

Non-Essential Pesticide Use Regulation (MR 286/2014)

Frequently Asked Questions for Retailers

The Environment Amendment Act (Reducing Pesticide Exposure) and the Non-Essential Pesticide Use Regulation (MR 286/2014) came into effect on January 1, 2015. Section 3 of the regulation describes the responsibilities of all retailers including horticulture and garden centres, nurseries, hardware, and home improvement stores.

As of May 1, 2015, only herbicides on the regulated 'allowable list' can be displayed and stored on open shelves where customers can access them without the assistance of a sales associate. The 'allowable list' includes herbicides containing active ingredients such as horticultural vinegar, iron chelate, corn gluten meal, etc.

All other herbicides such as Killlex[®], Wilson Lawn Weedout[®], Roundup[®] that are not on the 'allowable list' are still available for sale to homeowners for use including:

- to control poisonous plants such as poison ivy (exempted use),
- to control invasive alien species such as (exempted use), and
- uses that would not be intended for a lawn (i.e. ornamental, fruit, and vegetable gardens).

Retailers must prevent direct public access to these products, i.e., they cannot be out on the store shelf unless under lock and key.

Documents are available to assist retailers in complying with this new regulation and can be found on the Department's website at www.manitoba.ca/pesticide-reduction.

1. Where does the legislation apply?

Only 'allowable list' pesticides can be applied to lawns and associated areas (sidewalks, driveways and patios) of residential, commercial, government, and institutional properties. The legislation also applies to only 'allowable list' products being applied to the exterior property of a school, hospital or child care centre and also includes parking areas, pathways, and any area around play structures where children play or have access.

2. What is considered a "lawn"?

The legislation defines a lawn as "a plot of grass that is maintained at a regular and approximately uniform height through periodic and regular mowing; this includes any associated walkway, driveway or patio." Only those herbicides on the 'allowable list' can be used in these areas. Allowable list products are listed on Manitoba Conservation and Water Stewardship's website: www.manitoba.ca/pesticide-reduction

3. What products are restricted in Manitoba under the new legislation?

Only herbicides on the 'allowable list' may be used in areas covered by the regulation. All other products are restricted.

4. Could homeowners purchase these products?

Yes, but only for purposes that are exempt from the regulation. Products not on the 'allowable list' will be available for sale but not through direct access. Retailers will confirm with the potential purchaser what they intend to use the product for to ensure the homeowner is aware that he/she cannot use that product on a regulated area, i.e., a lawn and associated area.

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5. What are the exemptions under the regulation?

Pesticides that are not on the allowable list may be used to destroy invasive plants and/or poisonous plants such as poison ivy, poison sumac, and giant hogweed. More information about invasive species can be found at the Invasive Species Council of Manitoba's web site.

www.invasivespeciesmanitoba.com

6. Are vegetable, fruit and ornamental flower gardens included?

No, they are not included. The regulation does not prohibit pesticide use on vegetable, fruit and ornamental gardens.

7. Are insecticides for mosquitoes and bugs also restricted for sale?

No, insecticides for mosquitoes and bugs are not covered by this regulation and are not restricted for sale

8. What are the responsibilities of the retailers?

- Retailers must secure herbicides that are not on the 'allowable list' from direct access by the public.
- If a customer wishes to purchase a product that is not on the 'allowable list', retailers must speak with the customer to ensure that he/she is aware of the regulation. The retailer should ensure that the customer is not planning to use that product on a lawn and associated area; rather, only for an approved exempt purpose as noted above.
- Retailers must ensure their sales associates are aware of the regulation and their role in restricting sales of products not on the 'allowable list'.

9. Where can we dispose of expired herbicides?

Domestic class herbicides

Manitoba Product Care Household Hazardous Waste Collection Sites (call 1.888.772.9772 for more information). Sites include:

- Miller Environmental Corporation – 1803 Hekla Avenue, Winnipeg
- Responsible Electronics Recycling Manitoba Inc. – 511 Robinson Avenue, Selkirk
- City of Brandon – 3000 Victoria Avenue East, Brandon
- City of Steinbach – 104 Hanover Road East, Steinbach
- Whitemouth Reynolds Waste Management Facility – NW 21-11-12 EPM, RM of Whitemouth
- RM of Rockwood – NE 19-13-02 EPM, RM of Rockwood
- RM of Gimli – 212 Harvard Avenue, Gimli.

Commercial class herbicides

Licensed hazardous waste collection/disposal facilities: Contact Hazardous Waste Program for more information.

Hazardous Waste Program

Environmental Approvals Branch

Manitoba Conservation and Water Stewardship

(204) 945-7086

Return unopened products to a pesticide dealer.

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10. What materials are available to help retailers understand their requirements?

The following documents are provided, with each having an intended purpose:

Allowable List: The regulation (MR 286/2014) is based on active ingredients and does not specify any herbicide product names. The 'allowable list' document contains all the allowable herbicide by product name and is available on the Department's website.

Retailer's information bulletin: This document summarizes the overall retail requirements in a simplified language.

Brochure: Retailers are required to provide information on the Non Essential Pesticide Use Regulation (MR 286/2014) to any customer that purchases a product not on the 'allowable list'. To facilitate this requirement, the Department is providing retailers with an informational brochure. Printed copies of the brochure will be distributed by the Department during the summer of 2015 for education and awareness purposes..

A PDF version of the brochure will be made available on the website for public access and for stores to print on demand if they so choose. Retailers may also use different types of communication media to inform customers such as posters or other signage, using content that is approved by the Director.

Retailer's sales checklist: Sales associates should follow the one-page Retailer's Checklist provided by the Department for selling pesticides. Managers on site are to make sure that a printed copy of the checklist is available to sales associates at the store.

