINATIONS**

**Note: On May 1, 2020, the Regulation is amended by adding the following section immediately after the heading “Land Exterminations”: (See: O. Reg. 134/20, s. 35)**

#### **Deemed land extermination**

**67.2** A structural extermination is deemed to be a land extermination for the purposes of the Act and this Regulation if,

(a) the extermination is performed to destroy, prevent or control plants in order to prevent damage to the structural integrity of a building or other structure that is not part of a public work; and

(b) the potential damage caused to the building or structure by the plants would place the health or safety of a person at risk. O. Reg. 134/20, s. 35.

#### **Authorization to perform land extermination**

**68.** (1) Subject to subsection 7.1 (1) of the Act and section 9 of this Regulation,

(a) a land exterminator’s licence of a class set out in the Table to this section authorizes the use of the pesticides set out opposite the class in Column 2 of the Table; and

(b) the conditions for use set out in Column 3 of the Table opposite a class of licence are prescribed as conditions for use of the pesticides.

**TABLE**

Item	Column 1 Class of licence	Column 2 Pesticides authorized for use under the licence	Column 3 Conditions for use
1.	Aerial	Any pesticide that may be used by an aerial application according to the directions on the pesticide’s label.	Use in a land extermination performed by aerial application. Use in a water extermination mentioned in section 85.
2.	Agriculture	Any pesticide that is not a fumigant gas, other than a fumigant gas that contains aluminum phosphide.	Use in a land extermination for the purposes of an agricultural operation. Use in a structural extermination mentioned in section 56.



3.	Industrial Vegetation	All herbicides, insecticides and fungicides, except for fumigant gases.	Use in a land extermination to control vegetation if the extermination is performed for the benefit of a public work or to allow access to the public work. Use in a structural extermination mentioned in section 57. Use of insecticides and fungicides on inground wooden poles only.
4.	Forestry	All pesticides, except for fumigant gases.	Use in a land extermination performed for the purposes of forestry.
5.	Landscape	All pesticides, except for fumigant gases.	Use in a land extermination to maintain turf or ornamental plantings on residential, recreational, commercial or public land or to maintain ornamental plants intended for sale, including the following uses: 1. Use on the outside of buildings or structures for the purpose of exterminating pests directly associated with turf or ornamental plantings. 2. Use for the purpose of maintaining treed areas not exceeding one hectare in size. 3. Use for the purpose of maintaining rights of way or easements that are not related to a public work.

O. Reg. 63/09, s. 68; O. Reg. 279/09, s. 6.

**Note:** On May 1, 2020, item 2 of the Table to subsection 68 (1) of the Regulation is amended by striking out “fumigant gas that contains” in Column 2 and substituting “fumigant gas with a label that indicates that it contains”. (See: O. Reg. 134/20, s. 36 (1))

**Note:** On May 1, 2020, item 3 of the Table to subsection 68 (1) of the Regulation is amended by adding the following after “Use in a structural extermination mentioned in section 57” in Column 3: (See: O. Reg. 134/20, s. 36 (2))

Use in a land extermination described in section 67.2.

Use in a land extermination for the purpose of maintaining rights of way or easements that are not related to a public work.

**Note:** On May 1, 2020, item 5 of the Table to subsection 68 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 36 (3))

5.	Landscape	All pesticides, except for fumigant gases.	Use in a land extermination to maintain ornamental plants intended for sale. Use in a land extermination on residential, recreational, commercial or public land for one of the following uses: 1. Use to maintain turf or ornamental plantings. 2. Use on the outside of buildings or structures for the purpose of exterminating pests directly associated with turf or ornamental plantings. 3. Use for the purpose of maintaining treed areas not exceeding one hectare in size. 4. Use for the purpose of maintaining rights of way or easements that are not related to a public work. 5. Use for the destruction, prevention or control of vegetation, as authorized under section 23, 28 or 29.
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(2) Despite subsection (1), a land exterminator’s licence shall not authorize the use of a Class 12 pesticide. O. Reg. 139/15, s. 21.

**Note:** On May 1, 2020, subsection 68 (2) of the Regulation is amended by striking out “Class 12” and substituting “Class E”. (See: O. Reg. 134/20, s. 37)

#### Exemption, animal repellent

**69.** A person is exempt from subsection 5 (1) of the Act with respect to the performance of a land extermination if the person performs the extermination for personal protection by means of a Class 5, 6 or 7 pesticide that is labelled for use as an animal repellent. O. Reg. 63/09, s. 69.

**Note:** On May 1, 2020, section 69 of the Regulation is amended by striking out “Class 5, 6 or 7” and substituting “Class B or D”. (See: O. Reg. 134/20, s. 38 (1))

**Note:** On May 1, 2020, section 69 of the Regulation is amended by adding the following subsection: (See: O. Reg. 134/20, s. 38 (2))

(2) Subsection (1) does not apply to a Class B pesticide with a label that indicates that it contains an active ingredient other than capsaicin or capsaicin and related capsaicinoids. O. Reg. 134/20, s. 38 (2).

#### Exemption, specified premises

**70.** A person is exempt from subsection 5 (1) of the Act with respect to the performance of a land extermination if the person performs the extermination by means of a Class 5, 6 or 7 pesticide,

**Note: On May 1, 2020, section 70 of the Regulation is amended by striking out “Class 5, 6 or 7” in the portion before clause (a) and substituting “Class D”. (See: O. Reg. 134/20, s. 39)**

- (a) on premises that he or she owns or occupies; or
- (b) on premises that are owned or occupied by the person’s full-time employer. O. Reg. 63/09, s. 70.

#### **Exemptions, structural and water exterminators**

**71. (1)** A licensed structural exterminator of the Structural class is exempt from subsection 5 (1) of the Act with respect to the performance of a land extermination if,

- (a) he or she performs the extermination on pests of farm animals for the purposes of an agricultural operation; or
- (b) he or she exterminates pests that are mammals, birds or arthropods and that are on or near a waste disposal site within the meaning of the *Environmental Protection Act*. O. Reg. 63/09, s. 71 (1).

**Note: On May 1, 2020, subsection 71 (1) of the Regulation is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following clause: (See: O. Reg. 134/20, s. 40 (1))**

- (c) he or she exterminates pests that are animals that bite, sting, are venomous or carry disease.

(2) A licensed water exterminator of the Mosquito/Biting Flies class is exempt from subsection 5 (1) of the Act with respect to the performance of a land extermination if he or she performs the extermination of mosquitoes in their adult stage or other biting flies in their adult stage. O. Reg. 63/09, s. 71 (2).

**Note: On May 1, 2020, subsection 71 (2) of the Regulation is amended by striking out “mosquitoes in their adult stage or other biting flies in their adult stage” at the end and substituting “an arthropod in its terrestrial life stage that bites, stings, is venomous or carries disease”. (See: O. Reg. 134/20, s. 40 (2))**

**Note: On May 1, 2020, section 71 of the Regulation is amended by adding the following subsection: (See: O. Reg. 134/20, s. 40 (3))**

(3) A licensed structural exterminator of the Fumigation Soil class is exempt from subsection 5 (1) of the Act with respect to the performance of a land extermination if,

- (a) he or she performs the extermination in soil; and
- (b) only a pesticide that is a fumigant is used for the extermination. O. Reg. 134/20, s. 40 (3).

#### **Permits**

**72.** A pesticide used in a land extermination is prescribed for the purposes of subsection 7 (1) of the Act in any of the following circumstances:

1. The pesticide is a Class 2, 3 or 4 pesticide that contains picloram.
2. The pesticide is a Class 2 pesticide and the extermination is performed by aerial application.
3. The pesticide is a Class 3 pesticide that contains 2,4-D, 2,4-DB, mecoprop, MCPA, MCPB, dichlorprop, dicamba, paraquat or triclopyr and the extermination is performed by aerial application.
4. The pesticide is a Class 3 or 4 pesticide and the extermination is performed by aerial application in connection with the management of a Crown forest. O. Reg. 63/09, s. 72.

**Note: On May 1, 2020, section 72 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 41)**

#### **Permits**

**72. (1)** A pesticide used in a land extermination is prescribed for the purposes of subsection 7 (1) of the Act in any of the following circumstances:

1. The pesticide is a Class B or C pesticide with a label that indicates that it contains picloram.
2. Subject to subsection (2), the pesticide is a Class B pesticide and the extermination is performed by aerial application.
3. The pesticide is a Class C pesticide and the extermination is performed by aerial application in connection with the management of a Crown forest. O. Reg. 134/20, s. 41.

(2) Paragraph 2 of subsection (1) does not apply with respect to an extermination performed using *Bacillus thuringiensis* subspecies *kurstaki* for the purpose of maintaining a tree canopy, unless the extermination is performed in connection with the management of a Crown forest. O. Reg. 134/20, s. 41.

#### **Aerial application, land**

**73. (1)** No person shall perform a land extermination by aerial application unless the person is a licensed land exterminator of the Aerial class. O. Reg. 63/09, s. 73 (1).

- (2) A person who performs a land extermination by aerial application using a Class 2 or 3 pesticide shall ensure that,

**Note: On May 1, 2020, subsection 73 (2) of the Regulation is amended by striking out “Class 2 or 3” in the portion before clause (a) and substituting “Class B or C”. (See: O. Reg. 134/20, s. 42)**

- (a) the pesticide is not in a dust formulation; and
- (b) if an airplane, helicopter or other vehicle that requires a pilot is used, the pilot does not assist in any preparation of a pesticide used in the aerial application or otherwise expose himself or herself to contact with pesticides. O. Reg. 63/09, s. 73 (2).
- (3) A person who performs a land extermination by aerial application shall,
  - (a) prepare a record, in a form approved by the Director, of each land extermination he or she has performed by aerial application, and keep the record for a period of at least two years after the extermination is complete;
  - (b) if the land extermination is performed for an operator, give a copy of the record mentioned in clause (a) to the operator after the extermination is complete; and
  - (c) on the request of the Director during the two years after the extermination is complete, give a copy of the record mentioned in clause (a) to the Director as soon as practicable. O. Reg. 63/09, s. 73 (3).
- (4) An operator shall keep a copy of a record given under clause (3) (b) for at least two years after the extermination is complete and, on the request of the Director during that two-year period, shall give a copy of the record to the Director as soon as practicable. O. Reg. 63/09, s. 73 (4).

**Signs, requirement to post**

**74.** (1) Subject to subsections (2), (3) and (4), a person who performs a land extermination shall provide public notice of the extermination by means of the signs listed in Column 1 of the Table to this subsection and referred to in the Table to subsection 1 (5) if,

- (a) the extermination is performed by a person listed opposite the sign in Column 2 of the Table;
- (b) the extermination is performed on an application area listed opposite the sign in Column 3 of the Table; and
- (c) the extermination is performed by means of a pesticide listed opposite the sign in Column 4 of the Table.

**TABLE**

Item	Column 1 Sign	Column 2 Person who performs land extermination	Column 3 Application area	Column 4 Pesticide used
1.	Sign C (Notice — Residential area land extermination)	Person who is required to hold an exterminator’s licence with respect to the extermination	Residential area	Pesticide whose only pesticide ingredient is a Class 11 pesticide.
2.	Sign D (Warning — Residential area land extermination)	Person who is required to hold an exterminator’s licence with respect to the extermination	Residential area	Any pesticide other than a pesticide whose only pesticide ingredient is a Class 11 pesticide.
3.	Sign E (Notice — Non-residential area land extermination)	Any person	Any area that is not a residential area	Pesticide whose only pesticide ingredient is a Class 11 pesticide.
4.	Sign F (Warning — Non-residential area land extermination)	Any person	Any area that is not a residential area	Any pesticide other than a pesticide whose only pesticide ingredient is a Class 11 pesticide.

O. Reg. 63/09, s. 74 (1).

**Note: On May 1, 2020, the Table to subsection 74 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 43 (1))**

**TABLE**

Item	Column 1 Sign	Column 2 Person who performs land extermination	Column 3 Application area	Column 4 Pesticide used
1.	Sign C (Notice — Residential area land extermination)	Person who is required to hold an exterminator’s licence with respect to the extermination	Residential area	Pesticide with a label that indicates that its only active ingredients are listed active ingredients.
2.	Sign D (Warning — Residential area land extermination)	Person who is required to hold an exterminator’s licence with respect to the extermination	Residential area	Any pesticide other than a pesticide with a label that indicates that its only active ingredients are listed active ingredients.

3.	Sign E (Notice — Non-residential area land extermination)	Any person	Any area that is not a residential area	Pesticide with a label that indicates that its only active ingredients are listed active ingredients.
4.	Sign F (Warning — Non-residential area land extermination)	Any person	Any area that is not a residential area	Any pesticide other than a pesticide with a label that indicates that its only active ingredients are listed active ingredients.

(2) Subsection (1) does not apply if,

- (a) the extermination is performed in a sewer;
- (b) the extermination is performed for the purposes of an agricultural operation;
- (c) the extermination is performed on land with natural features that exclude the public;
- (d) the extermination is performed on land in respect of which substantial measures, such as fencing, have been taken to exclude the public; or
- (e) the extermination is performed on a portion of a highway designated as a controlled-access highway under the *Public Transportation and Highway Improvement Act*, other than a portion to which pedestrians have access on a regular basis or other portions where the public is invited to stop, including a rest area or picnic area. O. Reg. 63/09, s. 74 (2).

