

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

CROPLIFE CANADA

Applicant
(Appellant)

- and -

CITY OF TORONTO

Respondent
(Respondent in the Appeal)

FACTUM

OF THE INTERVENERS TORONTO ENVIRONMENTAL ALLIANCE, CANADIAN ASSOCIATION OF PHYSICIANS FOR THE ENVIRONMENT, SIERRA CLUB OF CANADA, CANADIAN ENVIRONMENTAL LAW ASSOCIATION, FEDERATION OF CANADIAN MUNICIPALITIES, WORLD WILDLIFE FUND, ENVIRONMENTAL DEFENCE CANADA and ONTARIO COLLEGE OF FAMILY PHYSICIANS

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PART I - INTRODUCTION

1. This is the joint factum of the eight Intervenors, who together represent a broad range of constituencies addressing the interests of municipal governments, public health, environment, conservation, and consumer awareness. The Intervenors have a collective interest in upholding the right of municipal governments to pass by-laws that can restrict the use of pesticides.
2. Five of the Intervenors were also intervenors before the Supreme Court of Canada in *114957 Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town)*, [2001] 2 S.C.R. 241 ("*Spraytech*") and five of the Intervenors were members of the Partnership for Pesticide By-laws, which actively participated in the consultations that lead to the adoption by the City of Toronto of By-law 456-2003 (the "By-law"). Six of the eight Intervenors intervened and made submissions in the Court below.

3. Municipal use of pesticides by public and private property owners varies and generates a range of impacts in communities. Courts have recognized that local authorities are best placed to appreciate and manage local needs. Since it is ecologically impossible to confine pesticides to their place of application, their use by any owner of private or public property is a legitimate community concern which ought to be addressed through precautionary decision-making. With this in mind, the Interveners will make two submissions. Firstly, the City of Toronto has the power to enact the By-law at issue under s. 130 of the *Municipal Act, 2001* in that it relates to health, safety and well-being. Secondly, the subject matter of the By-law is not specifically provided for under any Ontario legislation. Further, the By-law does not conflict with either federal or provincial statutes, but rather, rounds out the tri-level regulatory regime endorsed by the Supreme Court of Canada in *Spraytech*.

PART II - FACTS

4. The Interveners accept the facts as set out in the factum of the Respondent City of Toronto.

PART III - LEGAL SUBMISSIONS AND ARGUMENT

FIRST SUBMISSION: Section 130 of the *Municipal Act, 2001* empowers the Respondent City of Toronto to enact the By-law, and this interpretation is consistent with the precautionary principle and the municipal government role as a trustee for the environment.

5. Justice Somers correctly found that the decision in *Spraytech* is applicable and determinative of the issues in this case.

a) Legislative Basis to Pass the By-law

6. Section 130 of the revised *Municipal Act, 2001* grants the power to pass by-laws for purposes related to the health, safety and well-being of the inhabitants of the municipality so long as the by-law matter is not specifically provided for by this Act or any other Act. (The interveners address the latter issue in their second submission below). The nature and scope of such “general welfare” grants of authority to municipal governments was precisely at issue in *Spraytech*. In that case, the

Court referred to a number of criteria to gauge the legality of the impugned By-law. These were whether a By-law:

- (a) Promotes a legitimate municipal purpose;
- (b) Responds to local concerns and needs; and
- (c) Is consistent with international law and policy, such as the precautionary principle.

Municipal Act, 2001, S.O. 2001, s. 130, Respondent's Schedule B, p. B-18

(i) The By-law Promotes a Legitimate Municipal Purpose

7. Somers J. correctly held that the Respondent City of Toronto passed By-law 456-2003 to promote the health and well-being of its citizens. In *Spraytech*, the Supreme Court reviewed the general health and welfare provisions of many provinces and territories and noted that the passage of a pesticide by-law is a legitimate exercise of municipal power under such provisions.

**Reasons for Judgement of Somers J., December 8, 2003, at paras. 4 (p.6) and 5 (p.7).
114957 Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town), [2001] 2 S.C.R. 241 ("Spraytech"), at pages 248, 258, 259, 263-265.
City of Toronto By-law No. 456-2003, Respondent's Schedule B, p. B-1.**

8. The provisions of the *Municipal Act, 2001* are analogous to the approach taken by Alberta in its *Municipal Government Act*. The Alberta *Municipal Government Act* was among the list of provincial statutes mentioned by the Supreme Court in *Spraytech* when it noted that other provinces had statutes similar to Québec's. Similarly the Supreme Court reviewed the predecessor to Ontario's section 130 and other analogous municipal statutes across the country.

***Municipal Government Act R.S.A. 2000, c. M-26, Interveners' Schedule B, p. B-1 to B-33.
Spraytech, supra, at page 259.***

9. Somers J. correctly applied the "benevolent construction" approach to the interpretation of municipal enactments whereby decisions of municipal governments are to be respected unless there is a clear absence of jurisdiction. This approach, enunciated in the 1993 *Greenbaum* and *Sharma* decisions, was reaffirmed by the Supreme Court in *Spraytech*. "Barring clear demonstration that a municipal decision was beyond its powers, courts should not so hold."

**Reasons for Judgement of Somers J., December 8, 2003, at paras. 15 (p.10) and 18 (p.12).
R. v. Greenbaum, [1993] 1 S.C.R. 674 (“*Greenbaum*”), at pages 687-688.**

***R. v. Sharma*, [1993] 1 S.C.R. 650 (“*Sharma*”), at page 667.**

***Spraytech, supra*, at page 261 (citing *Nanaimo (City) v. Rascal Trucking Ltd.*, [2000] 1 S.C.R. 342).**

See also: *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, 2004 SCC 19 at para. 6; *City of Toronto v. Goldlist Properties* [2003] O.J. No. 3931 (October 14, 2003), at para. 57; *R. v. Guignard* [2002] 1 S.C.R. 472, at page 482; *Chamberlain v. Surrey School District*, [2002] 4 S.C.R. No. 710, at para. 191.

10. Contrary to the Appellant's assertion, all municipal grants of power are to be interpreted in a broad and purposive manner. Both the legislature and the judiciary have independently recognized a need for flexible municipal powers.

***United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, *supra* at 12-13.**

***Municipal Act, 2001*, S.O. 2001, c. 25, s. 272, Respondent's Schedule B, p. B-25.**

***Interpretation Act*, R.S.O. 1990, c.I-11, s.10, Respondent's Schedule B, p. B-34.**

See also: *4500911 Manitoba Ltd. v. Stuartburn*, (2002), 168 Man. R. (2d) 294 (Man. Q.B.), *aff'd* (2003), 232 D.L.R. (4th) 541 (Man. C.A.); *Ontario v. Canadian Pacific Ltd.*, [1995] 2 S.C.R. 1031 at pages 1069 and 1093-1094 (per Gonthier J.) where the Supreme Court noted that legislative provisions aimed at the protection of health are necessarily to be given a broad interpretation,

11. Subsequent to the decision of Somers, J. below, the Supreme Court of Canada in the recent *Canfor* decision, again recognized that it is not only legitimate, but expected that municipal governments will be “trustees of the environment” on behalf of their inhabitants.

***British Columbia v. Canadian Forest Products Ltd.*, 2004 SCC 38 (“*Canfor*”), at para. 73 [citing *Scarborough v. R.E.F. Homes Ltd.* (1979), 9 M.P.L.R. 255 (Ont. C.A.)]**

(ii) The By-law Responds to Local Concerns

12. In *Spraytech*, the Supreme Court noted that general welfare powers “allow municipalities to respond expeditiously to new challenges facing local communities, without requiring amendment of the provincial enabling legislation.” The Court accepted the principle of “subsidiarity”, which is that “law-making and implementation are often best achieved at a level of government that is not only effective, but also closest to the citizens affected and thus most responsive to their needs, to local distinctiveness, and to population diversity.” The Toronto By-law is an example of such an effective response.

***Spraytech, supra*, pages 249 and 258-259.**

13. The various Québec and Ontario municipal pesticide by-laws enacted to date all seek to respond to expressions of local concern about potential risks to health, the environment, and quality-of-life. They do not seek to fulfil the same purposes as provincial schemes (for example dealing with commercial aspects of pesticides such as licensing and accreditation of applicators) or the federal scheme (registration or de-registration and labelling of pesticides). Moreover, the Toronto By-law is clearly aimed at non-essential pesticide use for purely aesthetic purposes regarding which the local community is no longer prepared to take risks of adverse health effects (as opposed to food or forest production).

**Affidavit of Sheela V. Basrur, Joint Exhibit Book, Vol. 4, Tab 3, at page 1012.
Québec and Ontario Municipal By-laws enacted to date, Joint Book of Authorities**

14. Each order of government takes action within its authority, but also in the areas in which it is practical for that order of government. The federal government provides for the registration of all pesticides and establishes national standards for labelling and advertising. The provincial government creates a licensing scheme within its boundaries to ensure vendors and applicators act appropriately. Finally, municipal governments recognize local concerns about pesticide use and may restrict the location, timing and circumstances of such use to match local concern.

