



November 23, 2015

Issue: Feasibility of Licensing Wildlife Control Operators -2015.LS8.1

Dear Chair and Members of the Licensing and Standards Committee

The Structural Pest Management Association of Ontario (SPMAO), is a provincial association formed in 1947, for professional pest management companies engaged in the management of pests such as ants, bed bugs, cockroaches, mice, rats, termites, and problem wildlife such as raccoons, skunks, squirrels, opossums, in and around countless residential, commercial and institutional settings. SPMAO's members are Ministry of the Environment (MOE) licensed operators and their employees are MOE licensed exterminators, and the Ontario Pesticides Act R.S.O. 1990 CHAPTER P.11, specifically allows licensed operators and exterminators to perform nuisance wildlife work. Please see attached addendum.

As a professional association SPMAO's mandate is to provide continuing education for members and the industry. Included in this is yearly association symposiums which have a session on nuisance wildlife control. We also offer the National Wildlife Control Operators Association's (NWCOA) Certified Basic Operator WCO training course. The training was developed by academics from the University of Nebraska-Lincoln and Cornell University, and to that end, we are currently working towards establishing re-certification in Ontario, and have asked the MOE and MNRF to recognize completion of the course as a minimum competency standard for WCOs.

SPMAO continues to support the Toronto City Council's Licensing and Standards Committee recommendations that the Province of Ontario consider expanding its licensing requirements to include WCO's that do not hold a provincial license either through the MOE or MNRF, and that outside anecdotal stories "there is no indication that these concerns are widespread or severe enough to warrant the creation of a municipal licensing regime". In addition the estimated costs per WCO will be a huge financial burden that many ethical, professional wildlife companies will not be able to absorb and quite possibly will affect the consumers right to hire a reputable competitively priced professional.

In conclusion, SPMAO believes that education and guidance are the keys to positive outcomes, and that expanding the provincial licensing plus educational offerings to wildlife professionals will provide better results than those achieved by municipal licensing alone. With this in mind SPMAO respectfully requests that we be considered as the educational medium to assist the WCO with their knowledge of the nuisance wildlife industry.

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Pesticides Act

R.S.O. 1990, CHAPTER P.11

Consolidation Period: From December 31, 2011 to the e-Laws currency date.

Last amendment: 2009, c. 33, Sched. 15, s. 9.

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Interpretation

1. (1) In this Act,

"air" means open air not enclosed in a building, structure, machine, chimney, stack, flue or vehicle; ("air")

"analyst" means an analyst appointed under the *Environmental Protection Act*; ("analyste")

"Committee" means the Pesticides Advisory Committee; ("Comité")

"cosmetic" means non-essential; ("esthétique")

"discharge", when used as a verb, includes add, deposit, emit or leak and, when used as a noun, includes addition, deposit, emission or leak; ("rejet", "rejeter")

"document" includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account and information recorded or stored by means of any device; ("document")

"environment" means the natural environment, a building, structure, machine and vehicle, or any of them; ("environnement")

~~"extermination" means a land extermination, structural extermination or a water extermination; ("destruction")~~

~~"extermination business" means an activity or enterprise carried on for the purpose of causing an extermination or exterminations to be performed for fee or payment; ("entreprise de destruction")~~

~~"exterminator" means a person who, personally or through employees, assistants or agents, performs or enters into a contract to perform an extermination; ("destructeur")~~

"inspection" includes an audit, examination, survey, test and inquiry; ("inspection")

"justice" means a provincial judge or a justice of the peace; ("juge")

"land" means surface land not enclosed in a building or structure, land covered by water and all subsoil, or any combination or part thereof; ("terrain")

"land extermination" means the destruction, prevention or control in, on or over land of a pest or pests by the use of a pesticide but does not include a structural extermination, a water extermination or the destruction, prevention or control of termites; ("destruction de parasites terrestres")

"licence" means a licence issued under this Act and the regulations; ("licence")

"licensee" means a person who is the holder of a licence under this Act; ("titulaire de licence")

"Minister" means the Minister of the Environment; ("ministre")

"Ministry" means the Ministry of the Environment; ("ministère")

"natural environment" means the air, land and water, or any combination or part thereof, of the Province of Ontario; ("environnement naturel")

"operator" means a person who has the control and management of an extermination business, and "operate" has a corresponding meaning; ("exploitant")

"permittee" means a person who is the holder of a permit under this Act; ("titulaire de permis")

"person" includes a municipality, a corporation on behalf of Her Majesty in right of Ontario, and an agent of any of them; ("personne")

"person responsible", when used with reference to a pesticide, substance or thing, means,

(a) the owner,

(b) the person having the charge, management or control of the handling, storage, use, disposal, transportation or display, or

(c) the person having the charge, management or control,

of the pesticide, substance or thing; ("personne responsable")