**Note: On May 1, 2020, subsection 74 (2) of the Regulation is amended by striking out “or” at the end of clause (d), by adding “or” at the end of clause (e) and by adding the following clause: (See: O. Reg. 134/20, s. 43 (2))**

- (f) the extermination is performed by means of a rodenticide that is secured,
  - (i) within a tamper-resistant bait station, or
  - (ii) in a location that is not accessible to children, pets, livestock or non-target wildlife.

(3) A person who is required to hold an exterminator’s licence with respect to an extermination who performs land exterminations on more than one residential area at the same time may elect to provide public notice of the exterminations as if they are performed on one application area that is not a residential area, if he or she complies with the provisions of this Regulation that apply to an extermination performed on an application area that is not a residential area. O. Reg. 63/09, s. 74 (3).

(4) Subsection (1) does not apply if the extermination is performed by means of,

- (a) a Class 5, 6 or 7 pesticide that is,
  - (i) an animal repellent used for personal protection,
  - (ii) a tree wound dressing,
  - (iii) a wood preservative, or
  - (iv) an insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets; or
- (b) a Class 4, 5, 6 or 7 pesticide that is an injection into trees, stumps or wooden poles. O. Reg. 63/09, s. 74 (4).

**Note: On May 1, 2020, subsection 74 (4) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 43 (3))**

(4) Subsection (1) does not apply if the extermination is performed by means of any of the following:

1. A Class D pesticide that is one of the following:
  - i. A tree wound dressing.
  - ii. A wood preservative.
  - iii. An insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets.
  - iv. An injection into trees, stumps or wooden poles.
2. A Class B or D pesticide that is an animal repellent used for personal protection. O. Reg. 134/20, s. 43 (3).

#### Signs, general rules

**75.** (1) A person who performs a land extermination for which a sign referred to in subsection 74 (1) is required to be posted shall ensure that the following requirements are met:

1. The sign shall be made of rain resistant material and shall be sturdy enough that it can be read at all times and reused.

2. If the words “date posted” are required to appear on the sign, the date on which the sign is posted shall be on the sign when it is posted.
3. The date the land extermination begins shall be added to the sign immediately before the extermination begins and next to the words “date applied”.
4. In addition to the information required to appear on the front of the sign under this Regulation, the front of the sign may bear only words and markings that identify the employer of the person performing the land extermination or the owner or occupier of the application area and that do not detract from the required information.
5. In addition to the information required to appear on the back of the sign under this Regulation, the back of the sign may bear only,
  - i. words and markings that identify the employer of the person performing the land extermination or the owner or occupier of the application area and that do not detract from the required information, and
  - ii. other words and markings that are approved in writing by the Director.
6. If words and markings permitted under paragraph 4 or 5 appear on a sign, they shall occupy,
  - i. a maximum of 2.5 centimetres at the bottom of Sign C or Sign D, and
  - ii. a maximum of 5 centimetres at the bottom of Sign E or Sign F.
7. If a telephone number that is required to appear on the sign is a number to which long distance rates apply from telephones located near the application area, all collect calls must be accepted at that number.
8. Subject to subsection (3), the sign shall not be posted on,
  - i. trees, fences or buildings, or
  - ii. signboards that have other signs posted. O. Reg. 63/09, s. 75 (1).

(2) Despite subsection 1 (5), if Sign E or Sign F is required to be posted immediately before the land extermination begins, it is not required to bear the words “date posted” and the date the sign is posted. O. Reg. 63/09, s. 75 (2).

(3) A person intending to perform a land extermination may post a sign referred to in subsection 74 (1) on a structure mentioned in paragraph 8 of subsection (1) if the Director is satisfied that, in the circumstances, it would allow for public notice to be better provided. O. Reg. 63/09, s. 75 (3).

(4) REVOKED: O. Reg. 228/18, s. 13.

(5) If the Director is satisfied that, in the circumstances, public notice would be better provided, the Director may allow a person who intends to perform a land extermination to post a sign that has different dimensions or that bears different information from the dimensions and information required by this Regulation. O. Reg. 63/09, s. 75 (5).

#### **Posting of signs, general**

**76.** A person who performs a land extermination for which a sign referred to in subsection 74 (1) is required to be posted shall ensure that,

- (a) at least one of the required signs is posted; and
- (b) if only one sign is posted, that sign is posted at an ordinary point of access to the application area. O. Reg. 63/09, s. 76.

#### **Posting of residential area signs**

**77.** (1) If Sign C or Sign D is required to be posted, the person who performs the land extermination shall ensure that the required signs are posted conspicuously at least every 100 metres along the following parts of the perimeter of the application area:

1. The parts that are within 100 metres of a dwelling unit, other than a dwelling unit that is within the application area.
2. The parts that are adjacent to a highway or other area to which the public is ordinarily admitted. O. Reg. 63/09, s. 77 (1).

(2) For the purposes of subsection (1), a sign is posted along the perimeter if it is posted within 10 metres of the perimeter. O. Reg. 63/09, s. 77 (2).

(3) If Sign C or Sign D is required to be posted, the person who performs the land extermination shall ensure that the required signs are posted immediately before the extermination begins. O. Reg. 63/09, s. 77 (3).

#### **Posting of non-residential area signs**

**78.** (1) If Sign E or Sign F is required to be posted, the person who performs the land extermination shall ensure that the required signs are posted in accordance with the following rules:

1. If there are no ordinary points of access to the application area and there is a larger area that includes the application area and for which the same person is responsible as for the application area, signs shall be posted conspicuously at all ordinary points of access, if any, to that larger area and at least every 100 metres along the perimeter of the larger area, except where there is a barrier along the perimeter that can reasonably be expected to prevent any person from entering the application area.
  2. In all other cases, signs shall be posted conspicuously at all ordinary points of access, if any, to the application area and at least every 100 metres along the perimeter of the application area, except where there is a barrier along the perimeter that can reasonably be expected to prevent any person from entering the application area. O. Reg. 63/09, s. 78 (1).
- (2) For the purposes of subsection (1), a sign is posted along the perimeter if it is posted within 10 metres of the perimeter. O. Reg. 63/09, s. 78 (2).
- (3) If Sign E or Sign F is required to be posted, the person who performs the extermination shall ensure that the required signs are posted,
- (a) immediately before the extermination begins; or
  - (b) subject to subsection (4), at least 24 hours but not more than seven days before the extermination begins, if the application area includes or is included in,
    - (i) an outdoor area associated with an educational institution or facility, including a daycare facility, nursery school, primary school, high school, private school or post-secondary institution,
    - (ii) an outdoor area associated with a residential building that is not a detached house, semi-detached house or rowhouse, including an apartment building, condominium or long-term care home,
- Note: On May 1, 2020, subclause 78 (3) (b) (ii) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 44)**
- (ii) an outdoor area associated with a residential building, including an apartment building, condominium or long-term care home, but not including a detached house, semi-detached house or rowhouse,
  - (ii.1) a portion of a highway that is intended for pedestrian access or other portions where the public is invited to stop, including a rest area or picnic area,
  - (iii) a park,
  - (iv) a cemetery,
  - (v) a golf course, or
  - (vi) a campground. O. Reg. 63/09, s. 78 (3).
- (4) If an application area has the characteristics set out in Column 1 of the Table to this section and the person who performs the land extermination meets one of the conditions set out opposite the application area in Column 2 of the Table, any required signs that have not already been posted in meeting the condition set out in Column 2 may be posted immediately before the extermination begins instead of within the time period specified in clause (3) (b). O. Reg. 63/09, s. 78 (4).
- (5) The Director may abridge time periods for public notice set out in this section if he or she is satisfied that a land extermination is urgently required and that to do so would not deprive any person who may be affected by the extermination of adequate notice. O. Reg. 63/09, s. 78 (5).
- (6) For the purposes of this section, an extermination begins when a pesticide is used on any part of the application area. O. Reg. 63/09, s. 78 (6).

TABLE

Item	Column 1 Characteristics of non-residential application area	Column 2 Conditions
1.	<p>Application area includes or is included in any of the following:</p> <ol style="list-style-type: none"> <li>1. A park that is in a rural area.</li> <li>2. A cemetery.</li> <li>3. A golf course in a rural area.</li> <li>4. A golf course to which access by unauthorized persons is controlled by means of gates, fences or other barriers.</li> </ol>	<ol style="list-style-type: none"> <li>1. Signs must be posted at all ordinary points of access to the application area, or the larger area mentioned in subsection 78 (1), at least 24 hours but not more than seven days before the extermination begins.</li> <li>2. Signs must be posted at all locations where visitors normally come into contact with the owner or operator of the application area or that person's employees at least 24 hours but not more than seven days before the extermination begins.</li> <li>3. Written notices that meet the requirements of section 80 must be distributed during the period 24 hours before the extermination begins at all locations where visitors normally come into contact with the owner or operator of the application area or that person's employees.</li> <li>4. Public notice must be given by means that are approved in writing by the Director as providing adequate notice to all persons who may be affected by the extermination.</li> </ol>

2.	Application area includes or is included in a campground.	Public notice must be provided by meeting one or more of the conditions set out in Item 1 and by one or more of the following means during the period 24 hours before the extermination begins, to attempt to give notice of the extermination to persons who entered the campground before that period: 1. Posting signs. 2. Distributing written notices that meet the requirements of section 80. 3. Making public announcements. 4. Other means similar to the means set out in paragraphs 1, 2 and 3.
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O. Reg. 63/09, s. 78, Table.

**Alternative to non-residential area signs**

79. (1) A person who performs the land extermination for which the posting of Sign E or Sign F is required may provide public notice of the extermination in accordance with this section instead of in accordance with section 78 if,

- complying with the requirements of section 78 would require the posting of more than 20 signs;
- the application area is in a rural area and is on a public thoroughfare;
- the application area is in a rural area and is on land used for the purposes of a public work, if the land extermination is to be performed for the benefit of the public work or to allow access to the public work; or
- in the opinion of the Director, public access to the application area is sufficiently limited to justify doing so. O. Reg. 63/09, s. 79 (1).

(2) For the purposes of subsection (1), public notice may be given with the written approval of the Director, by the following means:

- Publication in a newspaper of general circulation in the vicinity of the application area at least one week before the extermination begins.
- The posting of signs or distribution of written notices in a manner that, in the Director's opinion, provides adequate notice to all persons who may be affected by the extermination.
- Other means that, in the Director's opinion, provide adequate notice to all persons who may be affected by the extermination. O. Reg. 63/09, s. 79 (2).

(3) For the purposes of clause (1) (b), a public thoroughfare includes a highway and any land over which the public has a general right of access but does not include any area to which pedestrians have access on a regular basis or other areas where the public is invited to stop, including a rest area or picnic area. O. Reg. 63/09, s. 79 (3).

(4) The Director may abridge the time period for advance notice set out in paragraph 1 of subsection (2) if he or she is satisfied that a land extermination is urgently required and that to do so would not deprive any person who may be affected by the extermination of adequate notice. O. Reg. 63/09, s. 79 (4).

**Note: On May 1, 2020, section 79 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 45)**

**Alternative to non-residential area signs**

79. (1) A person who performs a land extermination for which the posting of Sign E or Sign F is required may elect to provide public notice of the extermination in accordance with this section instead of in accordance with section 78 if one or more of the following circumstances applies:

- Complying with the requirements of section 78 would require the posting of more than 20 signs.
- The application area is in a rural area on a highway or on any land over which the public has a general right of access but the application area does not include either of the following:
  - A portion of a highway that is intended for pedestrian access.
  - An area where the public is invited to stop, including a rest area or picnic area.
- The application area is in a rural area on land used for the purposes of a public work and the land extermination is to be performed for the benefit of the public work or to allow access to the public work.
- In the opinion of the Director, public access to the application area is sufficiently limited to justify the election. O. Reg. 134/20, s. 45.

