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Pest Control Products Act (S.C. 2002, c. 28)Full Document: [HTML](#) | [XML](#) [232 KB] | [PDF](#) [549 KB]Act current to 2013-09-16 and last amended on 2006-06-28. [Previous Versions](#)

Pest Control Products Act

S.C. 2002, c. 28

Assented to 2002-12-12

An Act to protect human health and safety and the environment by regulating products used for the control of pests

Preamble

WHEREAS the availability and use of pest control products pose potential risks, both directly and indirectly, to the health, safety and well-being of people in Canada and to the environment;

WHEREAS pest management plays a significant role in diverse areas of the economy and other aspects of the quality of life throughout Canada;

WHEREAS pest control products of acceptable risk and value can contribute significantly to the attainment of the goals of sustainable pest management;

WHEREAS the goals of sustainable pest management are to meet society's needs for human health protection, food and fibre production and resource utilization and to conserve or enhance natural resources and the quality of the environment for future generations, in an economically viable manner;

WHEREAS Canada and the provinces and territories have traditionally administered complementary regulatory systems designed to protect people and the environment, including its biological diversity, from unacceptable risks posed by pest control products, and it is important that such an approach be continued in order to achieve mutually desired results efficiently, without regulatory conflict or duplication;

WHEREAS it is in the national interest that the primary objective of the federal regulatory system be to prevent unacceptable risks to people and the environment from the use of pest control products,

the attainment of the objectives of the federal regulatory system continue to be pursued through a scientifically-based national registration system that addresses risks to human health and the environment both before and after registration and applies to the regulation of pest control products throughout Canada,

pest control products of acceptable risk be registered for use only if it is shown that their use would be efficacious and if conditions of registration can be established to prevent adverse health impact or pollution of the environment,

in assessing risks to humans, consideration be given to aggregate exposure to pest control products, cumulative effects of pest control products and the different sensitivities to pest control products of major identifiable subgroups, including pregnant women, infants, children, women and seniors,

pest control products be regulated in a manner that supports sustainable development, being development that meets the needs of the present without compromising the ability of future generations to meet their own needs,

the federal regulatory system be designed to minimize health and environmental risks posed by pest control products and to encourage the development and implementation of innovative, sustainable pest management strategies, for example by facilitating access to pest control products that pose lower risks, and encouraging the development and use of alternative, non-toxic, ecological pest control approaches, strategies and products,

applicable policies of the Government of Canada that are consistent with the objectives of this Act be duly reflected in decisions respecting the regulation of pest control products,

there be cooperation among federal departments in the development of policies to pursue the attainment of the objectives of this Act, and that those policies take into account advice from diverse sources throughout the country,

the provinces and territories and those whose interests and concerns are affected by the federal regulatory system be accorded a reasonable opportunity to participate in the regulatory system in ways that are consistent with the attainment of its objectives, and

the federal regulatory system be administered efficiently and effectively in accordance with the foregoing principles and objectives and in a manner that recognizes the various interests and concerns affected and, where consistent with the primary objective of the system, minimizes the negative impact on economic viability and competitiveness;

AND WHEREAS Canada must be able to fulfil its international obligations in relation to pest management;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the [Pest Control Products Act](#).

INTERPRETATION

Definitions

2. (1) The definitions in this subsection apply in this Act.

“active ingredient”
« *principe actif* »

“active ingredient” means a component of a pest control product to which the intended effects of the product are attributed and includes a synergist but does not include a solvent, diluent, emulsifier or other component that is not primarily responsible for those effects.

“advertise”
« *publicité* »

“advertise” includes making a representation by any means for the purpose of directly or indirectly promoting the distribution of a pest control product.

"analyst"
« *analyste* »

"analyst" means a person who is appointed or designated as an analyst under section 45.

"biological diversity"
« *diversité biologique* »

"biological diversity" means the variability among living organisms from all sources, including, without limiting the generality of the foregoing, terrestrial and marine and other aquatic ecosystems and the ecological complexes of which they form a part and includes the diversity within and between species and of ecosystems.

"biotechnology"
« *biotechnologie* »

"biotechnology" means the application of science and engineering in the direct or indirect use of living organisms or parts or products of living organisms in their natural or modified forms.

"conditions of registration"
« *conditions d'homologation* »

"conditions of registration" means

- (a) any conditions specified by the Minister under paragraph 8(1)(a) or subsection 8(2) or when amending the registration of a pest control product under this Act; and
- (b) any other requirements stated by this Act or the regulations to be conditions of registration.

"confidential business information"
« *renseignements commerciaux confidentiels* »

"confidential business information" means information to which access may be refused under the [Access to Information Act](#) and that meets the requirements of subsection 43(4) or (5).

"confidential test data"
« *données d'essai confidentielles* »

"confidential test data" means test data to which access may be refused under the [Access to Information Act](#).

"distribute"
« *distribution* »

"distribute" means distribute in any way, whether or not for consideration, and includes sell, offer for sale or distribution, and expose, display or advertise for sale or distribution.

"ecosystem"
« *écosystème* »

"ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

"environment"
« *environnement* »

"environment" means the components of the Earth and includes

- (a) air, land and water;
- (b) all layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms; and
- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c).

"environmental risk"
« *risque environnemental* »

"environmental risk", in respect of a pest control product, means the possibility of harm to the environment, including its biological diversity, resulting from exposure to or use of the product, taking into account its conditions or proposed conditions of registration.

"formulant"
« *formulant* »

"formulant" means any component of a pest control product that is added intentionally to the product and that is not an active ingredient.

"government policy"
« *politique gouvernementale* »

"government policy" means the Toxic Substances Management Policy issued by the Government of Canada in June, 1995, as long as it remains in effect, and any other policies of the Government of Canada that are prescribed.

"health risk"
« *risque sanitaire* »

"health risk", in respect of a pest control product, means the possibility of harm to human health resulting from exposure to or use of the product, taking into account its conditions or proposed conditions of registration.

"inspector"
« *inspecteur* »

"inspector" means a person who is appointed or designated as an inspector under section 45.

"label"
« *étiquette* »

"label", in respect of a pest control product, means anything that conveys information that is required by this Act or the regulations to accompany the product.

"manufacture"
« *fabrication* »

"manufacture" includes produce, formulate, repackage and prepare for distribution or use.

"Minister"
« *ministre* »

"Minister" means the Minister of Health.

"package"
« *emballage* »

"package" includes a container, wrapping, covering or holder in which a pest control product is wholly or partly contained, placed or packed, including the label and anything else that accompanies the product and conveys information about it.

"penalty"
« *pénalité* »

"penalty" means an administrative monetary penalty imposed under the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) for a violation.

"pest"
« *parasite* »

"pest" means an animal, a plant or other organism that is injurious, noxious or troublesome, whether directly or indirectly, and an injurious, noxious or troublesome condition or organic function of an animal, a plant or other organism.

"pest control product"
« *produit antiparasitaire* »

"pest control product" means

(a) a product, an organism or a substance, including a product, an organism or a substance derived through biotechnology, that consists of its active ingredient, formulants and contaminants, and that is manufactured, represented, distributed or used as a means for directly or indirectly controlling, destroying, attracting or repelling a pest or for mitigating or preventing its injurious, noxious or troublesome effects;

(b) an active ingredient that is used to manufacture anything described in paragraph (a); or

(c) any other thing that is prescribed to be a pest control product.

“place”

« *lieu* »

“place” includes a means of transport.

“prescribed”

Version anglaise seulement

“prescribed” means prescribed by regulation.

“Register”

« *Registre* »

“Register” means the Register of Pest Control Products established and maintained under section 42.

“registrant”

« *titulaire* »

“registrant” means a person in whose name a pest control product is registered.

“test data”

« *données d’essai* »

“test data” means scientific or technical information respecting the health or environmental risks or the value of a pest control product.

“threshold effect”

« *effet de seuil* »

“threshold effect”, in respect of a pest control product, means a harmful effect on human health for which the Minister is able to identify a level at which the product will not cause that effect.

“value”

« *valeur* »

“value”, in respect of a pest control product, means the product’s actual or potential contribution to pest management, taking into account its conditions or proposed conditions of registration, and includes the product’s

(a) efficacy;

(b) effect on host organisms in connection with which it is intended to be used; and

(c) health, safety and environmental benefits and social and economic impact.

“violation”

« *violation* »

“violation” means a contravention of this Act or the regulations that may be proceeded with in accordance with the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#).

“workplace”

« *lieu de travail* »

“workplace” means a place where a person works for remuneration.

Acceptable risks

(2) For the purposes of this Act, the health or environmental risks of a pest control product are

acceptable if there is reasonable certainty that no harm to human health, future generations or the environment will result from exposure to or use of the product, taking into account its conditions or proposed conditions of registration.

HER MAJESTY

Binding on Her Majesty

3. This Act is binding on Her Majesty in right of Canada or a province.

MANDATE

Primary objective

4. (1) In the administration of this Act, the Minister's primary objective is to prevent unacceptable risks to people and the environment from the use of pest control products.

Ancillary objectives

(2) Consistent with, and in furtherance of, the primary objective, the Minister shall

(a) support sustainable development designed to enable the needs of the present to be met without compromising the ability of future generations to meet their own needs;

(b) seek to minimize health and environmental risks posed by pest control products and encourage the development and implementation of innovative, sustainable pest management strategies by facilitating access to pest control products that pose lower risks and by other appropriate measures;

(c) encourage public awareness in relation to pest control products by informing the public, facilitating public access to relevant information and public participation in the decision-making process; and

(d) ensure that only those pest control products that are determined to be of acceptable value are approved for use in Canada.

Protection of future generations

4.1 For greater certainty, protection and consideration afforded to children in this Act shall also extend to future generations.

ADVISORY COUNCIL

Establishment

5. (1) In carrying out duties under this Act, the Minister may establish an advisory council of persons whose interests and concerns are affected by this Act, and may specify the functions of the council and the means by which it is to perform those functions.

Report to Minister

(2) The advisory council shall give any report that it makes, including its recommendations and the reasons for them, to the Minister, who shall place it in the Register.