15. The role of local government has been recognized by our courts and by international authorities. In *Hydro-Québec* and in *Spraytech* the Supreme Court quoted a passage from *Our Common Future* (1987), the report of the United Nations World Commission on Environment and Development, noting that environmental regulation “should normally be done at the national level, with local governments empowered to exceed, but not to lower national norms”. The report also notes that “local authorities...are best placed to appreciate and manage local needs”.

***R. v. Hydro-Québec*, [1997] 3 S.C.R. 213, at page 296.
Spraytech, supra, at page 249.**

World Commission on Environment and Development, *Our Common Future* (New York: Oxford University Press, 1987), at pages 17, 219-220.

(iii) The By-law Conforms with Principles of International Law - The Precautionary Principle

16. An interpretation of the By-law as being within the jurisdiction of the City pursuant to s. 130 of the *Municipal Act, 2001* is consistent with international law's precautionary principle. In *Spraytech* the Supreme Court of Canada endorsed the precautionary principle as enunciated in the *Bergen Ministerial Declaration on Sustainable Development* (the "*Bergen Declaration*"):

The interpretation of By-law 270 contained in these reasons respects international law's "precautionary principle" which is defined as follows at para. 7 of the Bergen ... Declaration:

In order to achieve sustainable development, policies must be based on the precautionary principle. Environmental measures must anticipate, prevent and attack the causes of environmental degradation. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

***Spraytech*, supra, at 266-267.**

17. The Appellant Croplife alleges at paragraphs 64 to 69 of its factum that the City should not have enacted the By-law until further scientific assessment of its impacts on human health and the environment had been undertaken. Mr. Justice Somers declined to make this finding and correctly stated that: "The court...is in no position to judge the sufficiency or otherwise of any testing that was carried out or of any research that was undertaken by the medical officer of health for the City of Toronto...". The precautionary principle is not a reformulation of the scientific method but a tool for statutory interpretation.

Reasons for Judgement of Somers J., December 8, 2003, at para. 19 (p.12)
(Note also that in *Spraytech* the Town of Hudson had made little assessment of the impact of pesticides on health or the possible results of the enactment of the by-law but the Supreme Court nevertheless found Hudson's by-law to be consistent with the precautionary principle.)

18. The Supreme Court held in *Spraytech* that the precautionary principle is an appropriate aid to statutory interpretation and that interpretations that are consistent with the principle are preferred.

Spraytech, supra, at page 266-267.

See: J. Moffet, “Legislative Options for Implementing the Precautionary Principle”, (1997) 7 *Journal of Environmental Law and Practice* 157 esp. at 159-160 and 170-172; J.A. Tickner, “A Map Toward Precautionary Decision Making” in C. Raffensperger & J.A. Tickner, *Protecting Public Health and the Environment Implementing the Precautionary Principle* (Washington, D.C.: Island Press, 1999) 162-197 at 163; and D. Scott, *Bibliography – The Precautionary Principle* (September 2003) CELA Publication No. 452

19. The precautionary principle applies when Courts seek to interpret an environmental or health related statutory provision such as s.130 of the *Municipal Act*, 2001. The principle is triggered where there is the potential for serious or irreversible harm and a lack of full scientific certainty concerning the matter at hand. The potential for serious or irreversible harm in the context of this case was recognized by the City’s Medical Officer of Health who was of the opinion that the enactment of the By-law would lead to a reduction in the unnecessary use of pesticides and thereby promote the health and well-being of City residents.

Spraytech, supra, at page 267

R. Sullivan, *Sullivan and Driedger on the Construction of Statutes ("Driedger")*, 4th ed. (Markham: Butterworths, 2002), at 425.

Affidavit of Dr. Sheela V. Basrur, Joint Exhibit Book, Vol. 4, Tab 3, at page 1014, para. 24.

20. The By-law is a local public health and environmental measure that is consistent with the goal of “anticipating, preventing and attacking the causes of harm” in order to ensure the “health, safety and well-being of the inhabitants” of the City of Toronto. The City's preventive actions are in keeping with the will of the community, and with one of the purposes of the *Municipal Act*, 2001, namely: “fostering the current and future economic, social and environmental well-being of the municipality.”

Reasons for Judgement of Somers J., December 8, 2003, at paras. 18 and 19 (p.12)

***Municipal Act*, 2001 S.O. 2001, c. 25, ss. 2(c) and 130, Respondent’s Schedule B at page B-7.**

21. An interpretation of section 130 of the *Municipal Act*, 2001 that allows municipalities to regulate certain uses of pesticides without waiting for the pesticides to accumulate in the environment to the point where the harm to health is known with certainty to be serious or irreversible is the only interpretation reasonably consistent with the purpose of s. 130.

K. Barrett & C. Raffensperger, "Precautionary Science" in C. Raffensperger & J.A. Tickner *Protecting Public Health and the Environment Implementing the Precautionary Principle* (Washington, D.C.: Island Press, 1999) at 106-122, esp. 118-120
O. McIntyre & T. Mosedale, "The Precautionary Principle as a Norm of Customary International Law", (1997) 9 *Journal of Environmental Law* 221 at 221-222
David VanderZwaag "The Precautionary Principle and Marine Environmental Protection: Slippery Shores, Rough Seas, and Rising Normative Tides" (2002) 33 *Ocean Development and International Law* 165-188 at 165-166

SECOND SUBMISSION: The City of Toronto's authority to pass the By-law was not limited or constrained by the words "not specifically provided for by this Act or any other Act", nor was the By-law in conflict with provincial or federal legislation.

a) The Meaning of "not specifically provided for by this Act or any other Act"

22. Section 130 of the *Municipal Act, 2001* raises the question whether the **matter - i.e. of municipal pesticide regulation to reduce unnecessary exposure of inhabitants of the**

municipality to pesticides – is specifically provided for by that Act or any other provincial Act.

Contrary to the assertion of the Appellant, that phrase does not refer to whether there are general statutes dealing with pesticides in the province of Ontario. The wording of section 130 refers to whether there is *specifically* a municipal power to regulate pesticides elsewhere in provincial law.

23. Jurisprudence has already determined that municipal governments may not use a more general power (e.g. s. 130) if they have already been given a more specific power pertaining to the subject. If they have not already been given a more specific power pertaining to the subject, then they may pass by-laws under the "general welfare" provision (subject to the conflict test discussed below).

The Supreme Court in *Spraytech* reinforced this point when it distinguished the *Spraytech* case from the earlier *Greenbaum* decision. In *Greenbaum*, there were other, specific, provisions in the *Municipal Act* dealing with municipal regulation of sidewalks, and so the municipal government could not use section 102, the predecessor to section 130, to authorize the by-law. However, there is no other specific provision in either the *Municipal Act, 2001*, nor any other provincial legislation dealing with municipal regulation of pesticides, and so the *Spraytech* case is determinative of the issue.

***City of Toronto By-law No. 456-2003*, preamble, Respondent's Schedule B, p. B-1.
Affidavit of Dr. Sheela V. Basrur, Joint Exhibit Book, Vol. 4, Tab 3, Ex. E, at page 1044.
Spraytech, *supra*, at page 261.
Greenbaum, *supra*, at para. 34.
4500911 Manitoba Ltd. v. Stuartburn (Rural Municipality) [2003] M.J. No. 369, at paras. 23-30.
Cox Construction Ltd. v. Puslinch, (1982) 36 O.R. (2d) 618, at page 626.**

24. The Interveners acknowledge that an express statutory provision by the legislature, stating what municipal governments may or may not do in respect of pesticide by-laws, would prevail. Such examples are found in Québec (not yet in force at the time of the Hudson by-law) and Nova Scotia. No such express ("specific") statutory provision is contained in the *Municipal Act, 2001*, the Ontario *Pesticides Act*, nor in any other current Ontario legislation. Moreover, when a legislature does wish to specifically oust municipal jurisdiction over a subject, it will do so in express terms (as both Québec did in s. 410 (unnumbered para 2) of the *Cities and Towns Act*, and as Ontario did in s. 20 of the *Milk Act* with respect to milk products). In short, had the legislature wanted to limit or prohibit municipal governments from using s. 130 to pass a pesticides by-law, it would have enacted a provision that specifically spoke to the regulatory jurisdiction of municipal governments over pesticides as it has done in other subject areas such as, for example, property standards by-laws under the *Building Code Act*, establishment of ambulance services under the *Ambulance Act*, medical transportation services by-laws under the *Highway Traffic Act* and fire prevention by-laws under the *Fire Protection and Prevention Act, 1997*.