(2) A person who makes an election under subsection (1) shall, in the case of an application area described in Column 1 of the following Table, comply with the rules set out opposite the application area in Column 2 of the Table:

TABLE

Item	Column 1 Application area	Column 2 Rules
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1.	A golf course.	<p>1. Provide written notice to the Director of the election to have this section apply for a period of time specified in the written notice, not exceeding one year. This notice must be given to the Director before any public notice is given and at least one week before the day of the first extermination as indicated in the written notice.</p> <p>2. At least 24 hours but not more than seven days before the extermination begins, post Sign E or F at every entrance to the golf course (including a pedestrian walkway, a multi-use trail crossing and a driveway), each pro shop and each starting tee.</p> <p>3. Provide public notice by at least one of the following means:</p> <p>i. At least 24 hours but not more than seven days before the extermination begins, post Sign E or F at least every 100 metres along the perimeter of a hole used for playing golf on which there is an application area.</p> <p>ii. Except in respect of any property for which there is a barrier that can reasonably be expected to prevent any person from entering the golf course from the property, provide written notice to the occupant of each property that abuts the golf course at least one time per calendar year, one week before pesticides are first used at the golf course in the year, setting out the following:</p> <p>A. That pesticides are anticipated to be used at the golf course during the year.</p> <p>B. The telephone number of a representative of the golf course who can provide more information.</p> <p>C. That the occupant has the option to receive written notice each time a sign is required to be posted under this section.</p> <p>4. If an occupant confirms the choice of the option described in sub-subparagraph 2 ii C, provide the written notice 24 hours before the sign is required to be posted.</p> <p>5. Despite paragraphs 2 and 3, a sign may be posted or a notice provided immediately before the extermination begins, if the extermination is carried out by means of a fungicide.</p>
2.	An application area that is not a golf course and in respect of which a Sign E would otherwise be required to be posted in accordance with section 78.	<p>1. Provide written notice to the Director of the election to have this section apply for a period of time specified in the notice, not exceeding one year. The notice must be given to the Director before any public notice is given and at least one week before the day of the first extermination as indicated in the written notice.</p> <p>2. Publish notice in a newspaper of general circulation in the vicinity of the application area at least one week before the extermination begins, repeated monthly until the extermination is complete.</p>
3.	An application area in respect of which a Sign F would otherwise be required to be posted in accordance with section 78 that is on a highway in a rural area.	<p>1. Provide written notice to the Director of the election to have this section apply for a period of time specified in the notice, not exceeding one year. The notice must be given to the Director before any public notice is given and at least one week before the day of the first extermination as indicated in the written notice.</p> <p>2. Publish notice in a newspaper of general circulation in the vicinity of the application area at least one week before the extermination begins, repeated monthly until the extermination is complete.</p> <p>3. Provide notice by at least one of the following means:</p> <p>i. At least one week before the extermination begins, distribution of written notices that meet the requirements of section 80 to the occupant of each property within 100 metres of the application area.</p> <p>ii. Immediately before the extermination begins, posting a Sign F at least every kilometre along the portion of the highway that is within the application area and at every point where another highway intersects the portion of the highway that is within the application area.</p>
4.	Any application area.	Provide public notice by means that are described in a written notice given to the person by the Director, stating that the Director is of the opinion that the means described will provide adequate notice to all persons who may be affected by the extermination.

O. Reg. 134/20, s. 45.

(3) In addition to complying with applicable requirements set out in subsection (2), at least 24 hours but not more than seven days before the extermination begins, Sign E or F shall be posted conspicuously at least every 100 metres along the portion of the perimeter of the applicable area described in subsection (4) that contains or abuts one or more of the following areas:

1. An outdoor area associated with an educational institution or facility, including a day care facility, nursery school, primary school, high school, private school or post-secondary institution.



2. An outdoor area associated with a residential building, including an apartment building, condominium or long-term care home, but not including a detached house, semi-detached house or rowhouse.
  3. A park.
  4. A cemetery.
  5. A campground.
  6. A path or trail for walking, hiking, bicycling or similar use, but not a path or trail for use by motorized vehicles.
  7. A portion of a highway that is intended for pedestrian access or other portions where the public is invited to stop, including a rest area or picnic area. O. Reg. 134/20, s. 45.
- (4) For the purposes of subsection (3), the applicable area is,
- (a) the application area; or
  - (b) if there is a larger area that includes the application area and for which the same person is responsible as for the application area, that larger area. O. Reg. 134/20, s. 45.
- (5) Subsection (3) does not apply if public notice is provided by means that are described in a written notice given to the person by the Director, as described in Column 2 of item 4 of the Table to subsection (2). O. Reg. 134/20, s. 45.
- (6) For the purposes of Column 2 of item 4 of the Table to subsection (2), the written notice given by the Director may be in respect of one or more exterminations. O. Reg. 134/20, s. 45.
- (7) For the purposes of items 2 and 3 of the Table to subsection (2), the publication in a newspaper must be in a prominent location within the newspaper and must be in a column that is at least 10 cm wide. O. Reg. 134/20, s. 45.
- (8) Items 1, 2, and 3 of the Table to subsection (2) do not apply in the case of a land extermination by aerial application. O. Reg. 134/20, s. 45.

#### Written notice

**80.** (1) A person who performs a land extermination who is authorized to provide written notice under section 78 or 79, other than the posting of signs, shall set out the following in the written notice:

1. The date the extermination is to take place.
2. A description of the application area.
3. The name of the pest to be exterminated.
4. The name of the Class 2, 3, 4, 5, 6 or 7 pesticide to be used and the registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act*. (Canada).
5. The pesticide ingredients contained in the Class 2, 3, 4, 5, 6 or 7 pesticide to be used.
6. The telephone number of a representative of the person using the pesticide who can provide more information about it. O. Reg. 63/09, s. 80 (1).

**Note:** On May 1, 2020, subsection 80 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 46 (1))

(1) A person referred to in section 78 or 79 who is required to provide a written notice or to publish a notice in a newspaper shall include the following in the notice:

1. The date on which or range of dates during which the extermination is to take place.
2. A description of the application area.
3. The name of the pest to be exterminated.
4. The name of the Class B, C or D pesticide to be used and the registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada).
5. The active ingredients contained in the Class B, C or D pesticide to be used.
6. The telephone number of a representative of the person using the pesticide who can provide more information about it.
7. If the pesticide is being used with respect to an exception under subsection 7.1 (2) of the Act, a description of the exception. O. Reg. 134/20, s. 46 (1).

(2) If a telephone number that is required to appear on a notice is a number to which long distance rates apply from telephones located near the application area, the person who performs the extermination shall ensure that all collect calls are accepted at that number. O. Reg. 63/09, s. 80 (2).

**Note:** On May 1, 2020, section 80 of the Regulation is amended by adding the following subsection: (See: O. Reg. 134/20, s. 46 (2))

(3) If a range of dates is provided for the purpose of paragraph 1 of subsection (1), the person mentioned in paragraph 6 of subsection (1) must be able to provide, at least 24 hours before the extermination, the actual date on which the extermination is to take place. O. Reg. 134/20, s. 46 (2).

#### Signs, removal

**81.** (1) No person shall remove a sign referred to in subsection 74 (1) before 48 hours have elapsed following the completion of the land extermination for which the sign was required. O. Reg. 63/09, s. 81 (1).

(2) A person who performs a land extermination for which the posting of a sign is required shall ensure that a sign referred to in subsection 74 (1) that has been posted is removed,

(a) not more than 10 days after the day on which the extermination is complete; or

(b) by a later day agreed to by the Director in writing but not exceeding 30 days after the day on which the extermination is complete if, in the Director's opinion, the sign cannot be removed earlier without undue expense to the person who performed the extermination. O. Reg. 63/09, s. 81 (2).

(3) Subject to subsection (4), the person who performs a land extermination for which the posting of a sign referred to in subsection 74 (1) is required shall advise in writing the owner or occupier of the application area, or the person responsible for the application area who caused the extermination to be performed, of the requirements in this section. O. Reg. 63/09, s. 81 (3).

(4) Subsection (3) does not apply if the person performing the land extermination is,

(a) an owner or occupier of the application area or the person responsible for the application area; or

(b) a full-time employee of a person mentioned in clause (a). O. Reg. 63/09, s. 81 (4).

#### WATER EXTERMINATIONS

##### Authorization to perform water extermination

**82.** Subject to section 9,

(a) a water exterminator's licence of a class set out in the Table to this section authorizes the use of the pesticides set out opposite the class in Column 2 of the Table; and

(b) the conditions set out in Column 3 of the Table opposite a class of licence are prescribed as conditions for use of the pesticides.

TABLE

Item	Column 1 Class of licence	Column 2 Pesticides authorized for use under the licence	Column 3 Conditions for use
1.	Aquatic Vegetation	Herbicides.	Use in a water extermination.
2.	Fish/Mollusc	Pesticides labelled for use in a water extermination of fish, sea lamprey or molluscs.	Use in a water extermination.
3.	Mosquito/Biting Flies	Insecticides labelled for use in an extermination of mosquitoes and other biting flies.	Use in a water extermination. Use in a land extermination mentioned in subsection 71 (2).

O. Reg. 63/09, s. 82.

**Note:** On May 1, 2020, item 3 of the Table to section 82 of the Regulation is amended by striking out "mosquitos and other biting flies" in Column 2 and substituting "arthropods that bite, sting, are venomous or carry disease". (See: O. Reg. 134/20, s. 47)

##### Specified premises

**83.** (1) This section applies to a water extermination performed on,

(a) premises that are owned or occupied by the person who performs the extermination; or

(b) premises that are owned or occupied by the full-time employer of the person who performs the extermination. O. Reg. 63/09, s. 83 (1).

(2) A person who performs a water extermination mentioned in subsection (1) is exempt from subsection 5 (1) of the Act with respect to the performance of an extermination if the person performs the extermination in, on or over a portion of surface water that is located within the boundaries of premises mentioned in subsection (1). O. Reg. 63/09, s. 83 (2).

(3) A person who performs a water extermination mentioned in subsection (1) is exempt from subsection 7 (2) of the Act with respect to the extermination if,

**Note:** On May 1, 2020, subsection 83 (3) of the Regulation is amended by striking out "A person who performs a water extermination mentioned in subsection (1)" at the beginning and substituting "Unless a person performing a water extermination mentioned in subsection (1) is using a

pesticide with a label that indicates that it contains diuron or acrolein, the person performing the water extermination” at the beginning. (See: O. Reg. 134/20, s. 48 (1))

- (a) the person performs the extermination in, on or over surface water that is located wholly within the boundaries of the premises mentioned in subsection (1); and
- (b) no discharge of the water occurs by any means directly or indirectly, other than by percolation, into a well, lake, river, pond, spring, stream, reservoir or other water or watercourse that is located wholly or partly outside the boundaries of the premises. O. Reg. 63/09, s. 83 (3).

**Note:** On May 1, 2020, clause 83 (3) (b) of the Regulation is amended by adding “at any time of the year” after “occurs”. (See: O. Reg. 134/20, s. 48 (2))

#### **Drainage ditch**

- 84.** (1) A person is exempt from subsection 7 (2) of the Act with respect to the performance of a water extermination if,
- (a) the person performs the extermination for the control of plants that emerge from or float on the surface of the water in a drainage ditch;
  - (b) at the time of the extermination, the drainage ditch contains no moving water; and
  - (c) the person uses a Class 3, 4, 5, 6 or 7 pesticide that is labelled for the use mentioned in clause (a). O. Reg. 63/09, s. 84 (1).

**Note:** On May 1, 2020, subsection 84 (1) of the Regulation is amended by striking out “and” at the end of clause (b), and by revoking clause (c) and substituting the following: (See: O. Reg. 134/20, s. 49)

- (c) the person uses a Class B, C or D pesticide with a label that indicates use as mentioned in clause (a); and
- (d) the label for the pesticide does not indicate that it contains diuron or acrolein.

- (2) For the purposes of subsection (1),

“drainage ditch” means an artificial watercourse, added to the natural land drainage system, primarily to collect and convey water and that, for some period each year, does not contain moving water. O. Reg. 63/09, s. 84 (2).

#### **Aerial application, water**

**85.** (1) A licensed land exterminator of the Aerial class is exempt from subsection 5 (1) of the Act with respect to a water extermination performed by aerial application. O. Reg. 63/09, s. 85 (1).

- (2) A person who performs a water extermination by aerial application using a Class 2 or 3 pesticide shall ensure that,

**Note:** On May 1, 2020, subsection 85 (2) of the Regulation is amended by striking out “Class 2 or 3” in the portion before clause (a) and substituting “Class B or C”. (See: O. Reg. 134/20, s. 50)

- (a) the pesticide is not in a dust formulation; and
  - (b) if an airplane, helicopter or similar vehicle requiring a pilot is used, the pilot does not assist in any preparation of the pesticide used in the aerial application or otherwise expose himself or herself to contact with pesticides. O. Reg. 63/09, s. 85 (2).
- (3) A person who performs a water extermination by aerial application shall,
- (a) prepare a record, in a form approved by the Director, of each water extermination that he or she has performed by aerial application, and keep the record for a period of at least two years after the extermination is complete;
  - (b) if the water extermination is performed for an operator, give a copy of the record mentioned in clause (a) to the operator after the extermination is complete; and
  - (c) on the request of the Director during the two years after the extermination is complete, give a copy of the record mentioned in clause (a) to the Director as soon as practicable. O. Reg. 63/09, s. 85 (3).

(4) The operator shall keep a copy of a record given under clause (3) (b) for at least two years after the extermination is complete and, on the request of the Director during that two-year period, shall give a copy of the record to the Director as soon as practicable. O. Reg. 63/09, s. 85 (4).

### **OPERATION OF EXTERMINATION BUSINESS**

#### **Authorization to operate extermination business**

**86.** (1) A licensed operator of the General class is authorized to operate an extermination business. O. Reg. 63/09, s. 86 (1).

- (2) REVOKED: O. Reg. 228/18, s. 14.

#### **Operator, general requirements**

**87.** (1) A person who is required to hold an operator's licence shall display his or her operator's licence or a copy of the licence that is at least 8.5 by 11 inches in size in a prominent place at each location where the person carries on an extermination business. O. Reg. 63/09, s. 87 (1); O. Reg. 228/18, s. 15 (1).