PROHIBITIONS

Unregistered pest control products

6. (1) No person shall manufacture, possess, handle, store, transport, import, distribute or use a pest control product that is not registered under this Act, except as otherwise authorized under subsection 21(5) or 41(1), any of sections 53 to 59 or the regulations.

Conditions of registration

(2) No person shall manufacture, import, export or distribute a registered pest control product

unless it conforms to the conditions of registration respecting its composition and the person complies with the other conditions of registration.

Packaging of pest control products

(3) No person shall store, import, export or distribute a pest control product that is not packaged in accordance with the regulations and the conditions of registration.

Defence

(4) A person shall not be found to have contravened subsection (3) if it is established that the person reasonably believed that the pest control product was packaged in accordance with the regulations and the conditions of registration.

Misuse of pest control products

(5) No person shall handle, store, transport, use or dispose of a pest control product in a way that is inconsistent with

(a) the regulations; or

(b) if the product is registered, the directions on the label recorded in the Register, subject to the regulations.

Defence

(6) A person shall not be found to have contravened subsection (5) if it is established that the person

(a) reasonably believed that the directions on the label accompanying the pest control product complied with the regulations or, if the product is registered, with the directions on the label recorded in the Register; and

(b) handled, stored, transported, used or disposed of the product in accordance with the directions on the label accompanying it.

Packaging and advertisement of pest control products

(7) No person shall package or advertise a pest control product in a way that is false, misleading or likely to create an erroneous impression regarding its character, value, quantity, composition, safety or registration.

Activities that endanger health, etc.

(8) No person shall manufacture, possess, handle, store, transport, distribute, use or dispose of a pest control product in a way that endangers human health or safety or the environment.

Offence and punishment

(9) A person who contravenes any provision of this section is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

REGISTRATION OF PEST CONTROL PRODUCTS

APPLICATIONS FOR REGISTRATION OR AMENDMENT

Application to Minister

7. (1) An application to register a pest control product or to amend the product's registration must be made to the Minister in the form and manner directed by the Minister and must include any information or other thing that is required by the regulations to accompany the application.

Use of information provided by other registrants

(2) If the Minister is satisfied that any information referred to in subsection (1) has been provided by a registrant of a pest control product, the active ingredient of which the Minister has determined to be equivalent to the active ingredient in the applicant's product, the Minister shall, subject to and in accordance with the regulations made under paragraph 67(1)(h), permit the applicant to use or rely on that information.

Foreign review or evaluation

(2.1) For the purposes of subsection (1), the applicant may include information that is available from a review or evaluation of a pest control product conducted by the government of another member country of the Organisation for Economic Co-operation and Development if the proposed use of the pest control product in Canada would be under conditions similar to those under which the foreign review or evaluation was conducted.

Evaluation of pest control product

(3) If the Minister is satisfied that the application has been made in accordance with subsection (1), (2) or (2.1), the Minister shall

- (a) in accordance with the regulations, if any, conduct any evaluations that the Minister considers necessary with respect to the health or environmental risks or the value of the pest control product;
- (b) expedite evaluations with respect to a pest control product that may reasonably be expected to pose lower health or environmental risks; and
- (c) carry out any consultation required by section 28.

Other information

(4) The Minister may, by delivering a notice in writing, request an applicant to provide the Minister with other information in support of the application within the time and in the form specified in the notice.

Denial of application

(5) The Minister shall deny an application if the applicant does not comply with a notice under subsection (4).

Burden of persuasion and consideration of information

(6) During an evaluation,

- (a) the applicant has the burden of persuading the Minister that the health and environmental risks and the value of the pest control product are acceptable; and
- (b) the Minister shall consider the information provided by the applicant in support of the application and may consider additional information, but the Minister shall give the applicant a reasonable opportunity to make representations in respect of the additional information before completing the evaluation.

Scientific approach

(7) In evaluating the health and environmental risks of a pest control product and in determining whether those risks are acceptable, the Minister shall

- (a) apply a scientifically based approach; and
- (b) in relation to health risks, if a decision referred to in paragraph 28(1)(a) or (b) is being made or has been made in relation to a pest control product,
 - (i) among other relevant factors, consider available information on aggregate exposure to the pest control product, namely dietary exposure and exposure from other non-occupational

sources, including drinking water and use in and around homes and schools, and cumulative effects of the pest control product and other pest control products that have a common mechanism of toxicity,

(ii) apply appropriate margins of safety to take into account, among other relevant factors, the use of animal experimentation data and the different sensitivities to pest control products of major identifiable subgroups, including pregnant women, infants, children, women and seniors, and

(iii) in the case of a threshold effect, if the product is proposed for use in or around homes or schools, apply a margin of safety that is ten times greater than the margin of safety that would otherwise be applicable under subparagraph (ii) in respect of that threshold effect, to take into account potential pre- and post-natal toxicity and completeness of the data with respect to the exposure of, and toxicity to, infants and children unless, on the basis of reliable scientific data, the Minister has determined that a different margin of safety would be appropriate.

Government policy to be given effect in evaluation

(8) In evaluating the health and environmental risks and the value of a pest control product, the Minister shall give effect to government policy.

Comparative risk and value assessment

(9) In determining whether the health and environmental risks and the value of a pest control product are acceptable, the Minister may, in accordance with the regulations, if any, take into account information regarding the risks and value of other pest control products that are registered for the same use.

Representations

(10) For the purposes of subsection (9), the Minister shall, before making the determination, give the applicant a reasonable opportunity to make representations in respect of the information referred to in that subsection.

Registration or amendment

8. (1) If the Minister considers that the health and environmental risks and the value of the pest control product are acceptable after any required evaluations and consultations have been completed, the Minister shall register the product or amend its registration in accordance with the regulations, if any, by

(a) specifying the conditions relating to its manufacture, handling, storage, transport, import, export, packaging, distribution, use or disposal, including conditions relating to its composition and, subject to subsection (2), its label;

(b) assigning a registration number to the product in the case of a new registration and, where the Minister considers it appropriate, in the case of an amendment; and

(c) specifying the period for which the registration or amended registration is valid, which period may be either finite or indefinite.

Conditions relating to label

(2) The Minister may specify conditions relating to the label of a pest control product, otherwise than in accordance with the regulations, if the Minister is satisfied that the purposes of this Act can be met by so doing.

Provision of safety information to workplaces

(3) Without limiting the generality of paragraph (1)(a), the Minister shall specify, as a condition of registration, the requirement for product safety information, including a material safety data sheet for the product, to be provided to workplaces where the pest control product is used or manufactured, in accordance with the regulations made under paragraph 67(1)(s).

Denial of application

(4) The Minister shall deny an application referred to in subsection 7(1) if the Minister does not consider that the health or environmental risks of a pest control product are, or its value is, acceptable.

Sales data

(5) A registrant of a pest control product shall, as a condition of registration, record, retain and report to the Minister information on sales of the product in the form and manner directed by the Minister and in accordance with the regulations made under paragraph 67(1)(u).

Former registrants

(6) The obligation under subsection (5) to retain and report sales information in respect of a pest control product continues to apply to a former registrant after that product ceases to be registered.

MAXIMUM RESIDUE LIMITS

Specification at time of registration decision

9. When making a decision regarding the registration of a pest control product, the Minister shall, if necessary, specify any maximum residue limits for the product or for its components or derivatives that the Minister considers appropriate in the circumstances.

Specification for unregistered products and uses

10. (1) The Minister may specify maximum residue limits for an unregistered pest control product or its components or derivatives, or for a registered pest control product or its components or derivatives with respect to a use that is not provided for by its registration, whether or not an application under subsection (2) is made for that purpose.

Application for specification

(2) Any person may make an application to the Minister to specify maximum residue limits pursuant to subsection (1). Section 7, with any necessary modifications, applies to that application.

Evaluation of health risks

(3) When specifying maximum residue limits for a pest control product or its components or derivatives pursuant to subsection (1), the Minister shall evaluate only the health risks of the product or its components or derivatives.

Health risks to be considered acceptable

11. (1) The health risks associated with maximum residue limits specified by the Minister under sections 9 and 10 must be considered to be acceptable by the Minister.

Relevant factors

(2) If a decision referred to in paragraph 28(1)(a) or (b) is being made or has been made in relation to a pest control product, the Minister shall, in evaluating and determining whether the health risks associated with maximum residue limits for that pest control product or its components or derivatives are acceptable under subsection (1),

(a) among other relevant factors, consider available information on

(i) aggregate exposure to the pest control product, namely dietary exposure and exposure from other non-occupational sources, including drinking water and use in and around homes and schools,

(ii) cumulative effects of the pest control product and other pest control products that have a common mechanism of toxicity, and

(iii) the different sensitivities to pest control products of major identifiable subgroups, including pregnant women, infants, children, women and seniors; and

(b) in the case of a threshold effect, apply a margin of safety that is ten times greater than the margin of safety that would otherwise be applicable under subparagraph 7(7)(b)(ii) or 19(2)(b)(ii) in respect of that threshold effect, to take into account potential pre- and post-natal toxicity and completeness of the data with respect to the exposure of, and toxicity to, infants and children, unless, on the basis of reliable scientific data, the Minister has determined that a different margin of safety would be appropriate.

ADDITIONAL INFORMATION AND MANDATORY REPORTING

Additional information

12. (1) The Minister may, by delivering a notice in writing, require a registrant

(a) to compile information, conduct tests and monitor experience with the pest control product for the purpose of obtaining additional information with respect to its effects on human health and safety or the environment or with respect to its value; and

(b) to report the additional information to the Minister within the time and in the form specified in the notice.

Condition of registration

(2) A requirement under subsection (1) is a condition of registration.

Mandatory reporting

13. An applicant for registration of a pest control product, a person who makes an application under subsection 10(2) or a registrant shall report any prescribed information that relates to the health or environmental risks or the value of the pest control product to the Minister within the prescribed time and in the form and manner directed by the Minister.

Determination by Minister

14. After considering any information reported under section 12 or 13, the Minister shall determine whether a special review of the registration of the pest control product should be initiated.

Public availability

15. After considering any information reported under section 13, the Minister shall place his or her conclusions in the Register and shall make public those conclusions if, in the Minister's opinion,

(a) the pest control product poses a significant health or environmental risk; or

(b) it is in the public interest to do so.