***Cities and Towns Act*, R.S.Q. C-19, s. 410, Respondent's Schedule B, p. B-6.
Municipal Government Act S.N.S. 1998, c. 18, s. 172(j), Interveners' Schedule B, p. B-34 to B35.
Municipal Act, 2001 S.O. 2001, Respondent's Schedule B, p. B-7 to B-28.
Pesticides Act R.S.Q. c. P-9.3, s. 102, Interveners' Schedule B, p. B-37.
Milk Act, R.S.O. 1990, c. M-12, s. 20, Respondent's Schedule B, p. B-33.
Building Code Act S.O. 1992, c. 23, as amended, s. 15.1, Respondent's Schedule B, p. B-32.
Ambulance Act R.S.O. 1990, c. A.19, as amended, s. 17.1, Interveners' Schedule B, p. B-38.
Highway Traffic Act R.S.O. 1990, as amended, s. 191.6, Respondent's Schedule B, p. B-30.
Fire Protection and Prevention Act S.O. 1997, c. 4, as amended, s.7.1, Respondent's Schedule B, p. B-26.
Compare *Municipal Government Act*, R.S.A. 2000, c. M-26, s. 10, Interveners' Schedule B, p. B-30.
See also: *Spraytech*, *supra*, at page 251.**

Affidavit of K. Clark, Joint Exhibit Book, Vol. 3, Exh. Y, pages 990-991.

25. The Interveners submit that, because municipal powers to regulate pesticides have not been specifically provided for in Ontario legislation, municipal governments may pass pesticide by-laws for purposes related to health, safety and well-being of the inhabitants of the municipality, pursuant to section 130 of the *Municipal Act, 2001* in accordance with *Spraytech*.

26. The Appellant argues in para. 8 of its factum that federal legislation dealing with registration of pesticides, the “*Pest Control Products Act*” is also a “matter specifically provided for” within the meaning of section 130. With respect, the interpretation of section 130 must be that it is referring to the *Municipal Act* or any other *provincial Act*. Where the *Municipal Act* includes federal legislation in its provisions, it contains them explicitly as in section 14, the conflict section. Furthermore, the federal government does not have the jurisdiction over municipal institutions which is assigned to the provinces under section 92(8) of the *Constitution Act, 1867*. Accordingly, where section 130 provides that it may not be used for by-laws in matters “specifically provided for in this or any other Act” it must be directed at matters over which the *provincial* legislature has specifically legislated.

Constitution Act, 1867, (U.K.), 30 & 31 Vict., c. 3, s. 92(8), Interveners' Schedule B, p. B-39.
Driedger, supra, at p. 186-191.

b) The City’s By-law is not in Conflict with Provincial or Federal Legislation

27. Most provincial and territorial municipal statutes contain express limits on municipal by-law powers in that they cannot be inconsistent with other provincial or federal legislation.

Municipal Act, 2001, S.O. 2001, s. 14, Respondent's Schedule B, p. B-11.
Municipal Government Act, R.S.A. 2000, c. M-26, s. 13, Interveners' Schedule B, p. B-31.
Municipal Act, C.C.S.M. 1996, c. M225, s. 230, Interveners' Schedule B, p. B-41.
Cities, Towns and Villages Act, S.N.W.T. 2003, c. 22, s. 70, Interveners' Schedule B, p. B-42.
Cities and Towns Act, R.S.Q., c-19, s. 410, Respondent's Schedule B, p. B-6.

28. In *Spraytech* where the relevant provision stated “provided such by-laws are not contrary to the laws of Canada, or of Québec, nor inconsistent with any special provision of this Act or of the charter”, the Supreme Court of Canada characterized the test regarding this requirement as an “express contradiction test” (or “impossibility of dual compliance test”). Under such a test, there is only a conflict if there is:

an actual conflict in operation as where one enactment says ‘yes’ and the other says ‘no’; ‘the same citizens are being told to do inconsistent things’; compliance with one is defiance of the other.

***Spraytech, supra*, at page 268 (quoting *Multiple Access Ltd. v. McCutcheon* [1982] 2 S.C.R. 161, at page 187, see also at page 191).
Mississauga v. Erin Mills [2003] O.J. No. 638, at para. 43, 44.**

29. This test recognizes that a by-law can enhance, or impose stiffer requirements than the provincial or federal scheme without conflicting with them. Put another way, requirements put in place by federal or provincial laws should be viewed as a “floor” upon which municipal governments can improve, as opposed to a “ceiling.”

***Spraytech, supra*, at page 270.
British Columbia Lottery Corp. v. Vancouver, (1999) 169 D.L.R. (4th) 141 (B.C.C.A.), at page 147.**

30. A true and outright conflict can only be said to arise when one enactment compels what the other forbids. The conflict test as articulated by the Supreme Court of Canada in the *Spraytech* case is the appropriate test to be applied under section 14 of the *Municipal Act*. Justice Somers correctly applied this test when he compared the provisions of s. 410(1) of the Québec statute to s. 14 of the Ontario statute.

***Goldlist, supra*, at para. 67.
British Columbia Lottery Corp. v. Vancouver, supra, at pages 147-148.
Ben Gardiner Farms v. West Perth (Township) (2001) 152 O.A.C. 47, at para. 16.
Reasons for Judgement of Somers J., December 8, 2003, at paras. 17-18 (pp. 11-12)**

31. The Appellant argues in paragraph 63 of its factum that the words “not specifically provided for” are part of the conflict test to be applied by the Court. With respect, there are two separate

issues, under separate sections of the *Act*. One is whether section 130 itself precludes the subject matter because the matter is “specifically provided for” in other provincial legislation. This has been dealt with earlier, and this is not an issue of conflict. The other is whether the impugned by-law conflicts with federal or provincial legislation that is proscribed by section 14. This is a conflict question and the *Spraytech* decision applies. Compliance with section 130 is a separate issue.

c) There is No Operational Conflict with Federal Legislation

32. In *Spraytech*, the Supreme Court reviewed the federal *Pest Control Products Act* and found that it relates to the regulation and authorization of the import, export, sale, manufacture, registration, packaging and labelling of pesticides. It regulates which pesticides can be registered for manufacture. In finding that there was no operational conflict with Hudson’s by-law, the Court stated,

No one is placed in an impossible situation by the legal imperative of complying with both regulatory regimes. Analogies to motor vehicles or cigarettes that have been approved federally, but the use of which can nevertheless be restricted municipally, well illustrate this conclusion. There is, moreover, no concern in this case that application of By-law 270 displaces or frustrates 'the legislative purpose of Parliament'.

Pest Control Products Act, R.S.C. 1985, c. P-9.
Spraytech, supra, pages 268-269.

33. The Toronto By-law does not preclude compliance with both its provisions and those of the *Pest Control Products Act*. This would also be true under the new federal *Pest Control Products Act*, not yet in force.

Pest Control Products Act, R.S.C. 1985, c. P-9, Interveners' Schedule B, p. B-43 to B-48.
Pest Control Products Regulation, C.R.C. c. 1253, Interveners' Schedule B, p. B-49 to B-69.
Pest Control Products Act, R.S.C. 2002 c. 28 (not in force), ss. 1-44, Interveners' Schedule B, p. B-70 to B-93.
Affidavit of K. Clark, Joint Exhibit Book, Vol. 3, Exh. W., pages 910-967.

d) There is No Operational Conflict with Provincial Legislation

34. The Supreme Court also stated that the *Multiple Access* test is the appropriate test for consideration of whether there is a conflict between provincial laws and a municipal by-law, unless the relevant statute specifies its own test (which Ontario's does not). The Court cautioned that various decisions, including Ontario court decisions that were issued prior to the *Multiple Access* decision must now be read in light of the modern approach to testing for conflict. The Supreme Court stated that,

As a general principle, the mere existence of provincial (or federal) legislation in a given field does not oust municipal prerogatives to regulate the subject matter.

Spraytech, supra, page 271.

Re Information Retailers Assn. (1985), 22 D.L.R. (4th) 161 (O.C.A.), at pages 176-177.

35. The Supreme Court found that there was no barrier to dual compliance with the Town of Hudson's by-law and the Québec *Pesticides Act*, "nor any plausible evidence that the legislature intended to preclude municipal regulation of pesticide use." The Québec *Pesticides Act*, according to the Court,

...establishes a permit and licensing system for vendors and commercial applicators of pesticides and thus complements the federal legislation's focus on the products themselves. Along with By-law 270, these laws establish a tri-level regulatory regime.

Spraytech, supra, at page 272.

36. Similarly to the Québec statute, the Ontario *Pesticides Act* controls commercial sale, use and application of pesticides in the province. It functions by creating a classification and licensing scheme to vendors and commercial applicators. The province controls who is licensed to sell or apply different kinds of pesticides, assures that they have proper training and requires that they apply the chemicals in the appropriate manner.

Pesticides Act, R.S.O. 1990, chap. P.11, as amended, Interveners' Schedule B, p. B-94 to B-139.

Pesticides Act, General Regulation, R.R.O. 1990, Regulation 914, as amended, Interveners' Schedule B, p. B-140 to B-179.

Pesticides Act, R.S.Q., c. P-9.3, Interveners' Schedule B, p. B-37.