- (2) A person who is required to hold an operator's licence who carries on an extermination business shall,
- (a) at each location, have a licensed exterminator in charge who is normally present there at least once during each business day;
  - (b) notify the Director, using the Ministry's electronic system, of the email address, if any, of each licensed exterminator in charge, and the class of licence and licence number held by each licensed exterminator in charge, and identify, with respect to the site of each location,
    - (i) the municipal address of the site including, where applicable, the street number or other assigned property address number, street name, street direction, unit number, rural route number, town or city and postal code, or
    - (ii) if there is no municipal address, the legal description of the site including, where applicable, every assessment roll number or property identifier number that relates to the site; and
  - (c) notify the Director, using the Ministry's electronic system, of any change in the information provided under clause (b) within 10 days after the effective date of the change. O. Reg. 63/09, s. 87 (2); O. Reg. 139/15, s. 22; O. Reg. 228/18, s. 15 (2-4).

**Operator or other person, employment and supervision**

**88.** (1) This section applies to,

- (a) a person who is required to hold an operator's licence; or
- (b) if there is no operator, a person who causes exterminations to be performed by an exterminator, if the exterminator is,
  - (i) an employee of the person, if the person is not a partnership or corporation,
  - (ii) a partner or employee of the partnership, if the person is a partnership, or
  - (iii) a director, officer or employee of the corporation, if the person is a corporation. O. Reg. 63/09, s. 88 (1).

(2) A person mentioned in subsection (1) shall not employ a person to perform an extermination to which subsection 5 (1) of the Act applies or to assist in performing an extermination to which subsection 5 (1) of the Act applies unless the employed person is a licensed exterminator whose licence authorizes the performance of the extermination or a person mentioned in Column 1 of the Table to section 46. O. Reg. 63/09, s. 88 (2).

(3) A person mentioned in subsection (1) may employ persons other than a licensed exterminator whose licence authorizes the performance of the extermination or a person mentioned in Column 1 of the Table to section 46 to do work in connection with the extermination business, but the person mentioned in subsection (1) shall ensure that the employed persons,

- (a) do not perform an extermination or assist in the performance of an extermination;
- (b) do not handle any pesticide unless it is in a sealed container;
- (c) do not handle any empty plastic, glass or metal container that has been used to hold a Class 2 or 3 pesticide unless the container has been rinsed in accordance with subsection 105 (1);

**Note: On May 1, 2020, clause 88 (3) (c) of the Regulation is amended by striking out "Class 2 or 3" and substituting "Class B or C". (See: O. Reg. 134/20, s. 51)**

- (d) do not do anything that is detrimental to the performance of an extermination, to public safety or to the environment; and
- (e) do not suffer any harm as a result of exposure to a pesticide or the performance of an extermination. O. Reg. 63/09, s. 88 (3).

(4) For every three or fewer technicians or trainees working at one or more extermination sites, a person mentioned in subsection (1) shall employ at least one licensed exterminator whose licence authorizes the performance of the exterminations. O. Reg. 63/09, s. 88 (4).

(5) Despite subsection (4), if a person mentioned in subsection (1) employs a licensed exterminator of the Mosquito/Biting Flies class in the circumstances mentioned in clause 48 (4) (b), the person mentioned in subsection (1) shall employ at least one licensed exterminator of that class for every seven or fewer technicians or trainees. O. Reg. 63/09, s. 88 (5).

(6) A person mentioned in subsection (1) shall ensure that every person mentioned in Column 1 of the Table to section 46 who is employed by the person mentioned in subsection (1) with respect to an extermination is supervised in accordance with section 48 by a licensed exterminator whose licence authorizes the performance of the extermination. O. Reg. 63/09, s. 88 (6).

**Vehicle identification**

**89.** (1) Subject to subsection (2), during a calendar year, a person who is required to hold an operator's licence shall not permit a vehicle to be used to transport or apply a pesticide in connection with an extermination unless an identification marker for the calendar year has been obtained from the Director and is affixed to the rear of the vehicle so that it is visible and legible at all times. O. Reg. 63/09, s. 89; O. Reg. 228/18, s. 16 (1).

(2) A person who holds an operator's licence may permit a vehicle to be used to transport or apply a pesticide in connection with an extermination during the first 21 days following the date on which the licence was issued or renewed if a temporary marker for the calendar year obtained from a website maintained by the Ministry is displayed within the vehicle so that it is visible and legible at all times. O. Reg. 228/18, s. 16 (2).

**Exemption, farmer**

**90.** Subsection 5 (2) of the Act does not apply to the performance of exterminations described in the Table to section 43 by a farmer who meets the conditions and requirements set out in that section. O. Reg. 63/09, s. 90.

**Exemption, municipality**

**91.** A municipality that performs a land extermination or a water extermination for another municipality by means of a Class 3, 4, 5, 6 or 7 pesticide is exempt from subsection 5 (2) of the Act for that extermination. O. Reg. 63/09, s. 91.

**Note: On May 1, 2020, section 91 of the Regulation is amended by striking out "Class 3, 4, 5, 6 or 7" and substituting "Class B, C or D". (See: O. Reg. 134/20, s. 52)**

**Exemption, specified Class 4, 5, 6, 7 or 12 pesticides**

**92.** A person who operates an extermination business is exempt from subsection 5 (2) of the Act and section 93 with respect to the business if the only exterminations performed for the purposes of the business are performed,

- (a) by means of a Class 5, 6 or 7 pesticide that is,
  - (i) a tree wound dressing,
  - (ii) a wood preservative,
  - (iii) an insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets;
- (b) by means of a Class 4, 5, 6 or 7 pesticide that is an injection into trees, stumps or wooden poles;
- (c) if the extermination is a structural extermination, by means of a Class 5 or 6 pesticide which contains no pesticide ingredients other than,
  - (i) a soap,
  - (ii) a mineral oil, or
  - (iii) silicon dioxide, also known as diatomaceous earth; or
- (d) by means of a Class 12 pesticide by a person referred to in subsection 45.1 (1). O. Reg. 63/09, s. 92; O. Reg. 139/15, s. 23.

**Note: On May 1, 2020, section 92 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 53)**

**Exemption, specified pesticides**

**92.** A person who operates an extermination business is exempt from subsection 5 (2) of the Act and section 93 of this Regulation with respect to the business in any of the following circumstances:

1. The only exterminations performed for the purposes of the business are performed by means of a Class D pesticide that is any of the following:
  - i. A tree wound dressing.
  - ii. A wood preservative.
  - iii. An insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets.
  - iv. An injection into trees, stumps or wooden poles.
2. The only exterminations performed for the purposes of the business are structural exterminations performed by means of a Class D pesticide with a label that indicates that it contains no active ingredient other than a soap or a mineral oil or silicon dioxide, also called diatomaceous earth.
3. The only exterminations performed for the purposes of the business are performed by means of a Class E pesticide by a person referred to in subsection 45.1 (1). O. Reg. 134/20, s. 53.

**Insurance requirements**

93. (1) An operator shall carry insurance in a form approved by the Superintendent of Financial Services of the Province of Ontario for every extermination business carried on by the operator with respect to the liability of the operator and all of the operator's employees arising out of any extermination business carried on by the operator for death, injury or property damage. O. Reg. 63/09, s. 93 (1).

**Note: On May 1, 2020, subsection 93 (1) of the Regulation is amended by striking out "in a form approved by the Superintendent of Financial Services of the Province of Ontario". (See: O. Reg. 134/20, s. 54 (1))**

(2) Subject to subsection (3), where an operator carries on an extermination business, the liability coverage provided by the contract of insurance required under subsection (1) shall be in an amount of not less than \$25,000 to each employee of the operator provided that the contract of insurance may limit the insurer's liability under the contract of insurance arising out of any one incident to \$50,000. O. Reg. 63/09, s. 93 (2).

**Note: On January 1, 2021, subsection 93 (2) of the Regulation is amended by striking out "\$25,000" and substituting "\$1,000,000" and by striking out "\$50,000" at the end and substituting "\$1,000,000". (See: O. Reg. 134/20, s. 54 (2))**

(3) If an operator furnishes satisfactory evidence that the operator's business is covered under the *Workplace Safety and Insurance Act, 1997* and that the operator is paying all premiums and other amounts due under that Act as they fall due, the operator is exempt from subsection (2) as long as the operator continues to pay all such amounts as they fall due and to comply with all applicable provisions of that Act. O. Reg. 63/09, s. 93 (3).

(4) The contract of insurance required under subsection (1) shall provide comprehensive coverage in an amount of not less than \$1,000,000 with respect to death, injury or property damage arising out of any one incident. O. Reg. 63/09, s. 93 (4).

**Note: On January 1, 2021, subsection 93 (4) of the Regulation is amended by striking out "\$1,000,000" and substituting "\$2,000,000". (See: O. Reg. 134/20, s. 54 (3))**

(5) The contract of insurance required under subsection (1) shall provide pollution coverage respecting the emission or discharge of chemicals into the environment as part of the business operated under the authority of the licence in an amount of not less than \$200,000 with respect to death, injury or property damage arising out of any one incident. O. Reg. 63/09, s. 93 (5).

**Note: On January 1, 2021, subsection 93 (5) of the Regulation is amended by striking out "\$200,000" and substituting "\$1,000,000". (See: O. Reg. 134/20, s. 54 (4))**

(6) If the extermination business carried on by an operator involves the application of pesticides from an airborne machine, the contract of insurance required under subsection (1) shall provide coverage for liability for off target pesticide deposition in an amount of not less than,

(a) \$100,000 with respect to death or injury arising out of any one incident; and

**Note: On January 1, 2021, clause 93 (6) (a) of the Regulation is amended by striking out "\$100,000" and substituting "\$2,000,000". (See: O. Reg. 134/20, s. 54 (5))**

(b) \$25,000 with respect to property damage arising out of any one incident. O. Reg. 63/09, s. 93 (6).

**Note: On January 1, 2021, clause 93 (6) (b) of the Regulation is amended by striking out "\$25,000" and substituting "\$2,000,000". (See: O. Reg. 134/20, s. 54 (6))**

(7) In subsections (4), (5) and (6), a reference to death or injury means death of or injury to a person who is not an employee of the operator. O. Reg. 63/09, s. 93 (7).

(8) The contract of insurance required under subsection (1) may provide that the insured shall be responsible for the first \$2,500 of each claim for which coverage is required under subsections (4), (5) and (6). O. Reg. 63/09, s. 93 (8).

**Note: On January 1, 2021, subsection 93 (8) of the Regulation is revoked. (See: O. Reg. 134/20, s. 54 (7))**

(9) Every contract of insurance furnished in satisfaction of the requirements of this section shall provide that,

(a) the insurer shall give 30 days notice by registered mail to the Director prior to any cancellation of the contract by the insurer or the insured taking effect;

(b) the contract of insurance shall remain in full force and effect until the notice provided for in clause (a) has expired; and

(c) the insurer shall pay any claims covered by the contract of insurance to any person making such a claim who has recovered a judgment thereon despite any act or default of the insured which might make the policy void or give the insurer a defence to an action by the insured provided that such provision shall not limit the insurer's right to recover any payment so made from the insured. O. Reg. 63/09, s. 93 (9).

#### SALE, TRANSFER AND DISPLAY OF PESTICIDES

##### Licensed vendor, general requirements

94. (1) A person who is required to hold a vendor's licence shall display the vendor's licence or a copy of the licence in a prominent place at the sales outlet covered by the licence. O. Reg. 63/09, s. 94 (1); O. Reg. 228/18, s. 17 (1).

(2) REVOKED: O. Reg. 228/18, s. 17 (2).

#### **Offer to sell**

**95.** No person shall offer to sell a pesticide unless the person is authorized to sell or transfer the pesticide under this Regulation. O. Reg. 63/09, s. 95.

#### **Exemption, specified pesticides**

**96.** (1) A person is exempt from section 6 of the Act with respect to the sale, offer for sale or transfer of any of the following pesticides:

1. A Class 3 pesticide that is to be used as a bactericide in cutting oil or marine or aviation fuels.
2. A Class 4 or 5 pesticide that is a paint, stain, sealer or wood preservative, if no food is prepared, sold or stored at the sales outlet where the pesticide is sold or transferred.
3. A Class 4 or 5 pesticide that is a disinfectant, cleanser or bactericide.
4. A Class 6 pesticide.

4.1 REVOKED: O. Reg. 139/15, s. 24 (3).

5. A pesticide that is to be transported out of Ontario. O. Reg. 63/09, s. 96 (1); O. Reg. 139/15, s. 24 (1, 3).

(2) A licensed exterminator is exempt from the licence requirement in section 6 of the Act with respect to the transfer of pesticides if he or she transfers the pesticides to a licensed exterminator authorized to use the pesticide in an extermination. O. Reg. 63/09, s. 96 (2); O. Reg. 139/15, s. 24 (2).

**Note: On May 1, 2020, section 96 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 55 (1))**

#### **Exemption, specified pesticides**

**96.** (1) A person is exempt from section 6 of the Act with respect to the sale, offer for sale or transfer of any of the following pesticides:

1. A Class D pesticide that,
  - i. is in a container that is less than or equal to one litre or one kilogram in size,
  - ii. has a label that does not indicate that any mixing or dilution is required in order to use the pesticide, and
  - iii. is not a controlled sales pesticide.
2. A pesticide that is to be transported out of Ontario.
3. A Class D pesticide that is a paint, stain, sealer or wood preservative, if no food is prepared, sold or stored at the sales outlet where the pesticide is sold or transferred.
4. A Class D pesticide that was classified as a Class 6 pesticide under this Regulation immediately before section 3 of Ontario Regulation 134/20 came into force. O. Reg. 134/20, s. 55 (1).