RE-EVALUATION AND SPECIAL REVIEW

Minister's discretion to initiate re-evaluation

16. (1) The Minister may initiate the re-evaluation of a registered pest control product if the Minister considers that, since the product was registered, there has been a change in the information required, or the procedures used, for the evaluation of the health or environmental risks or the value of pest control products of the same class or kind.

Minister required to initiate re-evaluation

(2) Without limiting the generality of subsection (1),

(a) if a decision of a type referred to in paragraph 28(1)(a) or (b) was made in relation to a pest control product on or after April 1, 1995, the Minister shall initiate a re-evaluation of that product no later than one year after 15 years have elapsed since the most recent decision of

that type; and

(b) if the most recent decision of a type referred to in paragraph 28(1)(a) or (b) was made in relation to a pest control product before April 1, 1995, the Minister shall initiate a re-evaluation of that product no later than April 1, 2005 or the date that is one year after 15 years have elapsed since that decision, whichever date is later.

Notice requesting information

(3) Re-evaluation of a pest control product is initiated by the Minister delivering a notice in writing to the registrant explaining the reasons for initiating the re-evaluation and, if considered necessary by the Minister, requiring the registrant to provide information in the form and within the period specified in the notice.

Request for information from departments and provinces

(4) After the re-evaluation is initiated, the Minister shall deliver a notice to federal and provincial government departments and agencies whose interests and concerns are affected by the federal regulatory system requesting them to provide, in the form and within the period specified in the notice, information in respect of the health and environmental risks and the value of the product that is under re-evaluation.

Provision of information when more than one registrant

(5) If there is more than one registrant whose registered pest control products have active ingredients that the Minister has determined to be equivalent,

(a) two or more registrants may provide the information required under subsection (3) or paragraph 19(1)(a) jointly; and

(b) where the Minister is satisfied that the information required under subsection (3) or paragraph 19(1)(a) has been provided by one or more registrants, the Minister shall, subject to and in accordance with the regulations made under paragraph 67(1)(h), permit another registrant to use or rely on that information to meet the requirements of those provisions.

Evaluation of pest control product

(6) After the re-evaluation is initiated, the Minister shall, in accordance with the regulations, if any, conduct any evaluations that the Minister considers necessary with respect to the health or environmental risks or the value of the pest control product and shall carry out the consultations required by section 28.

Initiation of special review by Minister

17. (1) The Minister shall initiate a special review of the registration of a pest control product if the Minister has reasonable grounds to believe that the health or environmental risks of the product are, or its value is, unacceptable.

Special review where OECD ban

(2) Without limiting the generality of subsection (1), when a member country of the Organisation for Economic Co-operation and Development prohibits all uses of an active ingredient for health or environmental reasons, the Minister shall initiate a special review of registered pest control products containing that active ingredient.

Special review where information from department or province

(3) Without limiting the generality of subsection (1), the Minister shall initiate a special review of the registration of a pest control product if a federal or provincial government department or agency has provided information to the Minister that relates to the health or environmental risks or the value of the product and if, after considering the information provided, the Minister has reasonable grounds to believe that the health or environmental risks of the product are, or its value is, unacceptable.

Request for special review

(4) Any person may request a special review of the registration of a pest control product by making a request to the Minister in the form and manner directed by the Minister.

Decision

(5) Within a reasonable time after receiving a request, the Minister shall decide whether to initiate a special review and shall respond to the request with written reasons for the decision.

Notice requesting information

18. (1) A special review of a pest control product is initiated by the Minister delivering a notice in writing to the registrant explaining the reasons for initiating the special review and, if considered necessary by the Minister, requiring the registrant to provide information in the form and within the period specified in the notice.

Request for information from departments and provinces

(2) After the special review is initiated, the Minister shall deliver a notice to federal and provincial government departments and agencies whose interests and concerns are affected by the federal regulatory system requesting them to provide, in the form and within the period specified in the notice, information in respect of the health and environmental risks and the value of the product that is under special review.

Provision of information when more than one registrant

(3) If there is more than one registrant whose registered pest control products have active ingredients that the Minister has determined to be equivalent,

(a) two or more registrants may provide the information required under subsection (1) or paragraph 19(1)(a) jointly; and

(b) where the Minister is satisfied that the information required under subsection (1) or paragraph 19(1)(a) has been provided by one or more registrants, the Minister shall, subject to and in accordance with the regulations made under paragraph 67(1)(h), permit another registrant to use or rely on that information to meet the requirements of those provisions.

Evaluation of pest control product

(4) After the special review is initiated, the Minister shall, in accordance with the regulations, if any, evaluate the aspects of the pest control product that prompted the special review and shall carry out the consultations required by section 28.

Burden of persuasion and consideration of information

19. (1) During an evaluation that is done in the course of a re-evaluation or special review,

(a) the Minister may, by delivering a notice in writing, require the registrant to provide, in the form and within the period specified in the notice, additional information that the Minister considers necessary for the evaluation;

(b) the registrant has the burden of persuading the Minister that the health and environmental risks and the value of the pest control product are acceptable; and

(c) the Minister shall consider the information provided by the registrant in support of the product and may consider any additional information, but the Minister shall give the registrant a reasonable opportunity to make representations in respect of the additional information before completing the evaluation.

Scientific approach

(2) In evaluating the health and environmental risks of a pest control product and in determining whether those risks are acceptable, the Minister shall

(a) apply a scientifically based approach; and

(b) in relation to health risks,

(i) among other relevant factors, consider available information on aggregate exposure to the pest control product, namely dietary exposure and exposure from other non-occupational sources, including drinking water and use in and around homes and schools, and cumulative effects of the pest control product and other pest control products that have a common mechanism of toxicity,

(ii) apply appropriate margins of safety to take into account, among other relevant factors, the use of animal experimentation data and the different sensitivities to pest control products of major identifiable subgroups, including pregnant women, infants, children, women and seniors, and

(iii) in the case of a threshold effect, if the product is used in or around homes or schools, apply a margin of safety that is ten times greater than the margin of safety that would otherwise be applicable under subparagraph (ii) in respect of that threshold effect, to take into account potential pre- and post-natal toxicity and completeness of the data with respect to the exposure of, and toxicity to, infants and children, unless, on the basis of reliable scientific data, the Minister has determined that a different margin of safety would be appropriate.

Government policy to be given effect in evaluation

(3) In evaluating the health and environmental risks and the value of a pest control product, the Minister shall give effect to government policy.

Comparative risk and value assessment

(4) In determining whether the health and environmental risks and the value of a pest control product are acceptable, the Minister may, in accordance with the regulations, if any, take into account information regarding the risks and value of other pest control products that are registered for the same use.

Representations

(5) For the purposes of subsection (4), the Minister shall, before making the determination, give any registrant whose product is under re-evaluation or special review a reasonable opportunity to make representations in respect of the information referred to in that subsection.

Cancellation or amendment

20. (1) The Minister may cancel or amend the registration of a pest control product if

(a) the registrant fails to satisfy a requirement under subsection 16(3) or 18(1) or paragraph 19(1)(a); or

(b) in the course of a re-evaluation or special review, the Minister has reasonable grounds to believe that the cancellation or amendment is necessary to deal with a situation that endangers human health or safety or the environment, taking into account the precautionary principle set out in subsection (2).

Precautionary principle

(2) Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent adverse health impact or environmental degradation.

Rescission of action

(3) The Minister may rescind any action taken under subsection (1) if the circumstances that prompted it cease to exist.

Refusal to consider applications

(4) If the registration of a pest control product is cancelled or amended under paragraph (1)(a), the Minister may, for a prescribed period, refuse to consider any application made in respect of that product by the registrant.

Confirmation

21. (1) If the Minister considers that the health and environmental risks and the value of a pest control product are acceptable after any required evaluations and consultations have been completed, the Minister shall confirm the registration.

Amendment or cancellation

(2) If the Minister does not consider that the health or environmental risks or value of a pest control product are acceptable, the Minister shall

- (a) amend the registration if the Minister considers that the health and environmental risks and value of the product would be acceptable after the amendment; or
- (b) cancel the registration.

Delay of effective date

(3) The Minister may delay the effective date of the amendment or cancellation if

- (a) no suitable alternative to the use of the pest control product is available; and
- (b) the Minister considers that the health and environmental risks and value of the product are acceptable until the effective date of the amendment or cancellation.

Conditions on delay

(4) A delay is subject to any conditions that the Minister considers necessary for carrying out the purposes of this Act.

Continued possession, etc., of existing stocks

(5) When cancelling the registration of a pest control product under this section or any other provision of this Act, the Minister may

- (a) allow the continued possession, handling, storage, distribution and use of stocks of the product in Canada at the time of cancellation, subject to any conditions, including disposal procedures, that the Minister considers necessary for carrying out the purposes of this Act;
- (b) require the registrant to recall and dispose of the product in a manner specified by the Minister; or
- (c) seize and dispose of the product.

OTHER GROUNDS FOR CANCELLATION OR AMENDMENT

Discontinuation of sale of product

22. (1) A registrant who intends to discontinue the sale of a pest control product for one or more uses for which it is registered shall notify the Minister of that intention in the form and manner directed by the Minister.

Reasons for discontinuation

(2) The Minister may deliver a notice in writing to the registrant requiring the registrant to explain the reasons for the discontinuation.

Cancellation or amendment of registration

(3) On receipt of notification under subsection (1), the Minister shall cancel or amend the registration, as the case may be, as of a date to be determined by the Minister and, pending that

date, may impose any conditions that the Minister considers necessary for carrying out the purposes of this Act.

Non-payment of fees, fines, etc.

23. (1) If a registrant fails to pay a fee, fine, penalty, charge or cost that the registrant is liable to pay under or in relation to this Act, the Minister may

- (a) cancel or amend any registration in the registrant's name; and
- (b) refuse to consider any application made by the registrant under this Act.

Representations

(2) Before taking any action under subsection (1) in relation to charges or costs, the Minister shall give the registrant a reasonable opportunity to make representations.

Notice

(3) The Minister shall immediately give written notice to the registrant of any action taken under subsection (1) and of the reasons for the action.