Spraytech, supra, at pages 269-271.

37. As found by the Supreme Court of Canada in the *Spraytech* case, it is possible to comply with both regimes. According to the *Multiple Access* test, it is clear in this case that there is no impossibility of dual compliance because in complying with the By-law there will be no violation of federal or provincial enactments. This is not a case where one statute imposes a duty to do one thing while another prohibits the same thing. Federal registration of pesticides and provincial licensing of applicators merely *permit* the application of pesticides, they do not *require* it. Consequently, there is no conflict with a by-law that imposes further local restrictions.

38. Compliance can be achieved by applying registered pesticides only in the areas or situations permitted for pesticide use in the municipality such as in cases of infestations. Under the By-law, other permitted uses of federally registered pesticides include, among others, uses for swimming pools, water purification, to control or destroy a health hazard, to comply with the *Weed Control Act* and as an insect repellent for personal use. In addition the by-law provides that certain lower toxicity pesticides may be used at any time in the municipality.

City of Toronto By-Law, supra, s. 612-2.B, Respondent's Schedule B, p. B-3.

Weed Control Act, R.S.O. 1990, c. W.5, Interveners' Schedule B, p. B-180 to B-188.

39. In those locations where pesticides may be used, they must of course be applied by those who are properly licensed or certified and in accordance with the rules of application under the provincial *Pesticides Act* and in compliance with the federal *Pest Control Products Act*. The by-law does not alter the other two regimes.

Spraytech, supra, at page 269.

40. In passing the *Municipal Act, 2001*, the provincial legislature did not enact a different test for conflict than was set out by the Supreme Court of Canada in *Spraytech*. Section 14 of the

Municipal Act, 2001 deals with the issue of whether there is an operational conflict between the municipal by-law and provincial or federal statutes. The Supreme Court of Canada determined this issue in *Spraytech* in upholding Hudson, Québec's pesticide by-law and there is nothing in Ontario's *Municipal Act, 2001*, nor any other legislation to change this result in the instant case.

CONCLUSION

41. Unless and until the province decides to enact more specific legislation as to by-laws for municipal control of pesticides within the locality, and unless the province specifically prescribes the manner in which they may thus act, municipal governments may act under the "general welfare" provision of the new *Municipal Act, 2001*.

42. It is respectfully submitted that By-law 456-2003 is *intra vires* since (a) it relates to "health, safety and well-being" under section 130, (b) its subject matter is not specifically provided for by the *Municipal Act, 2001* or any other provincial Act, and (c) it is not in conflict with any existing provincial or federal legislation. The legitimate role of City Councillors, acting in the public interest, ought to be respected.

PART IV - ORDER REQUESTED

43. The Interveners respectfully request that the Court dismiss the Appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, thisday of2004 by

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Federation of Canadian Municipalities, World Wildlife Fund

COURT OF APPEAL FOR ONTARIO

BETWEEN:

CROPLIFE CANADA

Appellant

- and -

CITY OF TORONTO

Respondent

CERTIFICATE

I, Paul Muldoon, CERTIFY THAT:

- (1) An Order under Rule 61.09(2) is not required; and
- (2) Counsel for the Interveners require 20 minutes for its oral argument, pursuant to the Endorsement of McMurtry, CJO., dated June 16, 2004.

DATE: August 13, 2004

Paul Muldoon

SCHEDULE A - LIST OF AUTHORITIES

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- (ii) Town Cobalt By-Law 2002-017.
- (iii) Town of Perth By-Law 3483.
- (iv) City of Thorold By-Law 52-2003.
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Québec Municipal By-laws

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- (iii) Ville de Beaconsfield, *By-Law No 783: By-Law concerning the application of pesticides* (as amended by By-Law Nos. 783-1, 783-2, 783-3) (September 26, 1994)
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- (ix) City of Dorval, *By-Law No. 1446-95: Règlement concernant l'utilisation des pesticides* (as amended by By-Law No. 1446-1-96) (May 23, 1995)
- (x) Municipalité d'Entrelacs, *By-Law No. 95-393: Règlement pour contrôler l'épendage de produits contenant des pesticides* (as amended by By-Law No. 96-393-1) (June 9, 1995)
- (xi) Ville de Greenfield Park, *By-Law No. 706: Règlement concernant une meilleure utilisation de produits contenant des pesticides* (August 26, 1999)
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- (xxi) Ville de Rosemère, *By-Law 580-1: Règlement sur les restrictions de l'utilisation des pesticides pour l'entretien paysager* (as amended by By-Law Nos. 580-3, 580-4, 580-6) (April 8, 1991)
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- (xxxiv) Ville de Westmount, *By-Law 1155: Règlement concernant l'application de pesticides* (as amended by *By-Law Nos. 1176, 1206, 1215, 1220, and 1256*) (February 7, 1994)
- (xxxv) Ville de Montréal, *By-Law 04-041: Règlement sur l'utilisation des Pesticides* (May 5, 2004)

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EXCERPTS OF RELEVANT STATUTES, REGULATIONS AND BY-LAWS

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| <i>Municipal Act, 2001</i> , S.O. 2001, c. 25, Respondent's Schedule B, p. B-7 to B-28. | |
| <i>City of Toronto By-law No. 456-2003</i> , Respondent's Schedule B, p. B-1 to B-5. | |
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| <i>Weed Control Act</i> , R.S.O. 1990, c. W.5 | |

MUNICIPAL GOVERNMENT ACT

2000, Chapter M-26

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Interpretation

1(1) In this Act,

- (a) "business" means
 - (i) a commercial, merchandising or industrial activity or undertaking,
 - (ii) a profession, trade, occupation, calling or employment, or
 - (iii) an activity providing goods or services, whether or not for profit and however organized or formed, including a co-operative or association of persons;
- (b) "by-election" means an election to fill a vacancy on a council other than at a general election;
- (c) "chief administrative officer" means a person appointed to a position under section 205;

- (d) "chief elected official" means the person elected or appointed as chief elected official under section 150;
- (e) "council" means
- (i) the council of a city, town, village, summer village, municipal district or specialized municipality,
- (ii) repealed 1995 c24 s2,
- (iii) the council of a town under the Parks Towns Act, or
- (iv) the council of a municipality incorporated by a special Act;
- (f) "council committee" means a committee, board or other body established by a council under this Act;
- (g) "councillor" includes the chief elected official;
- (h) "designated officer" means a person appointed to a position established under section 210(1);
- (i) "elector" means a person who is eligible to vote in the election for a councillor under the Local Authorities Election Act;
- (j) "enactment" means
- (i) an Act of the Legislature of Alberta and a regulation made under an Act of the Legislature of Alberta, and
- (ii) an Act of the Parliament of Canada and a statutory instrument made under an Act of the Parliament of Canada,
- but does not include a bylaw made by a council;
- (k) "general election" means an election held to fill vacancies on council caused by the passage of time, and includes a first election;
- (l) "Land Compensation Board" means the Land Compensation Board established under the Expropriation Act;
- (m) "local authority" means
- (i) a municipal authority,
- (ii) a regional health authority under the Regional Health Authorities Act,
- (iii) a regional services commission, and
- (iv) the board of trustees of a district or division as defined in the School Act;
- (n) "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;
- (o) "Minister" means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;
- (p) "municipal authority" means a municipality, improvement district and special area and, if the context requires, in the

case of an improvement district and special area,

(i) the geographical area of the improvement district or special area, or

(ii) the Minister, where the improvement district or special area is authorized or required to act;

(q) "Municipal Government Board" means the Municipal Government Board established under Part 12, and includes any panel of the Board;

(r) "municipal purposes" means the purposes set out in section 3;

(s) "municipality" means

(i) a city, town, village, summer village, municipal district or specialized municipality,

(ii) repealed 1995 c24 s2,

(iii) a town under the Parks Towns Act, or

(iv) a municipality formed by special Act, or, if the context requires, the geographical area within the boundaries of a municipality described in subclauses (i) to (iii);

(t) "natural person powers" means the capacity, rights, powers and privileges of a natural person;

(u) "owner" means

(i) in respect of unpatented land, the Crown,

(ii) in respect of other land, the person who is registered under the Land Titles Act as the owner of the fee simple estate in the land, and

(iii) in respect of any property other than land, the person in lawful possession of it;

(v) "parcel of land" means

(i) where there has been a subdivision, any lot or block shown on a plan of subdivision that has been registered in a land titles office;

(ii) where a building affixed to the land that would without special mention be transferred by a transfer of land has been erected on 2 or more lots or blocks shown on a plan of subdivision that has been registered in a land titles office, all those lots or blocks;

(iii) a quarter section of land according to the system of surveys under the Surveys Act or any other area of land described on a certificate of title;

(w) "pecuniary interest" means pecuniary interest within the meaning of Part 5, Division 6;

(x) "population" means population as defined and determined in accordance with the regulations;