**Note: On January 1, 2021, paragraph 4 of subsection 96 (1) of the Regulation is revoked. (See: O. Reg. 134/20, s. 55 (2))**

(2) A licensed exterminator is exempt from the licence requirement in section 6 of the Act with respect to the transfer of pesticides if he or she transfers the pesticides to a licensed exterminator authorized to use the pesticides in an extermination. O. Reg. 134/20, s. 55 (1).

#### **Exemption, direct-to-farm vendor**

**96.1** (1) A vendor is exempt from section 6 of the Act with respect to the sale, offer for sale or transfer of a Class 12 pesticide if the vendor is a direct-to-farm vendor as described in subsection (2) and if the eligibility criteria set out in subsection (4) are satisfied. O. Reg. 139/15, s. 25 (1).

(2) A vendor is a direct-to-farm vendor for the purposes of this section if the following criteria are satisfied:

1. The vendor sells, offers to sell or transfers Class 12 pesticides.
2. Subject to subsection (3), all Class 12 pesticides sold or transferred by the vendor are sold or transferred directly to purchasers who meet the following criteria:
  - i. The purchaser is a person referred to in clause 45.1 (1) (a) who intends to use the pesticide.
  - ii. The purchaser is not required to hold a vendor's licence of the Treated Seed class.
  - iii. The purchaser is not exempt under this section from section 6 of the Act with respect to the sale, offer for sale or transfer of a Class 12 pesticide.
3. The vendor does not hold a vendor's licence of the Treated Seed class and is not required to hold a vendor's licence of the General or Limited class.

4. The name of the vendor has been submitted to the Director using the Ministry's electronic system in a written notice described in subsection (5) by the licensed vendor referred to in paragraph 1 of subsection (4). O. Reg. 139/15, s. 25; O. Reg. 228/18, s. 18 (1).

(3) A direct-to-farm vendor may sell or transfer a Class 12 pesticide back to the licensed vendor referred to in paragraph 1 of subsection (4). O. Reg. 139/15, s. 25 (1).

(4) The following are the eligibility criteria for the exemption:

1. The direct-to-farm vendor must purchase the Class 12 pesticide from a person who holds a vendor's licence of the Treated Seed class.
2. With respect to the sale or transfer of the Class 12 pesticide, the direct-to-farm vendor must collect the information and documents that, if the sale or transfer were carried out in accordance with section 98, would be required to be provided by a purchaser or transferee.

**Note: On May 1, 2020, paragraph 2 of subsection 96.1 (4) of the Regulation is amended by striking out "section 98" and substituting "section 98.3". (See: O. Reg. 134/20, s. 56 (2))**

3. The direct-to-farm vendor must provide to the licensed vendor referred to in paragraph 1 the information and a copy of the documents referred to in paragraph 2. O. Reg. 139/15, s. 25 (1).

(5) For the purposes of paragraph 4 of subsection (2), the licensed vendor may submit to the Director using the Ministry's electronic system a written notice that includes the following information:

1. The name, email address, if any, and mailing address of a direct-to-farm vendor who sells or transfers a Class 12 pesticide that was purchased from the licensed vendor.
2. A statement that the direct-to-farm vendor referred to in paragraph 1 has provided confirmation in writing to the licensed vendor that the criteria set out in paragraphs 2 and 3 of subsection (2) have been satisfied. O. Reg. 139/15, s. 25 (1); O. Reg. 228/18, s. 18 (2).

(6) A direct-to-farm vendor that has provided a confirmation referred to in paragraph 2 of subsection (5) shall, no later than 10 days after the direct-to-farm vendor no longer satisfies the criteria set out in paragraphs 2 and 3 of subsection (2), provide the licensed vendor with notice in writing that the direct-to-farm vendor no longer satisfies the criteria. O. Reg. 139/15, s. 25 (1).

(7) The licensed vendor who receives the notice referred to in subsection (6) shall, no later than 10 days after receiving the notice, notify the Director in writing that the direct-to-farm vendor no longer satisfies the criteria set out in paragraphs 2 and 3 of subsection (2). O. Reg. 139/15, s. 25 (1).

(8) The direct-to-farm vendor shall prepare a record of each sale and transfer of a Class 12 pesticide, setting out the following:

1. The name of the Class 12 pesticide.

**Note: On May 1, 2020, paragraph 1 of subsection 96.1 (8) of the Regulation is amended by striking out "Class 12" and substituting "Class E". (See: O. Reg. 134/20, s. 56 (4))**

2. The quantity of pesticide in each container and the number of containers sold or transferred.
3. The name and address of the purchaser or transferee.
4. The date of the sale or transfer of the pesticide. O. Reg. 139/15, s. 25 (1); O. Reg. 134/20, s. 56 (3).

(9) The direct-to-farm vendor shall keep the record required under subsection (8) for a period of at least two years after the record is prepared or the information and documents are collected by the vendor, or for such other period as the Director may require in writing. O. Reg. 134/20, s. 56 (5).

**Note: On May 1, 2020, section 96.1 of the Regulation is amended by striking out "Class 12" wherever it appears and substituting "Class E" in each case. (See: O. Reg. 134/20, s. 56 (1))**

#### **Prescribed pesticides, s. 7.1 (4) of the Act**

**97. (1)** Class 8 pesticides are prescribed for the purposes of subsection 7.1 (4) of the Act. O. Reg. 63/09, s. 97 (1).

**Note: On May 1, 2020, subsection 97 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 57)**

#### **Prescribed pesticides, s. 7.1 (4) of the Act**

(1) A pesticide is prescribed for the purposes of subsection 7.1 (4) of the Act if it meets one or more of the following criteria:

1. The pesticide is a Class B, C or D pesticide with a label that indicates that its only active ingredients are listed active ingredients.



2. The pesticide is a Class B or C pesticide, other than a pesticide mentioned in paragraph 1, with a label that indicates a use set out in subsection 7.1 (2) of the Act.
3. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, and its label indicates a use related to clause (a) of the definition of the promotion of public health or safety in section 16.
4. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, and its label,
  - i. indicates a use related to the destruction, prevention or control of plants that are poisonous to humans by touch,
  - ii. indicates that the only active ingredient it contains is glufosinate ammonium or glyphosate or both, and
  - iii. does not indicate that any mixing or dilution is required in order to use the pesticide.
5. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, that is not a herbicide or fungicide and its label indicates a use related to a structural extermination.
6. The pesticide is a Class D pesticide, other than a pesticide mentioned in paragraph 1, and its label indicates an indoor use or a use in water. O. Reg. 134/20, s. 57.

- (2) Subsection (1) does not apply to the transfer of a pesticide if a person transfers the pesticide for the sole purpose of,
- (a) transferring the pesticide out of Ontario; or
  - (b) returning the pesticide to its manufacturer. O. Reg. 63/09, s. 97 (2).

**Prohibition, sale and transfer**

- 98.** (1) For the purposes of section 6 of the Act and subject to subsections (2) and (3), no person shall,
- (a) sell or transfer a pesticide of a class set out in Column 1 of the Table to this section unless the person is a person set out opposite the class in Column 2 of the Table; or
  - (b) sell or transfer a pesticide of a class set out in Column 1 of the Table to a person other than a person set out opposite the class in Column 3 of the Table. O. Reg. 63/09, s. 98 (1).
- (2) If a person is authorized to sell or transfer a pesticide under this section, the person may sell or transfer the pesticide to any of the following persons:
1. A person who is exempt under section 10 of this Regulation from subsection 5 (1) of the Act with respect to the use of the pesticide, if the person presents a letter signed by the Director or a written approval mentioned in subsection 10 (2) of this Regulation confirming that the person is exempt.
  2. A farmer who is exempt under section 42 of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of the pesticide, if the farmer provides one of the following:
    - i. The registration number assigned to the person under the *Farm Registration and Farm Organizations Funding Act, 1993*, if the person has been assigned a registration number.
    - ii. A document approved by the Director confirming that the person is a farmer.
  3. A person who is exempt under clause 45.1 (1) (a) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of a Class 12 pesticide, if the following conditions are met:
    - i. The person provides the number of the document issued by the body that provided the course described in subsection 45.1 (6), confirming the person's successful completion of the course.
    - ii. Subject to subsection (2.1), the person provides a copy of a pest risk assessment report that is related to each farm property in respect of which the Class 12 pesticide is being purchased.
    - iii. The person provides a written declaration, in a form approved by the Director, that the person has considered integrated pest management principles prior to the purchase of the Class 12 pesticide.
  4. An inspector who is exempt under subsection 55 (1) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of the pesticide, if the pesticide is a Class 3 or 4 pesticide and the inspector presents proof that he or she has been appointed as an inspector under the *Bees Act*.
  5. A person who is exempt under subsection 55 (2) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of the pesticide, if the pesticide is a Class 3 or 4 pesticide and the person presents his or her certificate of registration issued by the Provincial Apiarist under the *Bees Act*.
  6. A person who is exempt under subsections 83 (2) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of the pesticide, if the following conditions are met:
    - i. The person is also exempt under subsection 83 (3) of this Regulation from subsection 7 (2) of the Act.

- ii. The person presents a letter signed by the Director confirming that the person is exempt from subsections 5 (1) and 7 (2) of the Act. O. Reg. 139/15, s. 26 (1, 2); O. Reg. 134/20, s. 58 (1, 2).

(2.1) REVOKED: O. Reg. 134/20, s. 58 (3).

(3) No person shall sell or transfer a pesticide to the holder of a permit issued under section 7 of the Act for the use of that pesticide except in accordance with any applicable terms and conditions set out in the permit. O. Reg. 63/09, s. 98 (3).

TABLE

Item	Column 1 Class of pesticide	Column 2 Who may sell or transfer	Column 3 To whom sale or transfer may be made
1.	Class 1	Licensed vendor of the General class	Licensed vendor of the General class. Manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer. A person mentioned in subsection 98 (2).
2.	Class 2	Licensed vendor of the General class	Licensed vendor of the General class. Licensed exterminator, if the licence authorizes the use of the pesticide. Holder of a permit issued under section 7 of the Act, if the permit authorizes the use of the pesticide. Farmer who meets the conditions set out in clauses 43 (1) (c) and (d), unless the pesticide is a fumigant gas other than aluminum phosphide. Manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer. A person mentioned in subsection 98 (2).
3.	Class 3	Licensed vendor of the General class	Licensed vendor of the General class. Licensed exterminator, if the licence authorizes the use of the pesticide in a structural extermination or a water extermination. Licensed exterminator, if the pesticide does not contain picloram and the licence authorizes the use of the pesticide in a land extermination. Holder of a permit issued under section 7 of the Act, if the permit authorizes the use of the pesticide. Farmer who meets the conditions set out in clauses 43 (1) (c) and (d), unless the pesticide contains picloram. Manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer. A person mentioned in subsection 98 (2).
4.	Class 4	Licensed vendor of the General class	Licensed vendor of the General class. Licensed exterminator, if the licence authorizes the use of the pesticide. Holder of a permit issued under section 7 of the Act, if the permit authorizes the use of the pesticide. Manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer. Farmer who meets the conditions set out in clauses 43 (1) (c) and (d). A person mentioned in subsection 98 (2).
5.	Class 5	Licensed vendor of the General class or Limited class	Any person.
6.	Class 6	Any person	Any person.
7.	Class 7	Licensed vendor of the General class or Limited class	Any person.
8.	Class 12	Licensed vendor of the Treated Seed class	1. Licensed vendor of the Treated Seed class. 2. A person mentioned in subsection 98 (2).

O. Reg. 63/09, s. 98, Table; O. Reg. 63/09, s. 116 (2); O. Reg. 279/09, s. 7 (2, 3); O. Reg. 139/15, s. 26 (3).

**Note: On May 1, 2020, section 98 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 58 (4))**

**Sale and transfer, Class A**

**98.** Unless exempt from section 6 of the Act, no person shall sell or transfer a Class A pesticide except in accordance with the following rules:

1. The person must be a licensed vendor of the General class.
2. The sale or transfer must be to one of the following:
  - i. A licensed vendor of the General class, if the licensed vendor presents the licence.

- ii. A manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer.
- iii. A person who is exempt under section 10 of this Regulation from subsection 5 (1) of the Act with respect to the use of the pesticide, if the person presents a letter signed by the Director or a written approval mentioned in subsection 10 (2) of this Regulation confirming that the person is exempt. O. Reg. 134/20, s. 58 (4).