Amendment with consent

24. The Minister may, with the written consent of the registrant, amend the registration of a pest control product for the purpose of reducing its health or environmental risks or increasing its value.

Breach of conditions

25. The Minister may cancel or amend the registration of a pest control product if the registrant does not comply with the conditions of registration.

Violation or offence

26. If a person is found to have committed a violation or is convicted of an offence under this Act, the Minister may, having regard to the nature of the violation or offence and the circumstances surrounding its commission,

- (a) cancel or amend the registration of the pest control product that was involved in the violation or offence where the person who committed the violation or offence is the registrant;
- (b) cancel or amend the registration of any other pest control product in respect of which the person is the registrant; or
- (c) refuse to consider any application made under this Act by the person during any period that the Minister considers appropriate.

Implementation of international agreement

27. The Governor in Council may, by order, cancel or amend the registration of a pest control product or a class of pest control products if the Governor in Council considers it necessary to do so to implement an international agreement.

PUBLIC CONSULTATION

Minister to consult

28. (1) The Minister shall consult the public and federal and provincial government departments and agencies whose interests and concerns are affected by the federal regulatory system before making a decision

- (a) to grant or deny an application
 - (i) to register a pest control product that is or contains an unregistered active ingredient, or
 - (ii) to register, or amend the registration of, a pest control product if the Minister considers

that registration or amendment of the registration may result in significantly increased health or environmental risks;

(b) about the registration of a pest control product on completion of a re-evaluation or special review; or

(c) about any other matter if the Minister considers it in the public interest to do so.

Public notice

(2) To initiate a consultation under subsection (1), the Minister shall make public a consultation statement and shall invite any person to send written comments on the proposed decision within the period specified in the statement.

Consultation statement

(3) The consultation statement shall include

(a) a summary of any reports of the evaluation of the health and environmental risks and the value of the pest control product prepared or considered by the Minister;

(b) the proposed decision and the reasons for it; and

(c) any other information that the Minister considers necessary in the public interest.

Consideration of comments

(4) The Minister shall consider any comments received pursuant to subsection (2) before making a decision.

Decision statement

(5) After making a decision, the Minister shall make public a decision statement that shall include the decision, the reasons for it and a summary of any comments that the Minister received on the proposed decision.

Confidential test data

(6) A consultation statement referred to in subsection (2) and a decision statement referred to in subsection (5) shall contain any confidential test data that the Minister considers to be in the public interest.

OFFENCES

Failure to report information

29. (1) Every person who does not comply with section 13 is guilty of an offence.

Non-compliance with requirement

(2) A registrant who does not comply with a requirement in a notice referred to in subsection 16(3) or 18(1), paragraph 19(1)(a) or subsection 22(2) is guilty of an offence.

False or misleading information

30. (1) Every person is guilty of an offence if they knowingly provide the Minister with false or misleading information

(a) about the health or environmental risks or the value of a pest control product; or

(b) in response to a notice delivered under this Act.

False or misleading tests

(2) Every person is guilty of an offence if they falsely claim to have conducted a test relating to the health or environmental risks or the value of a pest control product, knowingly conduct such a test that is misleading or knowingly provide false or misleading information about such a

test.

Non-compliance with conditions of registration

31. (1) A registrant who does not comply with the conditions of registration is guilty of an offence.

Non-compliance with other conditions and requirements

(2) A person who does not comply with a condition imposed under subsection 21(4), paragraph 21(5)(a) or subsection 22(3) or with a requirement under paragraph 21(5)(b) is guilty of an offence.

Punishment

32. Every person who commits an offence under any of sections 29 to 31 is liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

EXPORT CONTROLS

Export control list

33. (1) The Governor in Council may, by order, establish a Pest Control Products Export Control List consisting of pest control products that meet the prescribed criteria.

Prohibition

(2) No person shall export a pest control product that is on the Pest Control Products Export Control List, except as authorized under this Act.

Application

(3) An application for authorization to export a pest control product must be made to the Minister in the form and manner directed by the Minister.

Authorization

(4) The Minister may authorize an applicant to export a pest control product to a specified country if

(a) the applicant satisfies the Minister that the prescribed requirements for the authorization are or will be met; and

(b) the proposed export is not prohibited under any other Act of Parliament.

Conditions

(5) The authorization is subject to any conditions that the Minister considers necessary for carrying out the purposes of this Act.

Public notice

(6) The Minister shall give public notice of the authorization.

Offence and punishment

(7) Every person who contravenes subsection (2) or who knowingly provides false or misleading information in connection with an authorization is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Amendment, suspension or cancellation

34. (1) The Minister may amend, suspend or cancel an authorization to export a pest control product if the Minister

(a) has reasonable grounds to believe that a prescribed requirement of the authorization is not or will not be met;

(b) has reasonable grounds to believe that the conditions to which the authorization is subject have not been or will not be met; or

(c) becomes aware of additional information about the health or environmental risks of the pest control product.

Representations

(2) Before amending or cancelling an authorization or after suspending one, the Minister shall give the authorized person a reasonable opportunity to make representations.

Decision

(3) After considering any representations that may be made by the authorized person, the Minister shall reinstate, amend or cancel the authorization.

Public notice

(4) The Minister shall give public notice of the amendment or cancellation of an authorization.

RECONSIDERATION OF DECISIONS

Notice of objection to registration decisions

35. (1) Any person may file with the Minister, in the form and manner directed by the Minister, a notice of objection to a decision referred to in paragraph 28(1)(a) or (b) within 60 days after the decision statement referred to in subsection 28(5) is made public.

Notice of objection to authorization decisions

(2) Any person may file with the Minister, in the form and manner directed by the Minister, a notice of objection to a decision to authorize the export of a pest control product or to amend or cancel an authorization within 60 days after a notice referred to in subsection 33(6) or 34(4) is made public.

Establishment of review panel

(3) After receiving a notice of objection, the Minister may, in accordance with the regulations, if any, establish a panel of one or more persons to review the decision and to recommend whether the decision should be confirmed, reversed or varied.

Notice of review panel

(4) The Minister shall give public notice of the establishment of a review panel.

Reasons to be provided if panel not established

(5) If the Minister does not establish a panel, the Minister shall provide written reasons without delay to the person who filed the notice of objection.

Terms of reference and procedure

(6) The Minister may determine the terms of reference of a review panel and the procedure for the review, and may at any time change them.

Representations

(7) A review panel shall give any person a reasonable opportunity to make representations in respect of the decision under review, in accordance with the terms of reference.

Public access

(8) Subject to subsections 44(3) and (6), the hearings of a review panel shall be open to the public.

Information to be placed in Register

(9) A review panel shall give the information submitted to it to the Minister, who shall place it in the Register.

No automatic suspension of decisions

36. The filing of a notice of objection or the establishment of a review panel does not suspend the decision under review, but the Minister may suspend the decision until a final decision is made on completion of the review or until the review panel is dissolved.

Withdrawal of notice of objection

37. The Minister may dissolve a review panel if all notices of objection are withdrawn by the persons who filed them.

Report

38. (1) As soon as possible after the conclusion of a review, the review panel shall submit to the Minister a report stating its recommendations and the reasons for them.

Register

(2) The Minister shall place the review panel's report in the Register.

Confirmation, reversal or variation of decision

39. (1) After considering the recommendations of a review panel, the Minister shall confirm, reverse or vary the decision under review, but the confirmation, reversal or variation must not result in the registration, either initial or continued, of a pest control product unless the Minister considers that its health and environmental risks and its value are acceptable.

Public notice of decision

(2) The Minister shall make public the confirmation, reversal or variation of the decision, the reasons for confirmation, reversal or variation and a summary of the information considered by the Minister, including any confidential test data that the Minister considers to be in the public interest.

False or misleading tests or information

40. (1) Every person is guilty of an offence if they

(a) knowingly provide a review panel with false or misleading information about the health or environmental risks or the value of a pest control product; or

(b) falsely claim to have conducted a test relating to the health or environmental risks or value of a pest control product, knowingly conduct such a test that is misleading or knowingly provide false or misleading information about such a test.

Punishment

(2) Every person who commits an offence under subsection (1) is liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

AUTHORIZATION TO USE UNREGISTERED PRODUCT

Authorization

41. (1) The Minister may, in accordance with the regulations and subject to any conditions that the Minister may specify, authorize a person to use an unregistered pest control product for a specified purpose.

Conditions

(2) The Minister shall authorize the use of a pest control product if the Minister considers that use of the product for the specified purpose in accordance with any conditions specified does not pose unacceptable health or environmental risks.

Suspension

(3) The Minister shall suspend an authorization if the Minister has reasonable grounds to believe that the conditions to which the authorization is subject have not been or will not be met or that the continuance of the authorization poses unacceptable health or environmental risks.

Representations

(4) After suspending an authorization, the Minister shall give the authorized person a reasonable opportunity to make representations.

Decision

(5) After considering any representations that may be made by the authorized person, the Minister shall reinstate, amend or cancel the authorization.

Offence and punishment

(6) Every person who fails to comply with the conditions of an authorization issued under this section is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

ACCESS TO INFORMATION

Register

42. (1) The Minister shall establish and maintain a Register of Pest Control Products in accordance with the regulations, if any, that contains information about pest control products, including information about applications, registrations, re-evaluations and special reviews.

Contents of Register

(2) The Register shall contain the following information:

(a) for each application to register or amend the registration of a pest control product,

(i) the active ingredient of the product, proposed new uses for it or any uses proposed to be withdrawn, and

(ii) how the application was disposed of or whether it was withdrawn;

(b) the conditions of registration, registration number and registration validity period for each registered pest control product;

- (c) information, in respect of each registered pest control product, that is provided by applicants and registrants
- (i) in support of an application for registration or for the amendment of a registration, or
 - (ii) for the purposes of a re-evaluation or special review;
- (d) information provided by applicants and registrants that is used to specify maximum residue limits;
- (e) information, in respect of each registered pest control product, that is considered by the Minister under paragraphs 7(6)(b) and 19(1)(c);
- (f) any reports of the evaluation of the health and environmental risks and the value of registered pest control products prepared by the Minister;
- (g) any advice from a person or body referred to in paragraph 44(1)(f), unless disclosure of the advice may be refused under section 23 of the [Access to Information Act](#);
- (h) the status, including cancelled status, of all registrations to which this Act applies;
- (i) information provided to the Minister pursuant to subsection 8(5);
- (j) notices delivered under subsections 12(1), 16(3) and 18(1) and paragraph 19(1)(a);
- (k) conclusions of the Minister that were made public under section 15;
- (l) consultation statements and decision statements made public under subsections 28(2) and (5), respectively;
- (m) notices of objection filed under subsections 35(1) and (2), public notices given under subsection 35(4) and the Minister's decisions and reasons under subsections 35(5) and 39(2);
- (n) authorizations under sections 33 and 41 and amendments and cancellations under sections 34 and 41; and
- (o) any other information required by this Act or the regulations to be included in the Register.