"pest" means any injurious, noxious or troublesome plant or animal life other than humans or plant or animal life on or in humans and includes any injurious, noxious or troublesome organic function of a plant or animal; ("parasite")

"pesticide" means any organism, substance or thing that is manufactured, represented, sold or used as a means of directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest or of altering the growth, development or characteristics of any plant life that is not a pest and includes any organism, substance or thing registered under the *Pest Control Products Act* (Canada); ("pesticide")

"place" includes a building, structure, machine, vehicle or vessel; ("lieu")

"prescribed" means prescribed by the regulations; ("prescrit")

"provincial officer" means a person who is designated under section 17; ("agent provincial")

"receiver" means a person who has been appointed to take or who has taken possession or control of property pursuant to a mortgage, hypothec, pledge, charge, lien, security interest, encumbrance or privilege or pursuant to an order of a court, and includes a receiver-manager and an interim receiver; ("séquestre")

"regulations" means the regulations made under this Act; ("règlements")

"secured creditor" means a person who holds a mortgage, hypothec, pledge, charge, lien, security interest, encumbrance or privilege on or against property, but does not include a person who has taken possession or control of the property; ("créancier garanti")

"structural extermination" means the destruction, prevention or control of a pest that may adversely affect a building, structure, machine, vehicle or their contents or the use or enjoyment thereof by any person by the use of a pesticide in, on or in the vicinity of the building, structure, machine or vehicle and includes the destruction, prevention or control of termites; ("destruction de parasites dans une structure")

"Tribunal" means the Environmental Review Tribunal; ("Tribunal")

"water" means surface water and ground water, or either of them; ("eau")

"water extermination" means the destruction, prevention or control in, on or over surface water of a pest by the use of a pesticide. ("destruction de parasites aquatiques") R.S.O. 1990, c. P.11, s. 1 (1); 1993, c. 27, Sched.; 1998, c. 35, s. 77; 2000, c. 26, Sched. F, s. 14 (1, 2); 2001, c. 17, s. 6 (1); 2008, c. 11, s. 1 (1); 2009, c. 19, s. 71 (1).

Idem, Director

(2) In this Act,

"the Director" means a Director appointed under section 3. R.S.O. 1990, c. P.11, s. 1 (2).

Health or safety

(3) For the purposes of this Act, a danger to existing water supplies that are used for human consumption shall be deemed to be a danger to the health or safety of persons. 2001, c. 17, s. 6 (2).

Use of pesticide

(4) For the purposes of this Act,

- (a) the placement or application of a pesticide is a use of the pesticide; and
- (b) the mixing, dilution or loading of a pesticide for the purpose of placing or applying it is a use of the pesticide. 2008, c. 11, s. 1 (2).

Powers and duties of Minister

2. The Minister, for the purpose of the administration of this Act and the regulations, may,

- (a) investigate problems relating to pesticides and the control of pests;
- (b) conduct research relating to pesticides and the control of pests;
- (c) conduct studies of the effect of pesticides and the control of pests on the quality of the environment;
- (d) convene conferences and conduct seminars and educational programs relating to pesticides and the control of pests;
- (e) gather, publish and disseminate information relating to pesticides and the control of pests;
- (f) make grants and loans for research related to pesticides and the control of pests in such amounts and upon such terms and conditions as the regulations may prescribe;
- (g) appoint committees to perform such advisory functions as the Minister considers requisite;
- (h) with the approval of the Lieutenant Governor in Council, enter into an agreement with any government or person relating to pesticides or the control of pests. R.S.O. 1990, c. P.11, s. 2.

Appointment of Directors

52. (1) Where any provision of this Act or the regulations or any direction, order, licence or permit made, served, delivered or issued by the Minister or the Director under this Act is contravened, despite any other remedy or any penalty imposed, the Minister may apply to a judge of the Superior Court of Justice for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Superior Court of Justice. R.S.O. 1990, c. P.11, s. 52 (1); 2001, c. 9, Sched. G, s. 7 (17).

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1990, c. P.11, s. 52 (2).

Power to restrain by order upon conviction

(3) Upon its own initiative or upon application by counsel for the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other remedy and to any other penalty imposed by law, may make an order prohibiting the continuation or repetition by the person of the act or omission for which the person is convicted. R.S.O. 1990, c. P.11, s. 52 (3).

Administrative changes to control orders and permits

52.1 The Director may rescind or amend a control order, cancel a permit or alter a term or condition in a permit if the Director is satisfied that the rescission, amendment, cancellation or alteration is in the public interest and is desirable for administrative reasons to,

- (a) reflect changes that have occurred with respect to the identity or description of any person or place; or
- (b) eliminate provisions that are spent or obsolete. 2001, c. 9, Sched. G, s. 7 (16).

Conflict with other legislation

53. Where a conflict appears between this Act or the regulations and any other Act or regulation in a matter related to pesticides and the control of pests, this Act or the regulations shall prevail. R.S.O. 1990, c. P.11, s. 53.