(y) "public utility" means a system or works used to provide

one or more of the following for public consumption, benefit, convenience or use:

- (i) water or steam;
 - (ii) sewage disposal;
 - (iii) public transportation operated by or on behalf of the municipality;
 - (iv) irrigation;
 - (v) drainage;
 - (vi) fuel;
 - (vii) electric power;
 - (viii) heat;
 - (ix) waste management;
 - (x) residential and commercial street lighting, and includes the thing that is provided for public consumption, benefit, convenience or use;
 - (y.1) "regional services commission" means a regional services commission under Part 15.1;
 - (z) "road" means land
 - (i) shown as a road on a plan of survey that has been filed or registered in a land titles office, or
 - (ii) used as a public road, and includes a bridge forming part of a public road and any structure incidental to a public road;
 - (aa) "tax" means
 - (i) a property tax,
 - (ii) a business tax,
 - (iii) a business revitalization zone tax,
 - (iv) a special tax,
 - (v) a well drilling equipment tax, and
 - (vi) a local improvement tax;
 - (bb) "taxpayer" means a person liable to pay a tax;
 - (cc) "whole council" means
 - (i) all of the councillors that comprise the council under section 143,
 - (ii) if there is a vacancy on council and the council is not required to hold a by-election under section 162 or 163, the remaining councillors, or
 - (iii) if there is a vacancy on council and the Minister orders that the remaining councillors constitute a quorum under section 160 or 168, the remaining councillors.
- (2) For the purposes of this Act, a municipality or group of municipalities controls a corporation if
- (a) the municipality or group of municipalities hold, other than by way of security only, securities of the corporation to which are attached more than 50% of the votes that

may be cast to elect directors of the corporation and, if exercised, are sufficient to elect a majority of the directors of the corporation, or

(b) all or a majority of its members or directors are appointed by the municipality or group of municipalities.

1994 cM-26.1 s1;1994 cR-9.07 s25(24);1995 c24 s2;
1999 c11 s2

Application of Act

2(1) This Act applies to all municipalities and improvement districts.

(2) If there is an inconsistency between this Act and

- (a) repealed 1995 c24 s3,
- (b) the Parks Towns Act, or
- (c) a special Act forming a municipality,

the other Act prevails.

1994 cM-26.1 s2;1995 c24 s3

Part 1

Purposes, Powers and Capacity of Municipalities

Municipal purposes

3 The purposes of a municipality are

- (a) to provide good government,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and

(c) to develop and maintain safe and viable communities.

1994 cM-26.1 s3

Corporation

4 A municipality is a corporation.

1994 cM-26.1 s4

Powers, duties and functions

5 A municipality

- (a) has the powers given to it by this and other enactments,
- (b) has the duties that are imposed on it by this and other enactments and those that the municipality imposes on itself as a matter of policy, and

(c) has the functions that are described in this and other enactments.

1994 cM-26.1 s5

Natural person powers

6 A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

1994 cM-26.1 s6

Part 2

Bylaws

Division 1

General Jurisdiction

General jurisdiction to pass bylaws

7 A council may pass bylaws for municipal purposes respecting the following matters:

(a) the safety, health and welfare of people and the protection of people and property;

(b) people, activities and things in, on or near a public place or place that is open to the public;

(c) nuisances, including unsightly property;

(d) transport and transportation systems;

(e) businesses, business activities and persons engaged in business;

(f) services provided by or on behalf of the municipality;

(g) public utilities;

(h) wild and domestic animals and activities in relation to them;

(i) the enforcement of bylaws made under this or any other enactment, including any or all of the following:

(i) the creation of offences;

(ii) for each offence, imposing a fine not exceeding \$10 000 or imprisonment for not more than one year, or both;

(iii) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment so long as the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence;

(iv) providing that a specified penalty prescribed under section 44 of the Provincial Offences Procedure Act is reduced by a specified amount if the penalty is paid within a specified time;

(v) providing for imprisonment for not more than one year for non-payment of a fine or penalty;

(vi) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention;

(vii) providing for inspections to determine if bylaws are being complied with;

(viii) remedying contraventions of bylaws.

1994 cM-26.1 s7

Powers under bylaws

8 Without restricting section 7, a council may in a bylaw passed under this Division

- (a) regulate or prohibit;
- (b) deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways;
- (c) provide for a system of licences, permits or approvals, including any or all of the following:
 - (i) establishing fees for licences, permits and approvals, including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue;
 - (ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality;
 - (iii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval has been granted;
 - (iv) providing that terms and conditions may be imposed on any licence, permit or approval, the nature of the terms and conditions and who may impose them;
 - (v) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them;
 - (vi) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition or the bylaw or for any other reason specified in the bylaw;
- (c.1) establish and specify the fees, rates, fares, tariffs or charges that may be charged for the hire of taxis or limousines;
- (d) provide for an appeal, the body that is to decide the appeal and related matters.

1994 cM-26.1 s8;1998 c24 s2

Guides to interpreting power to pass bylaws

9 The power to pass bylaws under this Division is stated in general terms to

- (a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and
- (b) enhance the ability of councils to respond to present and

future issues in their municipalities.

1994 cM-26.1 s9

Bylaw passing powers in other enactments

10(1) In this section, "specific bylaw passing power" means a municipality's power or duty to pass a bylaw that is set out in an enactment other than this Division, but does not include a municipality's natural person powers.

(2) If a bylaw could be passed under this Division and under a specific bylaw passing power, the bylaw passed under this Division is subject to any conditions contained in the specific bylaw passing power.

(3) If there is an inconsistency between a bylaw passed under this Division and one passed under a specific bylaw passing power, the bylaw passed under this Division is of no effect to the extent that it is inconsistent with the specific bylaw passing power.

1994 cM-26.1 s10

Relationship to natural person powers

11(1) Despite section 180(2), a municipality may do something under its natural person powers even if the thing could be done under a bylaw passed under this Division.

(2) Section 7(i) does not apply to a bylaw passed under a municipality's natural person powers.

1994 cM-26.1 s11

Division 2

Scope of Bylaws

Geographic area of bylaws

12 A bylaw of a municipality applies only inside its boundaries unless

(a) one municipality agrees with another municipality that a bylaw passed by one municipality has effect inside the boundaries of the other municipality and the council of each municipality passes a bylaw approving the agreement, or

(b) this or any other enactment says that the bylaw applies outside the boundaries of the municipality.

1994 cM-26.1 s12

Relationship to Provincial law

13 If there is an inconsistency between a bylaw and this or another enactment, the bylaw is of no effect to the extent of the inconsistency.

1994 cM-26.1 s13

Part 13

Division 3

Challenging Bylaws and Resolutions

Application to the Court of Queen's Bench

536(1) A person may apply by originating notice to the Court of Queen's Bench for

- (a) a declaration that a bylaw or resolution is invalid, or
- (b) an order requiring a council to amend or repeal a bylaw as a result of a vote by the electors on the amendment or repeal.

(2) A judge may require an applicant to provide security for costs in an amount and manner established by the judge.

1994 cM-26.1 s536

Procedure

537 A person who wishes to have a bylaw or resolution declared invalid on the basis that

- (a) the proceedings prior to the passing of the bylaw or resolution, or
- (b) the manner of passing the bylaw or resolution does not comply with this or any other enactment must make an application within 60 days after the bylaw or resolution is passed.

1994 cM-26.1 s537

Validity relating to public participation

538 Despite section 537, a person may apply at any time

- (a) for a declaration that a bylaw is invalid if
 - (i) the bylaw is required to be put to a vote of electors and the vote has not been conducted or if the bylaw was not given the required approval in such a vote,
 - (ii) the bylaw is required to be advertised and it was not advertised, or
 - (iii) a public hearing is required to be held in respect of the bylaw and the public hearing was not held,
- or
- (b) for an order requiring a council to pass a bylaw as a result of a vote by the electors.

1994 cM-26.1 s538

Reasonableness

539 No bylaw or resolution may be challenged on the ground that it is unreasonable.

1994 cM-26.1 s539

Effect of councillor being disqualified

540 No bylaw, resolution or proceeding of a council and no resolution or proceeding of a council committee may be challenged on the ground that

- (a) a person sitting or voting as a councillor
 - (i) is not qualified to be on council,

- (ii) was not qualified when the person was elected, or
- (iii) after the election, ceased to be qualified, or became disqualified,
- (b) the election of one or more councillors is invalid,
- (c) a councillor has resigned because of disqualification,
- (d) a person has been declared disqualified from being a councillor,
- (e) a councillor did not take the oath of office,
- (f) a person sitting or voting as a member of a council committee
- (i) is not qualified to be on the committee,
- (ii) was not qualified when the person was appointed, or
- (iii) after being appointed, ceased to be qualified, or became disqualified,
- or
- (g) there was a defect in the appointment of a councillor or other person to a council committee.