Evaluation reports

(3) An evaluation report referred to in paragraph (2)(f) shall contain a summary of the information considered and shall contain any confidential test data and confidential business information that the Minister considers appropriate.

Public access to information in the Register

(4) The Minister shall allow the public to have access to, and copies of, any information in the Register that

- (a) is not confidential test data or confidential business information; or
- (b) is confidential test data that has been made subject to public disclosure in accordance with the regulations made under paragraph 67(1)(m).

Access to evaluation reports

(5) The Minister shall allow the public to obtain a copy of any evaluation report in the Register, except for any confidential business information that it contains.

Means of access to information in Register

(6) Information in the Register that the public may obtain a copy of under this Act or the regulations shall be made available to the public in as convenient a manner as practicable.

Electronic public registry

(7) The Minister shall establish an electronic public registry, which shall include

- (a) the information referred to in subsection (6), as soon as reasonably practicable;
- (b) memoranda of understanding among federal government departments relating to the regulation of pest control products;
- (c) reports of international harmonization activities relating to the regulation of pest control products;
- (d) regulations and proposed regulations under this Act when published in the [Canada Gazette](#); and
- (e) policies, guidelines and codes of practice relating to the regulation of pest control products when proposed for public consultation, and their final texts when adopted.

Consultation with public

42.1 The public shall be consulted as to policies, guidelines and codes of practice relating to the regulation of pest control products.

Confidential test data

43. (1) A person who wishes to inspect confidential test data in the Register must submit to the Minister

- (a) an application in the form and manner directed by the Minister; and
- (b) an affidavit made under oath or a statutory declaration under the [Canada Evidence Act](#) made before a commissioner for oaths or for taking affidavits, stating
 - (i) the purpose of the inspection, and
 - (ii) that the person does not intend to use the test data, or make the test data available to others, in order to register a pest control product in Canada or elsewhere or to amend a registration.

Right to inspection

(2) The Minister shall permit the person to inspect confidential test data in the Register if the Minister is satisfied that the person does not intend to

- (a) use the test data in order to register a pest control product in Canada or elsewhere, or to amend a registration; or
- (b) make the test data available to others for the purpose of registering a pest control product in Canada or elsewhere, or of amending a registration.

Notice to registrant

(2.1) If the Minister permits a person to inspect confidential test data in the Register, the Minister shall make a reasonable effort to immediately notify any registrant who provided the data that the Minister has permitted a person to inspect the data.

Denial of application

- (3) The Minister shall deny an application if the Minister is satisfied that
 - (a) the applicant intends to use the test data for a purpose referred to in subsection (2); or
 - (b) the applicant has used test data obtained from a prior inspection for a purpose referred to in subsection (2).

Confidential business information

(4) Subject to subsections (5) and (6), confidential business information is information provided under this Act that is designated as confidential business information by the person who provided it, or information provided under the [Pest Control Products Act](#), chapter P-9 of the Revised Statutes of Canada, 1985, and that concerns

- (a) manufacturing or quality control processes relating to a pest control product;
- (b) methods for determining the composition of a pest control product; or
- (c) the monetary value of sales of pest control products provided to the Minister pursuant to subsection 8(5) and other financial or commercial information provided to the Minister pursuant to this Act or the regulations.

Formulants and contaminants

(5) Unless otherwise excluded by the regulations, if any, made under paragraph 67(1)(n), confidential business information also includes information that

- (a) is provided under this Act and is designated as confidential business information by the person who provided it or was provided under the [Pest Control Products Act](#), chapter P-9 of the Revised Statutes of Canada, 1985; and
- (b) contains the identity and concentration of the formulants and contaminants in a pest control product, other than those that the Minister considers to be of health or environmental concern and are identified on a list to be established and maintained by the Minister and made available to the public.

Designation not satisfactory

(6) If the Minister decides that information designated under subsection (4) or (5) does not meet the requirements of that subsection, the information is not confidential business information for the purposes of this Act.

Notice

(7) If the Minister decides that designated information is not confidential business information, the Minister shall give written notice to the person who provided the information of the decision and the reasons for it.

Interpretation

(8) Nothing in this Act shall be construed as

- (a) preventing the Minister from refusing to disclose confidential test data or confidential business information under the [Access to Information Act](#); or
- (b) entitling a person to make or obtain a copy of confidential test data, other than confidential test data to which the public has access
 - (i) in documents referred to in subsections 28(6), 39(2) and 42(3), or
 - (ii) under the authority of the regulations made under paragraph 67(1)(m).

Offence and punishment

(9) Every person who makes a false statement in an affidavit or a statutory declaration referred to in subsection (1) is guilty of an offence and liable

- (a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or
- (b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Permitted disclosure

44. (1) The Minister may, in accordance with the regulations, if any, disclose confidential test data or confidential business information that has been provided under this Act or is in the Register to

- (a) any person who provides services to Her Majesty in right of Canada for the purpose of

protecting human health or safety or the environment;

(b) an international organization or the government of a province or a country that is a party to an agreement with Her Majesty in right of Canada or an agent of Her Majesty, relating to the exchange of information about pest control products;

(c) a medical professional who requests the information for the purpose of making a medical diagnosis or giving medical treatment to a person;

(d) a department or an agency of the federal or a provincial government that requests the information in order to respond to a situation that endangers human health or safety or the environment;

(e) a review panel established by the Minister under subsection 35(3); or

(f) any other person or body, including an advisory council established under subsection 5(1), from whom the Minister requests advice for the purposes of this Act.

Protection of disclosed information

(2) Before disclosing information under paragraph (1)(b), the Minister must be satisfied that the party to the agreement, other than Her Majesty in right of Canada or an agent of Her Majesty, can provide protection from unfair commercial use or disclosure of the information that is consistent with the protection provided under this Act.

Prohibition against disclosure

(3) No person shall disclose information obtained under subsection (1) unless authorized by the person who provided the information to the Minister or unless authorized under the [Access to Information Act](#), this Act or the regulations.

Prohibition against use

(4) No person shall use information obtained under subsection (1) for any purpose other than the purpose for which it was obtained, unless authorized by the person who provided the information to the Minister.

Offence and punishment

(5) Every person who contravenes subsection (3) or (4) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Security measures

(6) Every person who obtains information under subsection (1) shall comply with any prescribed security measures and take all reasonable precautions to avoid any prohibited disclosure of the information.

Offence and punishment

(7) Every person who contravenes subsection (6) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

ENFORCEMENT

INSPECTORS AND ANALYSTS

Appointment

45. (1) Subject to subsection (2), inspectors and analysts shall be appointed for the purposes of this Act and the regulations in accordance with the [Public Service Employment Act](#).

Designation of inspectors and analysts

(2) For the purposes of this Act, the Minister may designate qualified persons, either individually or as a class, to act as inspectors or analysts in relation to any matter referred to in the designation, but

(a) no person who is employed in a department other than the Department of Health may be designated without the approval of the minister responsible for the department in which the person is employed; and

(b) no person who is employed by the government of a province may be designated without the approval of that government.

Inspector's certificate of designation

(3) An inspector shall be provided with a certificate in a form established by the Minister certifying the inspector's designation and, on entering any place under the authority of this Act, the inspector shall show the certificate to the person in charge of the place if the person requests proof of the designation.

Obstruction of inspectors

46. (1) No person shall resist or wilfully obstruct an inspector or make a false or misleading statement either orally or in writing to an inspector who is carrying out duties or functions under this Act.

Inspection of records

(2) A person who is required by this Act or the regulations to keep records shall make them available to an inspector on request.

Offence and punishment

(3) Every person who contravenes this section is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

VOLUNTARY REPORTS

Report of contravention

47. (1) A person who knows about a contravention of this Act or the regulations, or the reasonable likelihood of such a contravention, may report any information relating to the contravention to an inspector.

Confidentiality

(2) When making a report, the person may request that their identity and any information that could reasonably reveal their identity not be disclosed, and no person shall disclose or permit the disclosure of that identity or information unless the person who made the request authorizes the disclosure in writing.

Protection of person

(3) Despite any other Act of Parliament, no person shall dismiss, suspend, demote, discipline, deny a benefit of employment to, harass or otherwise disadvantage a person for having

- (a) made a report under subsection (1);
- (b) refused or stated an intention of refusing to do anything that the person reasonably believed was or would be a contravention under this Act; or
- (c) done or stated an intention of doing anything that the person reasonably believed was required by or under this Act.

Offence and punishment

- (4) Every person who contravenes subsection (2) or (3) is guilty of an offence and liable
 - (a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or
 - (b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

INSPECTIONS

Powers of inspectors

48. (1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may

- (a) subject to section 49, at any reasonable time, enter and inspect any place, or stop any means of transport, in which the inspector believes on reasonable grounds there is a pest control product or other thing to which this Act or the regulations apply;
- (b) open and examine any receptacle, package or other thing that the inspector believes on reasonable grounds contains a pest control product or other thing to which this Act or the regulations apply and take samples from it;
- (c) require any person to present any pest control product or other thing for inspection in any manner and under any conditions that the inspector considers necessary to conduct an inspection;
- (d) require any person to produce for inspection or copying, in whole or in part, any record or other document that the inspector believes on reasonable grounds contains information relevant to the administration of this Act or the regulations; and
- (e) conduct any tests or analyses or take any measurements.