Presentation on the regulatory requirements for retailers: The PDF copy of the presentation on the regulatory requirements of the Non-Essential Pesticide Use Regulation (MR 286/2014) is also available on our website. This presentation is intended for both retail management and sales associates.

Retailers FAQ document (this document): Retailer's FAQ document will be updated on a regular basis.

Self assessment questionnaire: A self assessment questionnaire is available as a tool for assessing knowledge of retail sales associates on the regulatory requirements of the regulation. It is recommended that copies of the Self Assessment are kept on an employee's file as a record of training.

11. What is the plan for enforcement?

The Non-Essential Pesticide Use Regulation (MR 286/2014) has been in force for retailers since May 1st 2015. Currently, only 'allowable list' pesticides can be displayed on store shelves.

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The enforcement approach during the 2015 implementation year will be primarily education-based, focusing on compliance promotion. Only in the most egregious or flagrant violations will enforcement be considered.

12. If a product is misused by a homeowner, who is liable?

The retailer's responsibility ends after all the proper information about the regulation has been relayed to the customer (please refer to *Retailer Checklist*). Once the customer has purchased the product, the onus is on the customer to use the product properly.

13. How are you going to monitor sales through agricultural retailers to farmers?

Environment Officers will be performing regular compliance inspections of licensed farm chemical warehouses and agricultural retailers as well as random or complaint based inspections.

14. Who is deemed a trained employee?

A trained employee is any employee who is knowledgeable of the Regulation (*MR 286/2014*) and understands the requirements for selling a product not on the 'allowable list' including the exempted uses for which it can be sold. The following materials should be reviewed and understood by employees before they are assigned to dispense a product:

- At least once per season with a manager who is knowledgeable on the materials:
 - *Retailer Training Presentation*
 - *Retailer's Information Bulletin*
 - *Allowable List*
 - *Self Assessment Questionnaire**
- With every transaction until the staff are comfortable:
 - *Brochure on MR 286/2014*
 - *Retailer's Sales Checklist*

**For each employee responsible to dispense products not on the 'allowable list' a copy of a completed, successful Self Assessment Questionnaire should be maintained on the site.*

15. To what level is a salesperson expected to be trained on exempted uses to destroy poisonous or invasive plants?

The Department doesn't expect retailers to have extensive knowledge on poisonous and invasive plants. Sales associates are expected to be knowledgeable of the regulation requirements and to be aware of the exemptions. Although they are not required to know excessive information on poisonous or invasive plants, the Department does encourage that retail staff be familiarized with some common terminologies and examples of poisonous and invasive plants that may be common problems in lawns.

Most lawns are free of poisonous and invasive plant species. But many plants that are now considered invasive in Manitoba started out as garden plants. *Grow Me Instead* is a helpful resource from the Invasive Species Council of Manitoba. It can be found at: (<http://invasivespeciesmanitoba.com/site/>). Herbicides that are not on the allowable list may be

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used to destroy poisonous plants such as poison ivy, poison sumac, and giant hogweed, as well as invasive plant species.

16. Is the homeowner required to offer proof or a legally binding statement confirming that their intent is for an exempted purpose before they can be sold product not on the 'allowable list'?

No, the homeowner is not required to offer proof or a legally binding statement confirming that their intent is for an exempted purpose before buying product not on the 'allowable list'. The sales associate should ask for the intent of the purchase and only sell this type of product for an exempted use. If the retailer follows the display and sales requirements, the liability of the retailer ends at the sale of the product.

17. Is there any grace period for the retailers?

The legislation came into effect on January 1, 2015. In consultation and at the request of retailers, the display and sales requirements for products not on the 'allowable list' were delayed and came into force on May 1, 2015 to provide time for retailers to change in store-displays. The requirement to secure products that are not on the 'allowable list' from direct public access was part of the 2014 consultation process and was relayed to retailers at that time. It is recognized that ongoing training of employees will take time and the Department will continue to work with retailers through education and outreach during the first year of implementation.

18. Will the allowable list on the website be kept up to date? What is the process?

Once a new active ingredient is registered by the PMRA the 'allowable list' will be updated. Pesticide brand products which may be registered more frequently will be updated regularly and made available on the Department's website.

If pesticide manufacturers and distributors notice that a pesticide product containing an 'allowable list' product is not listed on our website, do not hesitate to email us at pesticide.reduction@gov.mb.ca.

19. What is the procedure to keep for maintaining sales record of products dispensed that are not on the 'allowable list' for a five year period?

The Non-Essential Pesticide Use Regulation (MR 286/2014) states that retailers are required to maintain sales record of products dispensed that are not on the 'allowable list'. This includes the product name and number of units sold based on container size for a five year period. Retailers should be able to provide the records to an environment officer on request. The method for recording sales is up to the discretion of individual retailers.

For retail chain stores, point of sale records can be compiled on a monthly and then annual basis and stored at corporate headquarters for five years. Small retail stores or nursery and garden centers should keep electronic versions of sales records on a standard spreadsheet format such as Microsoft Excel for a five year period at their individual stores. Retailers who prefer to keep paper copies can maintain sales record of pesticides dispensed that are not on the 'allowable list' for a five year period in a paper format.

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Environment officers may audit randomly or as a result of complaints. Retailers must provide the records to an environment officer on request. Adequate time to retrieve records if they are not at the site will be provided.

20. Is there an age requirement for retail staff selling pesticides?

No, there is no age requirement.

21. What if I still have questions?

Check out our website: www.manitoba.ca/pesticide-reduction

Email us directly: pesticide.reduction@gov.mb.ca