1994 cM-26.1 s540

Municipal Government Act,

S.N.S. 1998, c.18

Power to make by-laws

172 (1) A council may make by-laws, for municipal purposes, respecting

(a) the health, well being, safety and protection of persons;
(b) the safety and protection of property;
(c) persons, activities and things in, on or near a public place or place that is open to the public;
(d) nuisances, activities and things that, in the opinion of the council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations and, without limiting the generality of the foregoing, by-laws

(i) prescribing a distance beyond which noise shall not be audible,
(ii) distinguishing between one type of noise and another,
(iii) providing that any noise or sound greater than a specific decibel level or other measurement of noise or sound is prohibited,
(iv) prescribing the hours during which certain noises, or all noise above a certain level, specified in the by-law is prohibited,
(v) authorizing the granting of exemptions in such cases as the by-law provides,
(vi) providing that it is an offence to engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquility of a neighbourhood;

(e) transport and transport systems;

(f) businesses, business activities and persons engaged in business;

(g) automatic machines;

(h) the appointment of a day to be a civic holiday;

(i) a requirement that pawnbrokers report all transactions by pawn or purchase;

(j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor trees, shrubs, flowers, other ornamental plants and turf on the part of a property used for residential purposes and on property of the municipality and, without restricting the generality of the foregoing, the by-law may

(i) require the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted,

(ii) establish a registration scheme, that is open to the public, in which a resident who has a medical reason for objecting to pesticides, herbicides and insecticides being so used may file with the clerk an objection to them being so used in the vicinity of the property on which the person resides,

(iii) require that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the by-law when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice, and

(iv) specify the circumstances in which the posting or serving of notices is not required,

but a by-law may not prohibit the use of pesticides, herbicides and insecticides and a by-law pursuant to this clause does not apply to property used for agricultural or forestry purposes;

(k) services provided by, or on behalf of, the municipality;

(l) the enforcement of by-laws made under the authority of a statute, including

(i) procedures to determine if by-laws are being complied with, including entering upon or into private property for the purposes of inspection, maintenance and enforcement,

(ii) remedies for the contravention of by-laws, including undertaking or directing the remedying of a contravention, apprehending, removing, impounding or disposing, including the sale or destruction, of plants, animals, vehicles, improvements or other things and charging and collecting the costs thereof as a first lien on the property affected,

(iii) the creation of offences,

(iv) for each offence, imposing a fine not exceeding ten thousand dollars or imprisonment for not more than one year or both, including the imposition of a minimum fine,

(v) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment if the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence,

(vi) providing for imprisonment, for not more than one year, for non-payment of a fine or penalty,

(vii) providing that a person who contravenes a by-law may pay an amount established by by-law and if the amount is paid the person will not be prosecuted for the contravention,

(viii) providing, with respect to a by-law, that in a prosecution for violation of the by-law, evidence that one person is disturbed or offended is prima facie evidence that the public, or the neighbourhood, is disturbed or offended.

(2) Without restricting the generality of subsection (1) but subject to Part VIII, a council may, in any by-law

(a) regulate or prohibit;

(b) regulate any development, activity, industry, business, animal or thing in different ways, divide each of them into classes and deal with each class in different ways;

(c) provide that in a prosecution for violation of a by-law, evidence that one neighbour is disturbed is prima facie evidence that the neighbourhood is disturbed;

(d) adopt by reference, in whole or in part, with changes that the council considers necessary or advisable, a code or standard and require compliance with it;

(e) provide for a system of licences, permits or approvals, including any or all of

(i) establishing fees for licences, permits or approvals, including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue, which fees may be set or altered by policy,

(ii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval is granted,

(iii) providing that terms and conditions may be imposed on a licence, permit or approval, the nature of the terms and conditions and who may impose them,

(iv) setting out the conditions that shall be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them,

(v) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition or the by-law or for any other reason specified in the by-law;

(f) where decision making is delegated by by-law to a person or committee other than the council, provide for an appeal of the decision, the body that is to decide the appeal and related matters. 1998, c. 18, s. 172.

**Pesticides Act,
R.S.Q., chapter P-9.3**

Prevailing provisions.

102. The provisions of the Pesticide Management Code and of the other regulations of this Act prevail over any inconsistent provision of any by-law passed by a municipality or a metropolitan community.

1987, c. 29, s. 102; 1990, c. 85, s. 122; 2000, c. 56, s. 218.

Ambulance Act, R.S.O. 1990, Chapter A.19 as amended

By-laws

[17.1 \(1\)](#) The council of a local municipality or upper-tier municipality may pass by-laws, (a) relating to the establishment or acquisition of an ambulance service and, subject to this Act and the regulations under it, the maintenance, operation and use of such a service; and (b) with respect to ensuring the provision of land ambulance services in the municipality. 1998, c. 34, s. 8; 2002, c. 17, Sched. F, Table.

Operation outside municipality

[\(1.1\)](#) If a by-law of a municipality relating to the operation of a land ambulance service is in effect under subsection (1), the municipality, subject to this Act and the regulations under it, has the authority to operate the land ambulance service outside the boundaries of the municipality. 2002, c. 17, Sched. F, Table.

Conflict

[\(2\)](#) A by-law passed under this section is without effect to the extent that it conflicts with a regulation or an order made under this Act. 1999, c. 12, Sched. J, s. 18.

Constitution Act, 1867, (U.K.) 30 & 31 Vict., c.3

EXCLUSIVE POWERS OF PROVINCIAL LEGISLATURES

Subjects of exclusive Provincial Legislation

92. In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say,

1. Repealed. ⁽⁴⁸⁾
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province
4. The Establishment and Tenure of Provincial Offices and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:
 - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and

Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province:

- (b) Lines of Steam Ships between the Province and any British or Foreign Country:
- (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of Canada to be for the general Advantage of Canada or for the Advantage of Two or more of the Provinces.

11. The Incorporation of Companies with Provincial Objects.
12. The Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

**Municipal Act,
C.C.S.M. 1996, c.M225**

*By-law inconsistent with other
legislation*

230 A by-law that is inconsistent with an Act or regulation in force in the province is of no effect to the extent of the inconsistency.

CITIES, TOWNS AND VILLAGES ACT

S.N.W.T. 2003, c. 22

General legislative powers

70. (1) In addition to any power to make bylaws in any other enactment, council may make bylaws for municipal purposes respecting

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or a place that is open to the public;
- (c) public nuisances, including unsightly property;
- (d) transport, motor vehicles, pedestrians and local transportation systems;
- (e) the management, use and protection of lands, including land use planning in accordance with the Planning Act;
- (f) businesses, business activities and persons engaged in business;
- (g) public utilities;
- (h) programs, services, infrastructure and facilities provided or operated by or on behalf of the municipal corporation;
- (i) domestic and feral animals and activities in relation to them;
- (j) the operation and internal management of the municipal corporation; and
- (k) the enforcement of bylaws.

Limit on power to make bylaws

(2) The power of a municipal corporation to make bylaws is subject to all enactments of the Northwest Territories and Canada.

Conditions in specific bylaw powers

(3) The general powers to make a bylaw under this section are subject to any conditions on a power to make a specific bylaw set out elsewhere in this Act or in any other enactment.

Effect of inconsistency

(4) A bylaw that is inconsistent with an enactment of the Northwest Territories or Canada, is of no effect to the extent of the inconsistency.

Pest Control Products Act

R.S.C. 1985, c. P-9

An Act to regulate products used for the control of pests and the organic functions of plants and animals

SHORT TITLE

Short title

1. This Act may be cited as the *Pest Control Products Act*.
R.S., c. P-10, s. 1.

INTERPRETATION

Definitions

2. In this Act,

"advertise" «*publicité*»

"advertise" includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale or other disposition of a control product;

"analyst" «*analyste*»

"analyst" means a person designated as an analyst pursuant to subsection 7(1);

"control product" «*produits antiparasitaires*»

"control product" means any product, device, organism, substance or thing that is manufactured, represented, sold or used as a means for directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest, and includes

(a) any compound or substance that enhances or modifies or is intended to enhance or modify the physical or chemical characteristics of a control product to which it is added, and

(b) any active ingredient used for the manufacture of a control product;

"inspector" «*inspecteur*»

"inspector" means a person designated as an inspector pursuant to subsection 7(1);

"label" «*étiquette*»

"label" includes any legend, word, mark, symbol or design applied or attached to, included in, belonging to or accompanying any control product;

"Minister" «*ministre*»

"Minister" means the Minister of Agriculture and Agri-Food;

"package" «*emballage*»

"package" includes any container, wrapping, covering or holder in which any control product or other material is wholly or partly contained, placed or packed;

"penalty" «*sanction*»

"penalty" means an administrative monetary penalty imposed under the *Agriculture and Agri-Food Administrative Monetary Penalties Act* for a violation;

"pest" «*parasite*»

"pest" means any injurious, noxious or troublesome insect, fungus, bacterial organism, virus, weed, rodent or other plant or animal pest, and includes any injurious, noxious or troublesome organic function of a plant or animal;

"place" «*lieu*»

"place" includes any vehicle, vessel, railway car or aircraft;

"prescribed" *Version anglaise seulement*

"prescribed" means prescribed by regulation;

"sell" «*vente*»

"sell" includes sell, offer for sale, expose for sale, display or advertise for sale, have in possession for sale and distribute;

"Tribunal" «*Commission*»

"Tribunal" means the Review Tribunal continued by subsection 4.1(1) of the *Canada Agricultural Products Act*;

"violation" «*violation*»

"violation" means any contravention of this Act or the regulations that may be proceeded with in accordance with the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

R.S., 1985, c. P-9, s. 2; 1994, c. 38, s. 25; 1995, c. 40, s. 72.