Operation of data processing systems and copying equipment

- (2) In conducting an inspection at a place, an inspector may
 - (a) use or cause to be used any data processing system at the place to examine any data contained in or available to the system;
 - (b) reproduce any record or cause it to be reproduced from the data in the form of a print-out or other intelligible output and take the print-out or other output for examination or copying; and
 - (c) use or cause to be used any copying equipment at the place to make copies of any record or other document.

Warrant required to enter dwelling-place

49. (1) An inspector may not enter a dwelling-place except with the consent of its occupant or under the authority of a warrant.

Authority to issue warrant

- (2) If on *ex parte* application a justice is satisfied by information on oath that
 - (a) the conditions for entry described in section 48 exist in relation to a dwelling-place,

(b) entry to the dwelling-place is necessary for a purpose relating to the administration of this Act or the regulations, and

(c) entry to the dwelling-place has been refused or there are reasonable grounds to believe that entry will be refused,

the justice may at any time sign and issue a warrant authorizing the inspector named in it to enter and inspect the dwelling-place, subject to any conditions that may be specified in the warrant.

Use of force

(3) An inspector who executes a warrant shall not use force unless he or she is accompanied by a peace officer and the use of force is specifically authorized in the warrant.

Assistance to inspectors

50. (1) The owner or the person in charge of a place entered by an inspector under section 48 or 49 or under a warrant issued under section 487 of the [Criminal Code](#) and any person found in the place shall

(a) give the inspector all reasonable assistance in their power to enable the inspector to perform duties and functions under this Act or the regulations; and

(b) provide the inspector with any information relevant to the administration of this Act or the regulations that the inspector may reasonably require.

Offence and punishment

(2) Every person who contravenes subsection (1) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

SEARCHES

When warrant not necessary

51. (1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may exercise the powers of search and seizure provided for in section 487 of the [Criminal Code](#) without a warrant if the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practical to obtain one.

Additional powers during search

(2) In conducting a search under subsection (1) or under section 487 of the [Criminal Code](#), an inspector may exercise the powers described in section 48.

SEIZURES

Inspector may seize

52. (1) An inspector conducting an inspection under section 48, 49 or 51 may seize and detain any pest control product or other thing if he or she has reasonable grounds to believe that

(a) it was involved in a contravention of this Act or the regulations; or

(b) it will afford evidence in respect of a contravention of this Act or the regulations.

Communicate reasons

(2) After seizing a pest control product or other thing, the inspector shall, as soon as practicable, take any measures that are necessary in the circumstances to advise the owner or the person in whose possession, care or control the product was at the time of the seizure, or the

owner or person responsible for the place where it was seized, of the reason for the seizure and the place where the product is being stored.

DISPOSITION OF THINGS SEIZED

Storage and removal

53. (1) An inspector or any person designated by an inspector may

(a) store a seized pest control product or other thing at the place where it was seized or remove it to another place for storage; or

(b) require the owner of the product or other thing or the person in whose possession, care or control the product was at the time of the seizure, or the owner or person responsible for the place where it was seized, to remove the product to any other place for storage.

Notice

(2) A requirement under paragraph (1)(b) shall be communicated by delivering a written notice to the owner or person and the notice

(a) must include a statement of the reasons for the requirement; and

(b) may specify the period within which and the manner in which the pest control product or other thing is to be removed and stored.

Offence and punishment

(3) Every person who fails to comply with a requirement in a notice delivered under subsection (2) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Interference with seized things

(4) Except as authorized in writing by an inspector, no person shall remove, alter or interfere in any way with a pest control product or other thing seized and detained by an inspector under this Act.

Offence and punishment

(5) Every person who contravenes subsection (4) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Application of certain provisions of [Criminal Code](#)

54. Subsections 489.1(2) and (3) and section 490 of the [Criminal Code](#) apply in respect of a pest control product or other thing seized by an inspector, except that

(a) the references in subsection 490(1) of that Act to "the prosecutor" shall be read as references to "the prosecutor or inspector";

(b) the reference in subsection 490(2) of that Act to "a period of not more than three months" shall be read as a reference to "a period of not more than six months";

(c) the references in section 490 of that Act to "proceedings" shall be read as references to "proceedings or proceedings in respect of violations"; and

(d) if proceedings relating to the seized thing are commenced in respect of a violation, the justice before whom the thing was brought or to whom its seizure was reported shall forward the seized thing to the Minister to be detained and disposed of under section 22 of the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#) or under subsection 55(3) of this Act.

Forfeiture on consent

55. (1) At the election of Her Majesty in right of Canada, a pest control product or other thing seized by an inspector is forfeited to Her Majesty in right of Canada if the owner consents in writing to its forfeiture.

Forfeiture by court order

(2) If the Review Tribunal, continued by subsection 4.1(1) of the [Canada Agricultural Products Act](#), decides that a person has committed a violation, or if an offender is convicted of an offence under this Act, the Tribunal or the court, as the case may be, may, in addition to imposing a penalty or punishment, order that a pest control product or other thing that was involved in the violation or offence be forfeited to Her Majesty in right of Canada, unless the product or thing has been returned to its owner or another person.

Directions of Minister

(3) A pest control product or other thing that is forfeited under this section shall be disposed of as the Minister directs.

Return of seized things

56. (1) A seized pest control product or other thing shall be returned to its owner or the person who had the possession, care or control of the product at the time of its seizure if it has not been forfeited at the final conclusion of proceedings in respect of a violation or an offence under this Act.

Exception

- (2) A seized pest control product or other thing may be
- (a) detained pending the payment of any fine or penalty imposed on its owner or the person who had the possession, care or control of it at the time of seizure; or
 - (b) sold in satisfaction of the fine or penalty.

ENFORCEMENT MEASURES

Inspector may require measures

57. (1) If an inspector has reasonable grounds to believe that a person has contravened this Act or the regulations, he or she may require the person

- (a) to stop or shut down any activity or thing involved in the contravention; and
- (b) to take any other measures that the inspector considers necessary to prevent further contravention, including
 - (i) modifying a pest control product or its labelling or disposing of the product so as to comply with this Act and the regulations, and
 - (ii) manufacturing, handling, storing, transporting, importing, exporting, packaging, distributing or using a registered pest control product in accordance with the conditions of registration.

Duration of requirement

(2) A requirement under subsection (1) may apply for a specified period or until the inspector is satisfied that no further contravention is likely to take place.

Notice

(3) A requirement under subsection (1) shall be communicated by delivering a written notice to the registrant or, as the case may be, to the owner or person who has the possession, care or control of the pest control product, activity or thing that was involved in the contravention and the notice must be accompanied by a statement of the reasons for the requirement.

Offence and punishment

(4) Every person who fails to comply with a requirement in a notice delivered under subsection (3) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Prosecutions

(5) A requirement under subsection (1) may be imposed whether or not the person has been charged with an offence relating to the contravention, but if the person is charged, the requirement may be confirmed, varied or rescinded by the court that tries the offence.

DISPOSAL AND RISK-CONTROL MEASURES

Disposal of samples

58. A sample taken under this Act or the regulations may be disposed of as an inspector or analyst may direct.

Inspectors may take measures to control risks

59. (1) Despite subsection 6(8), an inspector may take any measures described in subsection (2) if he or she has reasonable grounds to believe that there has been a contravention of this Act or the regulations and that a pest control product, or any other thing that has been treated or contaminated by a pest control product, poses a health or environmental risk that the Minister considers is unacceptable.

Measures

(2) The inspector may

(a) require an owner or a person who has the possession, care or control of the pest control product or other thing to dispose of the product or other thing or do anything else that the inspector considers necessary to reduce or eliminate the risks it poses;

(b) confiscate or dispose of the product or other thing or do anything else that the inspector considers necessary to reduce or eliminate the risks it poses; or

(c) authorize any other person to exercise the powers described in paragraph (b).

Notice

(3) A requirement under paragraph (2)(a) shall be communicated by delivering a written notice to the owner or person who has the possession, care or control of the product or thing and the notice

(a) must include a statement of the reasons for the requirement; and

(b) may specify the period within which and the manner in which the required action must be taken.

Offence and punishment

(4) Every person who fails to comply with a requirement in a notice delivered under subsection

(3) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

REVIEW OF INSPECTORS' REQUIREMENTS

Request for review

60. (1) Subject to this section, a requirement in respect of which notice has been delivered under subsection 53(2), 57(3) or 59(3) shall be reviewed on the written request of the person to whom the notice was delivered.

Contents of and time for making request

(2) A request under subsection (1) shall state the grounds for the request and the decision that is requested and must be delivered to the Minister within 10 days after the date on which the notice referred to in that subsection was delivered to the person who made the request.

Reviewer

(3) A review requested under subsection (1) may be conducted by the inspector who delivered the notice or by any other inspector or official to whom the review is assigned.

Refusal when grounds already considered

(4) A review requested under subsection (1) may be refused if the request does not comply with subsection (2) or if the grounds stated in the request were presented to and considered by the inspector before the notice was delivered.

Refusal in case of emergency

(5) If the reasons in a notice referred to in subsection (1) include the existence of an emergency concerning risks to human health or safety or the environment, the reviewer may refuse to undertake the review until he or she is satisfied that there has been sufficient compliance with the requirement in the notice to address the emergency.

Refusal not affected by inspector's prior knowledge of emergency

(6) For the purposes of subsection (5), the reviewer may refuse to undertake the review no matter how long before delivery of the notice the inspector had known of the circumstances concerning the emergency.

Reasons for refusal

(7) A refusal under subsection (4) or (5) shall be communicated in writing to the person who made the request, with reasons for the refusal.

Review initiated by inspector

(8) An inspector who delivers a notice referred to in subsection (1), or any other inspector or official assigned to do so, may review the requirement included in the notice regardless of whether a request has been made under that subsection.

Conduct of review

(9) A review referred to in subsection (1) or (8) shall be conducted in accordance with the regulations, if any.

Decision on completion of review

(10) On completion of a review, the reviewer shall make a decision to confirm, amend, terminate or cancel the requirement.

Notice

(11) Written notice of the reviewer's decision under subsection (10), with reasons, shall be delivered to the person who made the request or, if there was no request, to the person to whom the notice referred to in subsection (1) was, or could have been, delivered.