**Sale and transfer, Class B or C**

**98.1** (1) Unless exempt from section 6 of the Act, no person shall sell or transfer a Class B or C pesticide except in accordance with the following rules:

1. Subject to subsection (2), the person must be a licensed vendor of the General class.
2. Subject to paragraph 3, the sale or transfer must be to one of the following:
  - i. A licensed vendor of the General class, if the licensed vendor presents the licence.
  - ii. A manufacturer who presents a written confirmation issued by the Director confirming that the person is a manufacturer.
  - iii. A person who is exempt under section 10 of this Regulation from subsection 5 (1) of the Act with respect to the use of the pesticide, if the person presents a letter signed by the Director or a written approval mentioned in subsection 10 (2) of this Regulation confirming that the person is exempt.
  - iv. A person who is exempt under paragraph 1 or 3 of section 14 of this Regulation from the Act and the regulations with respect to the use, storage, sale, offer for sale, transfer or transportation of a pesticide in carrying out their professional duties, if the person provides the membership number assigned to the person by a College mentioned in section 14.
  - v. A person who is exempt under paragraph 2 of section 14 of this Regulation from the Act and the regulations with respect to the use, storage, sale, offer for sale, transfer or transportation of a pesticide in carrying out their professional duties, if the person provides a letter of employment indicating that they are a medical officer of health or a member of the staff of a board of health under the *Health Protection and Promotion Act*.
  - vi. A farmer who is exempt under section 42 from subsection 5 (1) of the Act with respect to the performance of an extermination by means of the pesticide, if the farmer provides one of the following:
    - A. The registration number assigned to the person under the *Farm Registration and Farm Organizations Funding Act, 1993*, if the person has been assigned a registration number.
    - B. A document approved by the Director confirming that the person is a farmer.

**Note:** On January 1, 2021, subparagraph 2 vi of subsection 98.1 (1) of the Regulation is revoked. (See: O. Reg. 134/20, s. 59)

- vii. A farmer who holds a certificate mentioned in clause 43 (1) (c) and presents the certificate, if section 43 authorizes the use of the pesticide and its label indicates that it does not contain picloram, acrolein or diuron.
  - viii. An inspector who is exempt under subsection 55 (1) of this Regulation from subsection 5 (1) of the Act, if the inspector presents proof of appointment as an inspector under the *Bees Act* and the pesticide is not a Class B pesticide that is a fumigant gas.
  - ix. A person who is exempt under subsection 55 (2) of this Regulation from subsection 5 (1) of the Act if the person presents certification of registration issued by the Provincial Apiarist under the *Bees Act* and the pesticide is not a fumigant gas.
  - x. A person who is exempt under subsections 83 (2) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of the pesticide, if the following conditions are met:
    - A. The person is also exempt under subsection 83 (3) of this Regulation from subsection 7 (2) of the Act.
    - B. The person presents a letter signed by the Director confirming that the person is exempt from subsections 5 (1) and 7 (2) of the Act.
  - xi. A licensed exterminator, if the licence authorizes the use of the pesticide and its label indicates that it does not contain picloram and the licensed exterminator presents the licence.
  - xii. The holder of a permit issued under section 7 of the Act, if the permit authorizes the use of the pesticide and the holder presents the permit.
3. If the pesticide being sold or transferred is a Class B pesticide with a label that indicates use to repel any animal and that its only active ingredient is capsaicin or capsaicin and related capsaicinoids, the pesticide may be sold or transferred to any person. O. Reg. 134/20, s. 58 (4).

(2) A licensed vendor of the Limited class may sell or transfer a pesticide described in paragraph 3 of subsection (1). O. Reg. 134/20, s. 58 (4).

**Sale and transfer, Class D**

**98.2** Unless exempt from section 6 of the Act, no person shall sell or transfer a Class D pesticide unless the person is a licensed vendor of the General or Limited class. O. Reg. 134/20, s. 58 (4).

**Sale and transfer, Class E**

**98.3** (1) Unless exempt from section 6 of the Act, no person shall sell or transfer a Class E pesticide except in accordance with the following rules:

1. The person must be a licensed vendor of the Treated Seed class.
2. The sale or transfer must be to one of the following:
  - i. A licensed vendor of the Treated Seed class, if the licensed vendor presents the licence.
  - ii. A person who is exempt under section 10 of this Regulation from subsection 5 (1) of the Act with respect to the use of the pesticide, if the person presents a letter signed by the Director confirming that the person is exempt.
  - iii. Subject to subsection (2), a person who is exempt under clause 45.1 (1) (a) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of a Class E pesticide.
  - iv. A person who is exempt under section 96.1 from section 6 of the Act. O. Reg. 134/20, s. 58 (4).

(2) The sale or transfer may be made to a person mentioned in subparagraph 2 iii of subsection (1) only if the following conditions are met:

1. The person provides the number of the document issued by the body that provided the course described in subsection 45.1 (6), confirming the person's successful completion of the course.
2. The person provides a copy of a pest risk assessment report that is related to each farm property in respect of which the Class E pesticide is to be used.
3. The person provides a written declaration, in a form approved by the Director, that the person has considered integrated pest management principles prior to the sale or transfer. O. Reg. 134/20, s. 58 (4).

**Vendor of General class, outlet representative**

**99.** (1) A person who is required to hold a vendor's licence of the General class shall ensure that an outlet representative who meets the requirements of this section works full-time at the sales outlet required to be covered by the vendor's licence. O. Reg. 63/09, s. 99 (1).

(2) An outlet representative mentioned in subsection (1) shall,

- (a) be at least 16 years of age;
- (b) be a licensed vendor or an employee of the person who holds the vendor's licence that covers the sales outlet, if the person who is required to hold the vendor's licence is an individual;
- (c) be a partner or an employee of the partnership, if the person who is required to hold the vendor's licence that covers the sales outlet is a partnership;
- (d) be an officer, director or employee of the corporation, if the person who is required to hold the vendor's licence that covers the sales outlet is a corporation; and
- (e) have successfully completed within the previous 60 months a course approved by the Director for the operation of a sales outlet or have otherwise satisfied the Director that he or she is qualified to sell and transfer pesticides. O. Reg. 63/09, s. 99 (2); O. Reg. 228/18, s. 19 (1).

(2.1) Despite subsection (2), a person who holds an authorizing certificate issued by an out-of-province regulatory authority in respect of the occupation of outlet representative is an outlet representative for the purposes of subsection (1) if,

- (a) the person has within the previous 60 months obtained from the body that offers the course referred to in clause (2) (e) a document that states,
  - (i) the person has provided the body with a signed statement confirming that,
    - (A) the person has obtained the training material for the course mentioned in clause (2) (e), and
    - (B) the person is, in his or her own opinion, knowledgeable about the legislation and regulations that govern the practice of the occupation of outlet representative in Ontario, and

- (ii) the body is satisfied that the person holds an authorizing certificate issued by an out-of-province regulatory authority in respect of the occupation of outlet representative and that the authorizing certificate has not expired and has not been suspended, cancelled or revoked; and
- (b) the authorizing certificate has not expired and has not been suspended, cancelled or revoked by the out-of-province regulatory authority that issued the certificate.
- (c), (d) REVOKED: O. Reg. 228/18, s. 19 (2).

O. Reg. 469/10, s. 5; O. Reg. 228/18, s. 19 (2).

(2.2) A person required to hold a vendor's licence of the General class shall have readily available at the sales outlet covered by the licence,

- (a) the document or a copy of the document that demonstrates that the outlet representative for the sales outlet has successfully completed within the previous 60 months a course mentioned in clause (2) (e);
  - (b) the document or a copy of the document that demonstrates that the outlet representative for the sales outlet has otherwise satisfied the Director that he or she is qualified to sell and transfer pesticides; or
  - (c) the document or a copy of the document that demonstrates that the outlet representative has satisfied the requirements of clause (2.1) (a). O. Reg. 228/18, s. 19 (3).
- (3) An outlet representative shall ensure that all operations of the sales outlet are carried out in accordance with the Act and the regulations. O. Reg. 63/09, s. 99 (3).
- (4) No person shall sell or transfer a pesticide at a sales outlet required to be covered by a vendor's licence of the General class if the sales outlet does not have an outlet representative who meets the requirements of this section. O. Reg. 63/09, s. 99 (4).
- (5) Subsection (4) does not apply to a person who sells or transfers a pesticide if the person is exempt under section 96 from the requirement to hold a vendor's licence with respect to the pesticide. O. Reg. 63/09, s. 99 (5).

#### **Vendor of Limited class**

**100.** If a sales outlet is required to be covered by a vendor's licence of the Limited class, the person who is required to hold the licence shall ensure that all operations of the sales outlet are carried out in accordance with the Act and the regulations. O. Reg. 63/09, s. 100.

#### **Vendor of Treated Seed class, treated seed sales representative**

**100.1** (1) A treated seed sales representative shall be at least 16 years of age and shall have completed the training required under clause (2) (a). O. Reg. 139/15, s. 27 (1).

(2) A person who is required to hold a vendor's licence of the Treated Seed class shall, with respect to each treated seed sales representative who represents the vendor,

- (a) ensure that the treated seed sales representative receives training with respect to the requirements of this Regulation that are relevant to acting as a treated seed sales representative;
- (b) keep a record of the date on which the treated seed sales representative received the training referred to in clause (a); and
- (c) if the treated sales representative meets the requirements of subsection (1), provide him or her with a form of identification that sets out,
  - (i) the name and licence number of the vendor,
  - (ii) the name of the treated seed sales representative, and
  - (iii) a statement that the person mentioned in subclause (ii) is a treated seed sales representative who represents the vendor. O. Reg. 139/15, s. 27 (1).

(3) Every treated seed sales representative shall have the form of identification provided under clause (2) (c) readily available when representing a vendor at a location other than a sales outlet. O. Reg. 139/15, s. 27 (1).

(4) A treated seed sales representative shall not facilitate the sale or transfer of a Class 12 pesticide unless,

- (a) if the purchaser is a person who is required to hold a vendor's licence of the Treated Seed class, the treated seed sales representative has collected the number of the licence; or
- (b) if the purchaser is a person mentioned in paragraph 3 of subsection 98 (2), the treated seed sales representative has collected the information and documents required to be provided by the purchaser under that subsection. O. Reg. 139/15, s. 27 (1, 2); O. Reg. 134/20, s. 60 (1).

**Note: On May 1, 2020, subsection 100.1 (4) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 60 (2))**

- (4) A treated seed sales representative shall not facilitate the sale or transfer of a Class E pesticide unless,
  - (a) if the purchaser is a person who is required to hold a vendor's licence of the Treated Seed class, the treated seed sales representative has collected the number of the licence; or
  - (b) if the purchaser is a person mentioned in subparagraph 2 iii of subsection 98.3 (1), the treated seed sales representative has collected the information and documents required to be provided by the purchaser under subsection 98.3 (2). O. Reg. 134/20, s. 60 (2).

(5) Every treated seed sales representative who collects information and documents under subsection (4) shall, within 30 days after collecting the information and documents, submit the information and a copy of the documents to the person he or she represents in respect of the sale or transfer. O. Reg. 139/15, s. 27 (3); O. Reg. 134/20, s. 61.

#### Sale and transfer of Class 7 pesticides

**101.** An outlet representative mentioned in subsection 99 (1) or a licensed vendor of the Limited class who sells or transfers a Class 7 pesticide shall ensure that information in a form approved by the Director regarding the use of Class 7 pesticides is given to a purchaser or transferee of the Class 7 pesticide. O. Reg. 63/09, s. 101; O. Reg. 63/09, s. 116 (3).

**Note:** On May 1, 2020, section 101 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 62)

#### Sale and transfer of controlled sales pesticides

**101.** An outlet representative mentioned in subsection 99 (1) or a licensed vendor of the Limited class who sells or transfers a controlled sales pesticide shall ensure that information in a form approved by the Director regarding the sale and use of the pesticide is given to a purchaser or transferee of the pesticide. O. Reg. 134/20, s. 62.

**101.01, 101.1** REVOKED: O. Reg. 134/20, s. 63.

#### Record of sales and transfers

**102.** (1) A person who is required to hold a vendor's licence shall prepare a record of each sale and transfer of a Class 1, 2, 3 or 12 pesticide, setting out the following:

**Note:** On May 1, 2020, subsection 102 (1) of the Regulation is amended by striking out "Class 1, 2, 3 or 12 pesticide" in the portion before clause (a) and substituting "Class A, B, C or E pesticide". (See: O. Reg. 134/20, s. 64 (1))

- (a) a description of the pesticide sold or transferred, including,
  - (i) the pesticide's unique name and the class into which it has been classified,
  - (ii) if the pesticide is a Class 1, 2 or 3 pesticide, the pesticide's registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada),

**Note:** On May 1, 2020, subclause 102 (1) (a) (ii) of the Regulation is amended by striking out "Class 1, 2 or 3" and substituting "Class A, B or C" and by striking out "or the *Fertilizers Act* (Canada)" at the end. (See: O. Reg. 134/20, s. 64 (2))

- (iii) if the pesticide is a Class 12 pesticide, the number of the document issued by the body that provided the course described in subsection 45.1 (6), confirming the person's successful completion of the course.