HER MAJESTY

[Binding on Her Majesty](#)

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

1980-81-82-83, c. 88, s. 1.

PROHIBITIONS

[Manufacture, etc., under unsafe conditions](#)

4. (1) No person shall manufacture, store, display, distribute or use any control product under unsafe conditions.

Deception

(2) No person shall package, label or advertise any control product in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety.

Product deemed unsafe

(3) A control product that is not manufactured, stored, displayed, distributed or used as prescribed or that is manufactured, stored, displayed, distributed or used contrary to the regulations shall be deemed to be manufactured, stored, displayed, distributed or used contrary to subsection (1).

Packaging deemed deceptive

(4) A control product that is not packaged, labelled or advertised as prescribed or that is packaged, labelled or advertised contrary to the regulations shall be deemed to be packaged, labelled or advertised contrary to subsection (2).

R.S., c. P-10, s. 3.

[Sale and importation of control products](#)

5. (1) No person shall sell in or import into Canada any control product unless the product

(a) has been registered as prescribed;

(b) conforms to prescribed standards; and

(c) is packaged and labelled as prescribed.

Export and interprovincial movement of control products

(2) No person shall export out of Canada, or send or convey from one province to another any prescribed control product unless the product was manufactured in an establishment that

(a) complied with prescribed conditions; and

(b) was registered and operated as prescribed.

R.S., c. P-10, s. 4.

REGULATIONS

Regulations

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

- (a) prescribing for the purposes of this Act the nomenclature of pests, control products and classes and kinds of pests and control products;
- (b) prescribing the form in which applications for registration of any pest control product shall be made and the information to be furnished therewith;
- (c) prescribing any control product for the purposes of subsection 5(2);
- (d) respecting the registration of control products and of establishments in which any prescribed control products are manufactured and prescribing the fees therefor, and respecting the procedures to be followed for the review of cases involving the refusal, suspension or cancellation of the registration of those products or establishments;
- (e) respecting the inspection and operation of establishments in which any prescribed control products are manufactured;
- (f) exempting any control product or any person or any class of control products or persons from the operation of all or any of the provisions of this Act, and prescribing the conditions for exemption;
- (g) prescribing the form, composition and other standards for control products;
- (h) respecting the manufacture or treatment of any control product to facilitate its recognition by change in coloration or other means;
- (i) respecting the standards for efficacy and safety of any control product;
- (j) respecting the manufacture, storage, distribution, display and use of any control product;
- (k) respecting the packaging, labelling and advertising of control products and packages of those products;
- (l) respecting the taking of samples and the making of analyses for the purposes of this Act;
- (m) prescribing the information and the form of the information that is to be furnished for any control product that is to be imported into Canada;
- (n) prescribing the circumstances and conditions under which control products that have met the requirements of the *Food and Drugs Act* may be deemed to be registered as prescribed under this Act;
- (o) respecting the detention of any control product seized under section 10, the establishment of procedures for the review of any seizure and detention and the payment of any reasonable costs incidental to the seizure or detention, and for preserving or safeguarding any control product detained;
- (p) respecting the destruction or disposition of any control product forfeited under section 10 and the payment of any reasonable costs incidental to destruction or disposition; and
- (q) generally, for carrying out the purposes and provisions of this Act.

Regulations re NAFTA and WTO Agreement

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

Definitions

(3) In subsection (2),

"North American Free Trade Agreement" « *Accord de libre-échange nord-américain* »
"North American Free Trade Agreement" has the meaning given to the word "Agreement" by subsection 2(1) of the *North American Free Trade Agreement Implementation Act*;
"World Trade Organization Agreement" « *Accord sur l'OMC* »
"World Trade Organization Agreement" has the meaning given to the word "Agreement" by subsection 2(1) of the *World Trade Organization Agreement Implementation Act*.
R.S., 1985, c. P-9, s. 6; 1993, c. 44, s. 200; 1994, c. 47, s. 143.

ENFORCEMENT

Inspectors and analysts

7. (1) The Minister may designate any qualified person as an inspector or analyst for the purposes of this Act.

Certificate to be produced

(2) The Minister shall furnish every inspector with a certificate of his designation as an inspector and on entering any place or premises referred to in subsection 8(1) an inspector shall, if so required, produce the certificate to the person in charge thereof.

R.S., c. P-10, ss. 6, 7.

Powers of inspectors

8. (1) Subject to subsection (1.1), an inspector may at any reasonable time

(a) enter any place or premises for the purpose of carrying into effect any of the provisions of this Act or in which the inspector believes on reasonable grounds a control product to which this Act applies is or has been manufactured, stored, sold or used or in which he believes on reasonable grounds there is any control product to which this Act applies or any material that is contaminated by a control product or that is used or capable of being used in the manufacture of a control product;

(b) examine any such control product or material found therein in bulk or open any package found therein that the inspector believes on reasonable grounds contains any such control product or material and take samples thereof; and

(c) require any person to produce for inspection or for the purpose of obtaining copies thereof or extracts therefrom any books, shipping bills, bills of lading, documents containing instructions, or other documents or papers concerning any matter relevant to the administration of this Act or the regulations.

Warrant required to enter dwelling-house

(1.1) Where any place or premises referred to in paragraph (1)(a) is a dwelling-house, an inspector may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (1.2).

Authority to issue warrant

(1.2) Where on *ex parte* application a justice of the peace is satisfied by information on oath

(a) that entry to a dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(b) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused,

the justice of the peace may issue a warrant under his hand authorizing the inspector named therein to enter that dwelling-house subject to such conditions as may be specified in the warrant.

Use of force

(1.3) In executing a warrant issued under subsection (1.2), the inspector named therein shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the warrant.

Assistance to inspectors

(2) The owner or person in charge of any place or premises referred to in subsection (1) and every person found therein shall give an inspector all reasonable assistance to enable the inspector to carry out his duties and functions under this Act and the regulations and shall furnish the inspector with any information he may reasonably require with respect to the administration of this Act and the regulations.

R.S., 1985, c. P-9, s. 8; R.S., 1985, c. 31 (1st Supp.), s. 16.

Obstruction of inspectors

9. (1) No person shall obstruct or hinder an inspector in the carrying out of his duties or functions under this Act or the regulations.

False statements

(2) No person shall make a false or misleading statement either orally or in writing to an inspector or other officer engaged in carrying out his duties or functions under this Act or the regulations.

Breaking of detention

(3) Except as provided by this Act, no person shall remove from detention any control product seized and detained pursuant to this Act.

R.S., c. P-10, s. 8.

Seizure

10. (1) Where an inspector believes on reasonable grounds that this Act or the regulations have been contravened, the inspector may seize and detain the control product by means of or in relation to which the inspector believes on reasonable grounds the contravention was committed.

Detention

(2) A control product seized and detained pursuant to subsection (1) shall not be detained after (a) the provisions of this Act and the regulations have, in the opinion of the inspector, been complied with,

(b) the owner agrees to dispose of the product in a manner satisfactory to the Minister, or

(c) the expiration of six months after the day of the seizure, or such longer period as may be prescribed with respect to any control product,

unless before that time proceedings have been instituted in respect of the contravention in which event the control product may be detained until the proceedings are finally concluded.

Forfeiture

(3) Where the Tribunal decides that a person has committed a violation, or a person is convicted of an offence under this Act, the Tribunal or the convicting court, as the case may be, may, in addition to any penalty or punishment imposed, order that any control product by means of or in relation to which the violation or offence was committed, be forfeited to Her Majesty in right of Canada.

Disposal with consent

(4) Where an inspector has seized a control product and the owner of the product or the person in whose possession it was at the time of seizure consents in writing to its disposal, the control product is thereupon forfeited to Her Majesty and shall be disposed of, at the expense of the person consenting to the disposal, as the Minister may direct.

R.S., 1985, c. P-9, s. 10; 1995, c. 40, s. 73.

OFFENCES AND PUNISHMENT

Contravention of Act or regulations

11. (1) Every person who, or whose employee or agent, contravenes any provision of this Act or the regulations is guilty of

(a) an offence punishable on summary conviction and liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding six months, or to both; or

(b) an indictable offence and liable to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding two years, or to both.

Offence by employee or agent

(2) 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 the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.