Delay in proceedings under section 61

- (12) An application shall not be made under section 61 in relation to a requirement until
- (a) the expiry of the 10-day period referred to in subsection (2) without a review having been requested under subsection (1);
 - (b) a request for a review has been refused under subsection (4) or (5); or
 - (c) a review that has been requested under subsection (1) and has not been refused under subsection (4) or (5), or a review that has been undertaken under subsection (8), has been completed and action has been taken under subsection (10).

Effect of amendment

(13) When the decision under subsection (10) is to amend a requirement, the notice of that decision under subsection (11) is deemed, for the purpose of section 61, to have been delivered under subsection 53(2), 57(3) or 59(3), as the case may be, and the amended requirement is subject to review under this section.

COURT ORDERS

Application for court order

61. If a person fails to comply with a requirement in respect of which notice has been delivered under subsection 53(2), 57(3) or 59(3), the Minister may apply to the Federal Court or any other court of competent jurisdiction for an order requiring the person to comply with the notice or authorizing an inspector to take any measures the court considers necessary to ensure compliance with the notice.

DELIVERY OF DOCUMENTS

Method of delivery

62. (1) Notices or other documents required or authorized to be delivered under this Act may be delivered by certified or registered mail or any other method that provides proof of delivery.

Representative in Canada

(2) An applicant for registration of a pest control product or a registrant, who does not reside in Canada, shall

- (a) designate a representative who resides in Canada to whom correspondence and any notices or documents referred to in subsection (1) can be sent; and
- (b) inform the Minister in writing of the designation.

Presumption

(3) Any correspondence, notices or documents received by the representative designated under subsection (2) are deemed to have been received by the applicant or registrant who designated the representative.

Requirement to communicate through designated representative

(4) The Minister may require an applicant or registrant referred to in subsection (2) to conduct any communications with the Minister through the designated representative of the applicant or registrant.

Refusal of communications

(5) Despite any other provision of this Act, the Minister may refuse to receive or act on any communication that is not made in compliance with a requirement made by the Minister under subsection (4).

[Statutory Instruments Act](#) does not apply

(6) For greater certainty, the [Statutory Instruments Act](#) does not apply in respect of notices or other documents delivered under this Act.

FEES, CHARGES AND COSTS

Recovery of fees

63. Her Majesty in right of Canada may recover any fee or charge that applies in relation to the administration of this Act or the regulations.

Charges and costs for inspections, etc.

64. (1) Her Majesty in right of Canada may recover from any person referred to in subsection (2) any charges under this Act and any costs incurred by Her Majesty in relation to the administration of this Act or the regulations, including

- (a) the inspection, treatment, testing or analysis of a place, pest control product or other thing or the storage, removal, disposal or return of a pest control product or other thing, required or authorized by this Act or the regulations;
- (b) the seizure, detention, forfeiture or disposal of a pest control product or other thing under this Act or the regulations; and
- (c) any enforcement or risk-control measures taken by the Minister or an inspector under this Act or the regulations.

Persons liable

(2) The following persons are jointly and severally liable or solidarily liable for the charges and costs relating to an action or measure referred to in subsection (1):

- (a) in the case of an action or measure in respect of a place, the owner and the occupier of that place; and
- (b) in the case of an action or measure in respect of a pest control product or other thing, the owner of that product or thing and the person who, immediately before the action or measure was taken, had the possession, care or control of that pest control product or thing.

LIMITATION ON LIABILITY

Her Majesty not liable

65. If a person must, by or under this Act or the regulations, do anything or permit an inspector to do anything, Her Majesty in right of Canada is not liable for any costs, loss or damage resulting from the compliance or to pay any fee, rent or other charge for what is done, provided, maintained or permitted.

COMPENSATION FOR USE OF INFORMATION

Agreements to determine compensation

66. (1) The Minister shall determine the terms and conditions of agreements to be entered into by applicants and registrants for the purposes of determining compensation payable for the right to use or rely on information provided by registrants to the Minister under this Act.

Negotiation and arbitration

(2) An agreement referred to in subsection (1) shall be entered into, and provide for the

determination of compensation payable through negotiation and binding arbitration, in accordance with the regulations made under paragraph 67(1)(h).

[Commercial Arbitration Act](#) applies

(3) Subject to this section, the [Commercial Arbitration Act](#) applies to an arbitration for the purposes of this section and the regulations.

Exception

(4) Subsection 5(2) of the [Commercial Arbitration Act](#) does not apply to an arbitration referred to in subsection (3).

Regulations

(5) Regulations made by the Minister of Justice under section 9 of the [Commercial Arbitration Act](#) apply to an arbitration referred to in subsection (3) unless the parties otherwise agree.

REGULATIONS

Regulations — Governor in Council

67. (1) The Governor in Council may make regulations

(a) prescribing policies of the Government of Canada that are consistent with the objectives of this Act for the purposes of the definition “government policy” in section 2;

(b) prescribing the nomenclature of pests and pest control products for the purposes of this Act;

(c) respecting the information and other things that must accompany an application made under section 7 or 10;

(d) respecting standards of laboratory practice to be used in conducting tests to obtain information about pest control products, certification of compliance with those standards, inspection and audit of compliance and the consequences of a failure to comply;

(e) respecting the evaluation of the health or environmental risks or the value of pest control products;

(f) respecting the registration of pest control products, including the types of registration for classes of products, and, for each type,

(i) the criteria and characteristics, and

(ii) the period or maximum period for which the registration is valid, which periods may be either finite or indefinite;

(f.1) respecting minor uses of a pest control product and defining “minor use” for the purposes of this Act and the regulations;

(g) stating which requirements of the regulations are conditions of registration;

(h) respecting the circumstances and conditions under which information provided to the Minister by registrants may be used or relied upon in relation to applications or registrations of other persons, including distinctions among the rights of registrants based on the purposes for which the information was provided to the Minister;

(i) respecting the Pest Control Products Export Control List, authorizations to export pest control products and the amendment, suspension and cancellation of authorizations;

(j) respecting review panels, including their establishment, the selection and remuneration of panel members and the travel and living expenses to which they are entitled;

(k) respecting authorizations to use unregistered pest control products for specific purposes and the amendment, suspension and cancellation of authorizations;

- (l) respecting the Register, including information that is to be included in the Register and public access to the information;
- (m) respecting the public disclosure of confidential test data;
- (n) prescribing information that is to be excluded in whole or in part from the application of subsection 43(5);
- (o) respecting the manufacture, possession, handling, storage, transport, import, export, distribution, use or disposal of pest control products;
- (p) prescribing standards for pest control products, including standards relating to their form and composition;
- (q) respecting the measures to be taken to facilitate the recognition of pest control products by a change in colouration or other means;
- (r) respecting the packaging and advertising of pest control products;
- (s) respecting the provision of product safety information;
- (t) respecting the keeping of records by registrants, manufacturers, importers, exporters, distributors and users of pest control products in relation to the products that they manufacture, store, import, export, distribute, use or dispose of and the requirements for making those records available to the Minister;
- (u) respecting the recording by registrants of information on sales of pest control products, the retention and reporting to the Minister of such information by registrants and former registrants and the use of such information by the Minister;
- (v) respecting the taking of samples and the conduct of analyses for the purposes of this Act;
- (w) respecting the inspection and operation of establishments in which registered pest control products are manufactured;
- (x) respecting the preservation and detention of pest control products and any other things seized by an inspector;
- (y) respecting the destruction or disposition of pest control products or any other thing forfeited or authorized to be disposed of under this Act;
- (z) respecting reviews under section 60;
- (z.1) respecting the delivery or transmission of documents under this Act, including the transmission of documents in electronic form;
- (z.2) respecting fees and charges in relation to the administration of this Act or the regulations;
- (z.3) for the purpose of implementing, in relation to pest control products, international agreements that affect those products;
- (z.4) exempting pest control products, persons or activities from the application of all or any of the provisions of this Act or the regulations, and prescribing the conditions under which they are exempt
 - (i) for the purpose of facilitating scientific research or dealing with emergency situations, or
 - (ii) if the Governor in Council is satisfied that the exempted products, persons or activities are sufficiently regulated under another Act or that the purposes of this Act can be met without applying the provision; and
- (z.5) prescribing anything that by this Act is to be prescribed and generally for carrying out the purposes and provisions of this Act.

Incorporation by reference

- (2) For greater certainty, regulations made under paragraph (1)(d) or (p) that incorporate a

standard by reference may incorporate the standard as amended to a certain date or from time to time.

Regulations re NAFTA and WTO Agreement

(3) Without limiting the authority conferred by subsection (1), the Governor in Council may make any regulations that the Governor in Council deems necessary for the purpose of implementing, in relation to pest control products, Article 1711 of the North American Free Trade Agreement or Article 39(3) of the Agreement on Trade-related Aspects of Intellectual Property Rights set out in Annex 1C to the WTO Agreement.

Definitions

(4) The definitions in this subsection apply in subsection (3).

"North American Free Trade Agreement"
« *Accord de libre-échange nord-américain* »

"North American Free Trade Agreement" has the same meaning as "Agreement" in subsection 2(1) of the [North American Free Trade Agreement Implementation Act](#).

"WTO Agreement"
« *Accord sur l'OMC* »

"WTO Agreement" has the same meaning as "Agreement" in subsection 2(1) of the [World Trade Organization Agreement Implementation Act](#).

INTERIM ORDERS

Interim orders

67.1 (1) The Minister may make an interim order that contains any provision that may be contained in a regulation made under this Act if the Minister believes that immediate action is required to deal with a significant risk, direct or indirect, to health, safety or the environment.

Cessation of effect

(2) An interim order has effect from the time that it is made but ceases to have effect on the earliest of

- (a) 14 days after it is made, unless it is approved by the Governor in Council,
- (b) the day on which it is repealed,
- (c) the day on which a regulation made under this Act, that has the same effect as the interim order, comes into force, and
- (d) one year after the interim order is made or any shorter period that may be specified in the interim order.

Contravention of unpublished order

(3) No person shall be convicted of an offence consisting of a contravention of an interim order that, at the time of the alleged contravention, had not been published in the [Canada Gazette](#) unless it is proved that, at the time of the alleged contravention, the person had been notified of the interim order or reasonable steps had been taken to bring the purport of the interim order to the notice of those persons likely to be affected by it.