**Note:** On May 1, 2020, subclause 102 (1) (a) (iii) of the Regulation is amended by striking out "Class 12" and substituting "Class E". (See: O. Reg. 134/20, s. 64 (4))

- (iv) the quantity of pesticide in each container, and
- (v) the number of containers referred to in subclause (iv) sold or transferred;
- (b) the name and address of the purchaser or transferee;
- (c) the date of the sale or transfer;
- (d) if the purchaser or transferee holds a licence or permit to use the pesticide or a licence to sell or transfer the pesticide, the type, class, number and expiry date, if applicable, of the licence or permit; and
- (e) if the purchaser or transferee is a farmer who meets the conditions set out in clauses 43 (1) (c) and (d),
  - (i) the number and expiry date of the document mentioned in clause 43 (1) (d) that was issued to the farmer, and

**Note:** On May 1, 2020, subclause 102 (1) (e) (i) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 64 (6))

- (i) the number and expiry date of the certificate mentioned in clause 43 (1) (c) that was issued to the farmer, and
- (ii) if the person who is required to hold a vendor's licence gives the pesticide to an agent of the farmer at the sales outlet, the name of the person to whom the pesticide is given;
- (f) REVOKED: O. Reg. 139/15, s. 29 (6).

O. Reg. 63/09, s. 102 (1); O. Reg. 139/15, s. 29 (1-6); O. Reg. 134/20, s. 64 (3, 5).

(1.1) REVOKED: O. Reg. 134/20, s. 64 (7).

(2) A person who is required to hold a vendor's licence shall keep the following records and documents for a period of at least two years after the record or document is prepared, if it is prepared by the vendor, or for a period of at least two years after the document is received by the vendor, or for such other period as the Director may require in writing:

1. A record mentioned in subsection (1) that pertains to a Class 1, 2, 3 or 4 pesticide.

**Note: On May 1, 2020, paragraph 1 of subsection 102 (2) of the Regulation is amended by striking out "Class 1, 2, 3 or 4" and substituting "Class A, B or C". (See: O. Reg. 134/20, s. 64 (8))**

2. If any sale or transfer of a Class 1, 2, 3 or 4 pesticide is carried out by the person to a purchaser or transferee mentioned in subsection 98 (2), the information and a copy of the documents required to be presented or provided under that subsection. O. Reg. 139/15, s. 29 (8).

**Note: On May 1, 2020, paragraph 2 of subsection 102 (2) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 64 (9))**

2. If any sale or transfer of a Class A, B or C pesticide is carried out by the person to a purchaser or transferee mentioned in section 98 or 98.1, the information and copies of the documents required to be presented or provided under the applicable section.

(3) A person who is required to hold a vendor's licence shall keep a record mentioned in subsection (1) that pertains to a Class 12 pesticide for,

- (a) a period of at least four years after the record is prepared by the vendor or received by the vendor, as the case may be; or
- (b) such other period as the Director may, in writing, require. O. Reg. 134/20, s. 64 (10).

**Note: On May 1, 2020, subsection 102 (3) of the Regulation is amended by striking out "Class 12" and substituting "Class E". (See: O. Reg. 134/20, s. 64 (11))**

(4) A person who is required to hold a vendor's licence of the Treated Seed class shall provide each purchaser of corn seed or soybean seed with a record that clearly identifies which seed is a Class 12 pesticide. O. Reg. 134/20, s. 64 (10).

**Note: On May 1, 2020, subsection 102 (4) of the Regulation is amended by striking out "Class 12" and substituting "Class E". (See: O. Reg. 134/20, s. 64 (12))**

(5) REVOKED: O. Reg. 134/20, s. 64 (10).

(6) If the Director or a provincial officer makes a request for a document or record referred to in subsection (2) or (3) during the two-year period, four-year period or other period required by the Director, as the case may be, the person shall,

- (a) give a copy of the document or record requested by the Director to the Director within 30 days after receiving the request; or
- (b) give a copy of the document or record requested by the provincial officer to the provincial officer immediately. O. Reg. 139/15, s. 29 (8); O. Reg. 134/20, s. 64 (13).

#### **Records of seed treating services**

**102.1** (1) A custom seed treater shall prepare a record of each seed treating service provided setting out the following:

1. The date the seed treating service was provided.
2. The name and address of the person for whom the seed treating service was provided.
3. If the person to whom the service was provided is a person who is exempt under clause 45.1 (1) (a) of this Regulation from subsection 5 (1) of the Act with respect to the performance of an extermination by means of a Class 12 pesticide, the number of the document issued by the body that provided the course described in subsection 45.1 (6), confirming the person's successful completion of the course.

**Note: On May 1, 2020, paragraph 3 of subsection 102.1 (1) of the Regulation is amended by striking out "Class 12" and substituting "Class E". (See: O. Reg. 134/20, s. 65 (2))**

4., 5. REVOKED: O. Reg. 134/20, s. 65 (3).

6. The mass, in kilograms, of corn seed or soybean seed treated.

7., 8. REVOKED: O. Reg. 134/20, s. 65 (3).

9. The following information with respect to the pesticide that was used to treat the seed so that it became a Class 12 pesticide:

**Note: On May 1, 2020, paragraph 9 of subsection 102.1 (1) of the Regulation is amended by striking out "Class 12" in the portion before subparagraph i and substituting "Class E". (See: O. Reg. 134/20, s. 65 (4))**

- i. The name and class of the pesticide.
- ii. The registration number assigned to the pesticide under the *Pest Control Products Act* (Canada).

10., 11. REVOKED: O. Reg. 134/20, s. 65 (5).

O. Reg. 139/15, s. 30; O. Reg. 134/20, s. 65 (1, 3, 5).

(2) A custom seed treater who is required to prepare a record under subsection (1) shall keep the record for a period of at least four years after the record is prepared, or for such other period as the Director may require in writing. O. Reg. 139/15, s. 30 (1).

**102.2** REVOKED: O. Reg. 134/20, s. 66.

#### Display

**103.** A person who is required to hold a vendor's licence who sells or transfers a Class 1, 2, 3, 4, 5, 6 or 7 pesticide shall ensure that,

- (a) a Class 1, 2, 3, 4 or 7 pesticide is displayed in a manner that prevents any person other than the licensed vendor or the licensed vendor's employees from having ready access to the pesticide;
- (b) a Class 5 pesticide is displayed in a manner that presents minimal hazard to children; and
- (c) a Class 1, 2, 3, 4, 5, 6 or 7 pesticide is not displayed on a shelf or in a display case that is adjacent to or above a shelf or display case containing food or drink intended for human or animal consumption or any other commodity which, if contaminated by the pesticide, could cause injury or damage to property or to plant or animal life or to any person. O. Reg. 63/09, s. 103; O. Reg. 63/09, s. 116 (4).

**Note:** On May 1, 2020, section 103 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 67)

#### Display

**103.** A person who displays a pesticide shall ensure the following:

- 1. That a Class A, B or C pesticide or a controlled sales pesticide is displayed in a manner that prevents any person other than the licensed vendor or the licensed vendor's employees from having ready access to the pesticide.
- 2. That none of the following pesticides is displayed in a manner that would subject human or animal food, beverages or personal use items to pesticide contamination:
  - i. A Class A, B or C pesticide.
  - ii. A Class D pesticide that is not mentioned in subsection 96 (1). O. Reg. 134/20, s. 67.

### CONTAINERS

#### Prohibition, containers

**104.** (1) No person shall have possession of a pesticide other than in the container in which it was originally offered for sale or transfer. O. Reg. 63/09, s. 104 (1).

(2) Subsection (1) does not apply to a person if,

- (a) the person is performing an extermination in accordance with the Act and this Regulation; and
- (b) the person places the pesticide in a secondary container that is customarily used or approved by the pesticide's manufacturer for that pesticide and that bears a label stating,
  - (i) the name of the pesticide and the concentration of each pesticide ingredient contained in the pesticide, and
  - (ii) if the pesticide is not a Class 12 pesticide, the pesticide's registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada). O. Reg. 63/09, s. 104 (2); O. Reg. 139/15, s. 32.

**Note:** On May 1, 2020, subclause 104 (2) (b) (ii) of the Regulation is amended by striking out "Class 12" and substituting "Class E". (See: O. Reg. 134/20, s. 68)

#### Empty containers

**105.** (1) When a plastic, glass or metal container that has been used to hold a Class 1, 2, 3 or 4 pesticide becomes empty, the person responsible for the pesticide shall ensure that the container is promptly triple-rinsed or jet-rinsed using clean water, if appropriate, or another solvent that is appropriate. O. Reg. 63/09, s. 105 (1).

**Note:** On May 1, 2020, subsection 105 (1) of the Regulation is amended by striking out "Class 1, 2, 3 or 4" and substituting "Class A, B or C". (See: O. Reg. 134/20, s. 69 (1))

(2) Subsection (1) does not apply if,

- (a) the container is returned to the vendor for refilling, if the container is clearly marked to indicate that it can be refilled with the same pesticide and, before being returned, the container is stored in the manner that would be required if it were full;
- (b) the container's label indicates that the container should not be rinsed;



- (c) the container is an aerosol can;
  - (d) the container does not have an opening that can be readily opened and is large enough to permit subsection (1) to be complied with; or
  - (e) the Director provides a written opinion stating that it would not be practicable for the person responsible for the pesticide to comply with subsection (1). O. Reg. 63/09, s. 105 (2).
- (3) The person responsible for the pesticide shall ensure that a container that has been rinsed under subsection (1),
- (a) is taken for recycling to a pesticide container depot within the meaning of Regulation 347 (General — Waste Management) of the Revised Regulations of Ontario, 1990 made under the *Environmental Protection Act*;
  - (b) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act; or
  - (c) is recycled or disposed of in another manner approved by the Director as providing a satisfactory level of protection for human health and the environment. O. Reg. 63/09, s. 105 (3).
- (4) The person responsible for the pesticide shall ensure that a container that is exempt from subsection (1) under clause (2) (b), (c), (d) or (e),
- (a) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act; or
  - (b) is recycled or disposed of in another manner approved by the Director as providing a satisfactory level of protection for human health and the environment. O. Reg. 63/09, s. 105 (4).
- (5) The person responsible for the pesticide shall ensure that any water or other solvent used for rinsing under subsection (1) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act, unless it is emptied into the spray tank and used in the extermination. O. Reg. 63/09, s. 105 (5).
- (6) For the purpose of subsection (1), a container is deemed to be empty if it contains less than 2.5 centimetres of material at the bottom of the container. O. Reg. 63/09, s. 105 (6).
- (7) When a paper or cardboard container that has been used to hold a Class 1, 2, 3 or 4 pesticide becomes empty, the person responsible for the pesticide shall ensure that,

**Note: On May 1, 2020, subsection 105 (7) of the Regulation is amended by striking out “Class 1, 2, 3 or 4” in the portion before clause (a) and substituting “Class A, B or C”. (See: O. Reg. 134/20, s. 69 (2))**

- (a) the container is disposed of by burning, subject to any applicable municipal by-law, in a manner that keeps persons and animals out of any resulting smoke and that directs any resulting smoke away from buildings, highways and outdoor areas frequented by the public;
- (b) the container is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act; or
- (c) the container is recycled or disposed of in another manner approved by the Director as providing a satisfactory level of protection for human health and the environment. O. Reg. 63/09, s. 105 (7).

#### **Damaged or broken containers**

**106.** If the original container of a Class 1, 2, 3 or 4 pesticide is damaged or broken, the person responsible for the pesticide shall ensure that,

**Note: On May 1, 2020, section 106 of the Regulation is amended by striking out “Class 1, 2, 3 or 4” in the portion before clause (a) and substituting “Class A, B or C”. (See: O. Reg. 134/20, s. 70 (1))**

- (a) under the direction of the person who registered the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada),

**Note: On May 1, 2020, clause 106 (a) of the Regulation is amended by striking out “or the Fertilizers Act (Canada)” in the portion before subclause (i). (See: O. Reg. 134/20, s. 70 (2))**

- (i) any spillage is cleaned up to the satisfaction of the Director, and
  - (ii) any area or thing that came in contact with the pesticide is decontaminated to the satisfaction of the Director;
- (b) any pesticide that is to be kept is stored in a container that is equivalent to the one that was damaged or broken and that bears a label stating,
- (i) the name of the pesticide and the concentration of each pesticide ingredient contained in the pesticide, and
  - (ii) the pesticide’s registration number assigned to it under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada);

**Note: On May 1, 2020, subclause 106 (b) (ii) of the Regulation is amended by striking out “or the *Fertilizers Act* (Canada)” at the end. (See: O. Reg. 134/20, s. 70 (3))**

- (c) the container that was damaged or broken is dealt with under section 105 as if it were an empty container;
- (d) any pesticide that is not going to be kept is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 (General — Waste Management) of the Revised Regulations of Ontario, 1990 made under that Act, or in another manner approved by the Director as providing a satisfactory level of protection for human health and the environment; and
- (e) any water or other solvent used for cleaning up or decontaminating under clause (a) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act, or in another manner approved by the Director as providing a satisfactory level of protection for human health and the environment. O. Reg. 63/09, s. 106.

#### STORAGE OF PESTICIDES

##### Prohibition, storage

**107.** (1) No person shall store a pesticide in such a manner that the pesticide is likely to come into contact with food or drink intended for human or animal consumption. O. Reg. 63/09, s. 107 (1).

- (2) Subject to subsection (3), no person shall store a pesticide unless,
  - (a) the person is a licensed vendor, operator or exterminator and is authorized by the licence to sell, transfer or use the pesticide; or
  - (b) the person is exempt under the Act or this Regulation from requiring a licence to sell, transfer or use the pesticide. O. Reg. 63/09, s. 107 (2); O. Reg. 228/18, s. 20.
- (3) Subsection (2) does not apply to,
  - (a) a manufacturer who is storing pesticides; or
  - (b) a person who is transporting pesticides out of Ontario. O. Reg. 63/09, s. 107 (3).

##### Storage in vehicles

**108.** (1) No person shall leave a Class 1, 2, 3, 4, 5, 6, 7 or 8 pesticide, whether mixed or diluted for use or not, unsupervised in a vehicle unless the vehicle is located in a place inaccessible to the public or the pesticide is locked in an enclosed part or compartment of the vehicle. O. Reg. 63/09, s. 108 (1).

**Note: On May 1, 2020, subsection 108 (1) of the Regulation is amended by striking out “Class 1, 2, 3, 4, 5, 6, 7 or 8” and substituting “Class A, B, C or D”. (See: O. Reg. 134/20, s. 71 (1))**

(2) No person shall leave a Class 1, 2, 3, 4, 5, 6, 7 or 8 pesticide, whether mixed or diluted for use or not, unsupervised in a vehicle unless the vehicle displays Sign G, referred to in the Table to subsection 1 (5). O. Reg. 63/09, s. 108 (2).

**Note: On May 1, 2020, subsection 108 (2) of the Regulation is amended by striking out “Class 1, 2, 3, 4, 5, 6, 7 or 8” and substituting “Class A, B, C or D”. (See: O. Reg. 134/20, s. 71 (2))**

- (3) Subsection (2) does not apply to a person who is transporting,
  - (a) a Class 5, 6 or 7 pesticide for personal use in or around a home; or
  - (b) a Class 8 pesticide that was obtained for personal use in or around a home, if the pesticide is being transported in order to dispose of it properly. O. Reg. 63/09, s. 108 (3).

**Note: On May 1, 2020, subsection 108 (3) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 71 (3))**

(3) Subsection (2) does not apply to a person who is transporting any of the following pesticides for personal use in or around a home:

- 1. A Class D pesticide.
- 2. A Class B pesticide with a label that indicates use to repel any animal and that its only active ingredient is capsaicin or capsaicin and related capsaicinoids. O. Reg. 134/20, s. 71 (3).

(4) For the purposes of subsection (2), a person may substitute the words “chemical storage” for the words “pesticide storage” on Sign G. O. Reg. 63/09, s. 108 (4).

##### Storage, general requirements

**109.** (1) A person who stores a Class 1, 2, 3, 4, 5, 6, 7 or 8 pesticide shall do so in accordance with the following rules:

**Note: On May 1, 2020, subsection 109 (1) of the Regulation is amended by striking out “Class 1, 2, 3, 4, 5, 6, 7 or 8 pesticide” in the portion before paragraph 1 and substituting “Class A, B, C pesticide or a Class D pesticide that is not mentioned in subsection 96 (1)”. (See: O. Reg. 134/20, s. 72 (1))**

1. The pesticide shall be stored in such a manner that the pesticide is not likely to impair the health or safety of any person.
  2. The pesticide shall be stored in an area that is maintained in good repair and in a clean and orderly condition with sufficient precautions taken to prevent the pesticide from contaminating the natural environment or any other pesticide stored in the same area.
  3. Sign G, referred to in the Table to subsection 1 (5), shall be prominently displayed near the area and at all entrances to the area where the pesticide is stored.
  4. A list of emergency telephone numbers, including those of the fire department, hospital and poison control centre shall be prominently displayed near the area where the pesticide is stored. O. Reg. 63/09, s. 109 (1).
- (2) Subsection (1) does not apply to,
- (a) a person who is storing a Class 5, 6 or 7 pesticide on property occupied by the person for personal use of the pesticide in or around a home;
  - (b) a person who is storing a Class 8 pesticide on property occupied by the person until the pesticide can be properly disposed of; or
  - (c) a person who is storing only a Class 6 pesticide. O. Reg. 63/09, s. 109 (2).

**Note: On May 1, 2020, subsection 109 (2) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 72 (2))**

(2) Subsection (1) does not apply with respect to storage by a person of any of the following pesticides on property occupied by the person for personal use of the pesticide in or around a home:

1. A Class D pesticide.
2. A Class B pesticide with a label that indicates use to repel any animal and that its only active ingredient is capsaicin or capsaicin and related capsaicinoids. O. Reg. 134/20, s. 72 (2).

(3) For the purposes of subsection (1), a person may substitute the words “chemical storage” for the words “pesticide storage” on Sign G. O. Reg. 63/09, s. 109 (3).

**Note: On May 1, 2020, the Regulation is amended by adding the following section: (See: O. Reg. 134/20, s. 73)**

#### **Personal use**

**109.1** For greater certainty, a reference to “personal use” in sections 108 and 109 does not include the use of a pesticide as part of a person’s employment or occupation. O. Reg. 134/20, s. 73.

#### **Storage of Class 1, 2 or 3 pesticides**

**110.** (1) No person shall store a Class 1, 2 or 3 pesticide unless,

**Note: On May 1, 2020, subsection 110 (1) of the Regulation is amended by striking out “Class 1, 2 or 3” in the portion before clause (a) and substituting “Class A, B or C”. (See: O. Reg. 134/20, s. 74 (1))**

- (a) if the pesticide is stored indoors, the compartment, room or structure in which the pesticide is stored is ventilated to the outdoor atmosphere;
- (b) sufficient security measures are taken so that the express permission of the person responsible for the pesticide is required to enter or have access to the area where the pesticide is stored;
- (c) there is no floor drain that leads into or drains directly or indirectly into a storm sewer, sanitary sewer or watercourse in the area where the pesticide is stored;
- (d) there is adequate respiratory protection and adequate protective clothing readily available for emergency purposes; and
- (e) if the pesticide is a Class 2 pesticide, the pesticide is stored in an area that is used primarily for the storage of pesticides. O. Reg. 63/09, s. 110 (1).

**Note: On May 1, 2020, clause 110 (1) (e) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 74 (2))**

- (e) the pesticide is stored in an area that is used primarily for the storage of pesticides if the pesticide is a Class B pesticide or is a Class C pesticide that is a fumigant.

**Note: On May 1, 2020, section 110 of the Regulation is amended by adding the following subsection: (See: O. Reg. 134/20, s. 74 (3))**

(1.1) Subsection (1) does not apply with respect to storage by a person of a Class B pesticide with a label that indicates a use to repel any animal and that its only active ingredient is capsaicin or capsaicin and related capsaicinoids. O. Reg. 134/20, s. 74 (3).

- (2) For the purposes of clause (1) (d),

“adequate protective clothing” means clothing including rubber or neoprene boots, rubber or neoprene gloves, hats, coats and other garments that effectively protect the user from adverse effects that might result from a pesticide coming in contact with the skin during or after the handling or use of the pesticide. O. Reg. 63/09, s. 110 (2).

**Exemption, specified Class 4, 5, 6 or 7 pesticides**

**111.** Subsection 108 (2) and paragraphs 3 and 4 of subsection 109 (1) do not apply in respect of the storage of,

- (a) a Class 5, 6 or 7 pesticide that is,
  - (i) a tree wound dressing,
  - (ii) a wood preservative, or
  - (iii) an insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets;
- (b) a Class 4, 5, 6 or 7 pesticide that is an injection into trees, stumps or wooden poles; or
- (c) a Class 5 or 6 pesticide which contains no pesticide ingredients other than,
  - (i) a soap,
  - (ii) a mineral oil, or
  - (iii) silicon dioxide, also called diatomaceous earth. O. Reg. 63/09, s. 111.

**Note: On May 1, 2020, section 111 of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 75)**

**Exemption, specified pesticides**

**111.** Subsection 108 (2) and paragraphs 3 and 4 of subsection 109 (1) do not apply in respect of the storage of any of the following:

- 1. A Class D pesticide that is,
  - i. a tree wound dressing,
  - ii. a wood preservative,
  - iii. an insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets, or
  - iv. an injection into trees, stumps or wooden poles.
- 2. A Class D pesticide with a label that indicates that it contains no active ingredient other than a soap or a mineral oil or silicon dioxide, also called diatomaceous earth. O. Reg. 134/20, s. 75.

**Fire department notification**

**112.** (1) The following persons shall annually give a written notice in accordance with subsection (2) to the fire department responsible for the area in which the pesticide is stored:

- 1. A person who stores a Class 1 pesticide.

**Note: On May 1, 2020, paragraph 1 of subsection 112 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 76 (1))**

- 1. A person who stores a Class A pesticide.
- 2. A person required to hold a vendor's licence who stores a Class 2, 3, 4, 5, 6, 7 or 8 pesticide.

**Note: On May 1, 2020, paragraph 2 of subsection 112 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 76 (1))**

- 2. A person required to hold a vendor's licence who stores a Class B, C or D pesticide.
- 3. A person required to hold an operator's licence who stores a Class 2, 3, 4, 5, 6, 7 or 8 pesticide.

**Note: On May 1, 2020, paragraph 3 of subsection 112 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 76 (1))**

- 3. A person required to hold an operator's licence who stores a Class B, C or D pesticide.
- 4. A manufacturer who stores a Class 2, 3, 4, 5, 6, 7 or 8 pesticide. O. Reg. 63/09, s. 112 (1).

**Note: On May 1, 2020, paragraph 4 of subsection 112 (1) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 76 (1))**

- 4. A manufacturer who stores a Class B, C or D pesticide.

(2) The notice required in subsection (1) shall be in the form approved by the Director and shall identify the pesticide, describe its location and conditions of storage and identify the person responsible for the pesticide. O. Reg. 63/09, s. 112 (2).

- (3) Subsection (1) does not apply to a pesticide that is temporarily stored in a vehicle. O. Reg. 63/09, s. 112 (3).

**Note: On May 1, 2020, subsection 112 (3) of the Regulation is revoked and the following substituted: (See: O. Reg. 134/20, s. 76 (2))**

(3) If the person referred to in subsection (1) commonly stores pesticides in a vehicle overnight, the person shall give a written notice in accordance with subsection (2) to the fire department responsible for the area in which the vehicle is normally parked at night. O. Reg. 134/20, s. 76 (2).

## FIRES, ACCIDENTS, THEFTS

### Director to be notified

**113.** (1) The person responsible for a pesticide shall, as soon as practicable, notify the Director in the event of a fire or other occurrence that may result in the pesticide being discharged into the environment out of the normal course of events, if the discharge,

**Note: On May 1, 2020, subsection 113 (1) of the Regulation is amended by striking out “shall, as soon as practicable, notify the Director” in the portion before clause (a) and substituting “shall immediately notify the Ministry’s Spills Action Centre”. (See: O. Reg. 134/20, s. 77 (1))**

- (a) would be likely to cause impairment of the quality of the environment for any use that can be made of it;
- (b) would be likely to cause injury or damage to property or to plant or animal life;
- (c) would be likely to cause harm or material discomfort to any person;
- (d) would be likely to adversely affect the health of any person;
- (e) would be likely to impair the safety of any person; or
- (f) would be likely to render directly or indirectly any property or plant or animal life unfit for use by humans. O. Reg. 63/09, s. 113 (1).

(2) The person responsible for a pesticide shall immediately notify the Ministry’s Spills Action Centre in the event of an occurrence mentioned in subsection (1). O. Reg. 63/09, s. 113 (2).

**Note: On May 1, 2020, subsection 113 (2) of the Regulation is revoked. (See: O. Reg. 134/20, s. 77 (2))**

(3) The person responsible for a pesticide shall, as soon as practicable, notify the Ministry’s Spills Action Centre whenever any pesticide is stolen or otherwise passes out of the person’s possession or control other than in the normal course of affairs. O. Reg. 63/09, s. 113 (3).

## TRANSPORTATION OF PESTICIDES

### Transportation in vehicle, general

**114.** No person shall transport or cause or permit the transportation of a pesticide by a vehicle operated on any highway unless the pesticide is secured in a manner sufficient to prevent the escape or discharge of the pesticide from the vehicle. O. Reg. 63/09, s. 114.

### Transportation in vehicle, Class 1, 2, 3 or 4 pesticides

**115.** No person shall transport or cause or permit the transportation of a Class 1, 2, 3 or 4 pesticide together with any of the following commodities by a vehicle operated on any highway unless the pesticide being transported is separated from the commodities in a manner sufficient to prevent their contamination or likely contamination by the pesticide:

**Note: On May 1, 2020, section 115 of the Regulation is amended by striking out “Class 1, 2, 3 or 4” in the portion before paragraph 1 and substituting “Class A, B or C”. (See: O. Reg. 134/20, s. 78)**

- 1. Food or drink intended for human or animal consumption.
- 2. Household furnishings.
- 3. Toiletries, clothes, bedding or similar commodities. O. Reg. 63/09, s. 115.

**116.** OMITTED (PROVIDES FOR AMENDMENTS TO THIS REGULATION). O. Reg. 63/09, s. 116.

**117.** OMITTED (REVOKES OTHER REGULATIONS). O. Reg. 63/09, s. 117.

**118.** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 63/09, s. 118.

SCHEDULE 1-3 REVOKED: O. Reg. 134/20, s. 79.

Français

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