Exemption from [Statutory Instruments Act](#)

(4) An interim order

(a) is exempt from the application of sections 3, 5 and 11 of the [Statutory Instruments Act](#); and

(b) shall be published in the [Canada Gazette](#) within 23 days after it is made.

Deeming

(5) For the purpose of any provision of this Act other than this section, any reference to regulations made under this Act is deemed to include interim orders, and any reference to a regulation made under a specified provision of the Act is deemed to include a reference to the portion of an interim order containing any provision that may be contained in a regulation made under the specified provision.

Tabling of order

(6) A copy of each interim order must be tabled in each House of Parliament within 15 days after it is made.

House not sitting

(7) In order to comply with subsection (6), the interim order may be sent to the Clerk of the House if the House is not sitting.

2004, c. 15, s. 111.1.

OFFENCES AND PUNISHMENT

GENERAL

Contravention causing risk or harm

68. (1) Every person is guilty of an offence if, in contravening this Act or the regulations, they cause

- (a) a risk of imminent death or serious bodily harm to another person;
- (b) a risk of substantial harm to the environment; or
- (c) harm to the environment.

Punishment

(2) Every person who commits an offence under subsection (1) is liable

- (a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; and
- (b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Offence committed wilfully or recklessly

(3) Every person is guilty of an offence if, while contravening this Act or the regulations, they wilfully or recklessly cause

- (a) a risk of imminent death or serious bodily harm to another person;
- (b) a risk of substantial harm to the environment; or
- (c) harm to the environment.

Punishment

(4) Every person who commits an offence under subsection (3) is liable

- (a) on summary conviction, to a fine of not more than \$300,000 or to imprisonment for a term of not more than six months, or to both; and
- (b) on conviction on indictment, to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than three years, or to both.

Contravention of regulations

69. Every person who contravenes a provision of the regulations is guilty of an offence and

liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; and

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

RELATED PROVISIONS**Officers, etc., of corporations**

70. (1) If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Duty to ensure compliance

(2) Every director and officer of a corporation shall take all reasonable care to ensure that the corporation complies with this Act and the regulations.

Offence and punishment

(3) Every person who contravenes subsection (2) is guilty of an offence and liable

(a) on summary conviction, to a fine of not more than \$200,000 or to imprisonment for a term of not more than six months, or to both; or

(b) on conviction on indictment, to a fine of not more than \$500,000 or to imprisonment for a term of not more than three years, or to both.

Offence by employee or agent

71. In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that

(a) the offence was committed without the knowledge or consent of the accused; and

(b) the accused exercised all due diligence to prevent its commission.

Continuing offence

72. If an offence under this Act is continued on more than one day, the person who committed it is liable to be convicted for a separate offence for each day on which it is continued.

Limitation period

73. (1) A proceeding by way of summary conviction in respect of an offence under this Act may be commenced at any time within two years after the day on which the Minister became aware of the subject-matter of the proceedings.

Minister's certificate

(2) A document purporting to have been issued by the Minister, certifying the day on which the Minister became aware of the subject-matter of the proceedings, is evidence of that fact without proof of the signature or official character of the person appearing to have signed it and without further proof.

Venue

74. An information in respect of an offence under this Act may be tried, determined or adjudged by a summary conviction court if the defendant is resident or carrying on business within the territorial division of the court, even though the matter of the information did not arise in that

territorial division.

Analysis and examination

75. (1) An inspector may submit to an analyst for analysis or examination any pest control product or other thing seized by the inspector, any sample taken from that product or thing, or any other sample taken by the inspector.

Certificate of analyst

(2) A certificate of an analyst stating that the analyst has analysed or examined a pest control product or other thing or a sample and stating the result of the analysis or examination is evidence of the statements contained in the certificate without proof of the signature or the official character of the person appearing to have signed it.

Attendance of analyst

(3) The party against whom the certificate is produced may, with leave of the court, require the attendance of the analyst for the purpose of cross-examination.

Notice

(4) The certificate shall not be received in evidence unless the party who intends to produce it has given the party against whom it is intended to be produced reasonable notice of that intention, together with a copy of the certificate.

Suspended sentence

76. When an offender is convicted of an offence under this Act, the court may suspend the passing of sentence and may make an order that the offender comply with any condition that has any or all of the effects described in section 77.

Orders of court

77. (1) When an offender is convicted of an offence under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, in addition to any other punishment that may be imposed under this Act, make an order that has any or all of the following effects:

(a) prohibiting the offender from committing an act or engaging in an activity that may, in the opinion of the court, result in the continuation or repetition of the offence;

(b) directing the offender to take any measures that the court considers appropriate to avoid harm to human health or the environment that results from or may result from the act or omission that constituted the offence, or to remedy that harm;

(c) directing the offender to pay the victim, within the period that the court considers reasonable, an amount of money to cover the loss or damage that resulted from the offence;

(d) directing the offender to publish, in any manner that the court directs, at the offender's own expense, the facts relating to the offence and an apology for any harm caused by the offence;

(e) directing the offender, at the offender's own expense, to notify any person who is aggrieved or affected by the offender's conduct of the facts relating to the conviction;

(f) directing the offender to post a bond or pay an amount of money into court that the court considers appropriate to ensure compliance with any condition required under this section;

(g) directing the offender to submit to the Minister, on application by the Attorney General of Canada made within three years after the conviction, any information with respect to the offender's activities that the court considers appropriate in the circumstances;

(h) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive measure taken by the Minister as a result of the act or omission that

constituted the offence;

(i) directing the offender to perform community service, subject to any reasonable conditions that may be imposed by the court;

(j) directing the offender to pay an amount that the court considers appropriate for the purpose of conducting research; and

(k) requiring the offender to comply with any other conditions that the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing another offence under this Act.

Coming into force and duration of order

(2) An order made under section 76 or subsection (1) comes into force on the day on which the order is made or on any other day that the court may determine, but shall not continue in force for more than three years after that day.

Publication

(3) If an offender does not comply with an order requiring the publication of facts relating to the offence, the Minister may publish the facts and recover the costs of publication from the offender.

Debt due to Her Majesty

(4) If the court orders the offender to compensate the Minister or if the Minister incurs publication costs under paragraph (1)(h) or subsection (3), the costs incurred by the Minister constitute a debt due to Her Majesty in right of Canada and may be recovered in a court of competent jurisdiction.

Additional fine

78. When an offender has been convicted of an offence under this Act, the court may order the offender to pay, in addition to any fine that may otherwise be imposed under this Act, a fine equal to three times the court's estimation of any monetary benefits that the court is satisfied the offender gained as a result of the commission of the offence.

Publication of information about contraventions

79. (1) The Minister may publish information about any contravention of this Act or the regulations, including a contravention designated as a violation under the [Agriculture and Agri-Food Administrative Monetary Penalties Act](#), for the purpose of encouraging voluntary compliance with this Act and the regulations.

Publication of personal information

(2) The information published under subsection (1) may include personal information as defined in section 3 of the [Privacy Act](#).

REPORT TO PARLIAMENT

Annual report

80. (1) The Minister shall, as soon as possible after the end of each fiscal year, prepare and cause to be laid before each House of Parliament a report on the administration and enforcement of this Act for that year.

Contents

(2) The Minister shall include in the annual report, for the fiscal year covered by the report,

(a) a status report respecting registrations, including the registration of pest control products that pose lower risks, re-evaluations and special reviews under this Act or the [Pest Control Products Act](#), chapter P-9 of the Revised Statutes of Canada, 1985; and

(b) a report on significant scientific developments relating to the evaluation of the health and environmental risks and the value of pest control products and the integration of those developments into decision-making under this Act.

Permanent review of Act

80.1 (1) The administration of this Act shall, every 7 years after the day on which section 1 comes into force, stand referred to such committee of the House of Commons, of the Senate or of both Houses of Parliament as may be designated or established for that purpose.

Review and report

(2) The committee designated or established for the purposes of subsection (1) shall, as soon as practicable, undertake a comprehensive review of the provisions and operation of this Act and shall, within one year after the review is undertaken or within such further time as the House of Commons, the Senate or both Houses of Parliament, as the case may be, may authorize, submit a report thereon, including a statement of any changes to this Act or its administration that the committee would recommend.

TRANSITIONAL PROVISIONS

Applications under repealed Act

81. (1) This Act and the regulations apply to an application for the registration of a pest control product or for an amendment to its registration made under the [Pest Control Products Act](#), chapter P-9 of the Revised Statutes of Canada, 1985, before the day on which section 1 comes into force if no decision to grant or deny the application has been made in respect of that application on or before that day. In any case, paragraph 28(1)(a) and subsection 35(1) do not apply to applications made before April 1, 1995.

Pest control products registered under repealed Act

(2) This Act and the regulations apply to all registrations under the [Pest Control Products Act](#), chapter P-9 of the Revised Statutes of Canada, 1985, that are in effect on the day on which section 1 comes into force, except that paragraphs 42(2)(c) to (f) apply only to registrations in respect of which the public has been consulted under this Act in accordance with paragraph 28(1)(a) or (b).

CONSEQUENTIAL AMENDMENTS

82. to 88. [Amendments]

REPEAL

89. [Repeal]

COMING INTO FORCE

Coming into force

***90.** The provisions of this Act, and the provisions of any Act as enacted by this Act, come into force on a day or days to be fixed by order of the Governor in Council.

*[Note: Act in force June 28, 2006, see SI/2006-93.]

AMENDMENTS NOT IN FORCE

— **2012, c. 24, s. 106**

106. Subsection 55(2) of the *Pest Control Products Act* is replaced by the following:

Forfeiture by court order

(2) If the Review Tribunal, continued by subsection 27(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, decides that a person has committed a violation, or if an offender is convicted of an offence under this Act, the Tribunal or the court, as the case may be, may, in addition to imposing a penalty or punishment, order that a pest control product or other thing that was involved in the violation or offence be forfeited to Her Majesty in right of Canada, unless the product or thing has been returned to its owner or another person.

Date modified: 2013-09-27