Limitation period

(3) Proceedings by way of summary conviction in respect of an offence under this Act may be instituted at any time within but not later than one year after the time when the subject-matter of the proceedings arose.

R.S., 1985, c. P-9, s. 11; 1995, c. 40, s. 74.

Certificate of analyst

12. (1) Subject to this section, a certificate of an analyst stating that the analyst has analyzed or examined an article or a sample submitted to him by an inspector and stating the result of the examination is admissible in evidence in a prosecution for a contravention of this Act or the regulations and in the absence of any evidence to the contrary is proof of the statements contained in the certificate without proof of the signature or official character of the person appearing to have signed the certificate.

Attendance of analyst

(2) The party against whom a certificate of an analyst is produced pursuant to subsection (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

Notice

(3) No certificate shall be admitted in evidence pursuant to subsection (1) unless the party intending to produce it has, before the trial, given to the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate.

R.S., c. P-10, s. 11.

Venue

13. A complaint or information in respect of an offence under this Act may be heard, tried or determined by a provincial court judge or a justice if the accused is resident or carrying on business within the territorial jurisdiction of the provincial court judge or justice, although the matter of the complaint or information did not arise in that territorial jurisdiction.

R.S., 1985, c. P-9, s. 13; R.S., 1985, c. 27 (1st Supp.), s. 203.

Pest Control Products Regulations

C.R.C., c. 1253

PEST CONTROL PRODUCTS ACT

Pest Control Products Regulations

REGULATIONS MADE PURSUANT TO THE PEST CONTROL PRODUCTS ACT

SHORT TITLE

1. These Regulations may be cited as the *Pest Control Products Regulations*.

INTERPRETATION

2. In these Regulations,

"Act" means the *Pest Control Products Act*; (*Loi*)

"active ingredient" means that ingredient of a control product to which the effects of the control product are attributed, including a synergist, but does not include a solvent, diluent, emulsifier or component that by itself is not primarily responsible for the control effect of the control product; (*matière active*)

"applicant" means a person who applies to the Minister for a certificate of registration or to amend a certificate of registration; (*demandeur*)

"assessed or evaluated" means assessed or evaluated by the Plant Industry Directorate; (*évalué*)

"biotechnology" means the application of science and engineering to the direct or indirect use of living organisms or parts or products of living organisms in their natural or modified forms; (*biotechnologie*)

"certificate of registration" means a certificate issued by the Director General indicating that the control product named therein is registered under these Regulations; (*certificat d'homologation*)

"control product" includes a control product derived through biotechnology; (*produit antiparasitaire*)

"device" means any article, instrument, apparatus, contrivance or gadget that, by itself or in conjunction with a control product, is used as a means to control pests directly or indirectly; (*dispositif*)

"Director General" means the Director General of the Plant Industry Directorate; (*directeur général*)

"display panel" means part of a label applied on or affixed to the package for a control product but does not include a leaflet or brochure unless it is part of the label; (*aire d'affichage*)

"metric unit" means a unit of measurement set out in Schedule I to the *Weights and Measures Act*; (*unité métrique*)

"organism" means any biological entity, living or non-living, cellular or non-cellular; (*organisme*)

"Plant Industry Directorate" means the Plant Industry Directorate of the Food Production and Inspection Branch of the Department of Agriculture; (*Direction de l'industrie des produits végétaux*)

"principal display panel" means that part of a label displayed or visible under normal or customary conditions of display or use; (*aire d'affichage principale*)

"Regional Pesticides Officer" means a Regional Pesticides Officer in the Plant Industry Directorate; (*agent régional chargé des pesticides*)

"registrant" means the person in whose name a certificate of registration is issued; (*titulaire d'homologation*)

"residues" means the ingredients of a control product that remain after the control product has been used and includes substances resulting from degradation or metabolism; (*résidus*)

"secondary display panel" means that part of a label not displayed or visible under normal or customary conditions of display or use; (*aire d'affichage secondaire*)

"seed" means any generative part of a plant used for propagation purposes including true seeds, seed-like fruits, bulbs, tubers and corms but does not include whole plants or cuttings. (*semence*)

SOR/88-89, s. 1; SOR/88-109, s. 1; SOR/92-585, s. 2; SOR/93-232, s. 2; SOR/95-55, s. 1.

CERTIFICATE OF DESIGNATION OF INSPECTOR

2.1 The certificate of designation furnished to an inspector shall be signed by the Deputy Minister of Agriculture, shall certify that the person named therein is an inspector for the purposes of the Act and shall show

(a) his name;

(b) the date of his designation; and

(c) his signature and photograph. SOR/78-864, s. 1.

EXEMPTION OF CERTAIN CONTROL PRODUCTS

3. (1) The following control products are exempt from the Act:

(a) a control product that is subject to the *Food and Drugs Act* and is used only for

(i) the control of arthropods on or in humans, livestock or domestic animals, if the control product is to be administered directly and not by topical application, or

(ii) the preservation of food for humans during cooking or processing;

(b) a control product that is a device other than a device of a type and kind listed in Schedule I;

(c) subject to subsection (2), a control product that is used to control viruses, bacteria or other micro-organisms in premises in which food is manufactured, prepared or kept;

(d) subject to subsections (2) and (3), a control product that is used to destroy or inactivate viruses, bacteria or other micro-organisms in order to treat, mitigate or prevent a disease in humans or animals; and

(e) subject to subsections (2) and (4), a control product that is used

(i) to destroy or inactivate viruses, bacteria or other micro-organisms in order to treat, mitigate or prevent a disease in humans or animals, and

(ii) to reduce the level of viruses, bacteria or other micro-organisms that cause disease in humans or animals, mould, mildew or odour.

(2) Where a control product is exempt under paragraph (1)(c), (d) or (e), the product is exempt only in respect of the uses described in that paragraph.

(3) A control product described in paragraph (1)(d) is not exempt from the Act in respect of its use in a swimming pool or spa.

(4) A control product described in paragraph (1)(e) is not exempt from the Act in respect of

(a) its use as a preservative for wood or other material;

(b) its use as a slimicide; or

(c) its use in a swimming pool or spa. SOR/2001-318, s. 1.

APPLICATION

4. These Regulations do not apply to a control product, other than an organism, that is imported into Canada for the importer's own use, if the total quantity of the control product being imported does not exceed 500 grams by mass or 500 millilitres by volume and does not have a monetary value exceeding \$10. SOR/95-55, s. 2.

EXEMPTION FROM REGISTRATION

[SOR/92-585, s. 2(F)]

5. (1) Subject to subsection (2), a control product is exempt from registration if it is

(a) a control product that is used only in the manufacture of a registered control product and it conforms to the relevant specifications of that registered control product set out in the register of control products that is required to be maintained by the Minister under subsection 13(1);

(b) for use by a person for research purposes

(i) on premises owned or operated by that person, or

(ii) on any other premises not owned or operated by that person, if such use has been approved by the Director General;

(c) a control product

(i) that is of a type and kind described in Schedule II and that meets the applicable conditions for that control product set out in that Schedule, and

(ii) the active ingredient of which is registered in accordance with these Regulations; or

(d) a control product that is registered in a country other than Canada (in this section and in section 5.1 referred to as a "foreign-registered control product") and is not under official re-evaluation or special review in that country or in Canada and that

(i) does not contain a formulant on List 1 of the Lists of Inert Pesticide Ingredients of Toxicological Concern issued by the United States Environmental Protection Agency,

(ii) has been determined by the Minister, based on the criteria set out in subsection (3), to be equivalent to a control product (in this section referred to as a "Canadian-registered control product") that

(A) has been previously assessed and evaluated and is currently registered in Canada pursuant to the Act and these Regulations, and

(B) does not have a restricted product class designation,

(iii) is imported solely for the importer's own use and is a control product in respect of which a permit has been issued to the importer by the Minister for use by the importer, and

(iv) bears, in addition to any other label, a label approved by the Minister under subsection 27(1).

(2) The following control products are not exempt from registration:

(a) 2,4-D, which is also known as 2,4-dichlorophenoxy acetic acid;

(b) an organism; and

(c) a control product of a type and kind described in Schedule IV.

(3) The Minister, in determining under subparagraph 5(1)(d)(ii) whether a foreign-registered control product is equivalent to a Canadian-registered control product, shall consider the following criteria:

(a) whether, based on information provided by the importer,

(i) the product specifications for the control products are the same,

(ii) the control products contain the same active ingredient made by the same manufacturer using the same manufacturing process,

(iii) the control products have the same guarantee statement, and

(iv) the control products have the same chemical composition, as demonstrated by a detailed and comprehensive analysis with an accompanying explanation of methodology that, on its own merits, permits validation of procedures, results and conclusions; or
(b) whether the control products are equivalent, based on a detailed and comprehensive laboratory analysis, provided by the importer, with an accompanying explanation of methodology that, on its own merits, permits validation of procedures, results and conclusions. SOR/81-187, s. 1; SOR/83-937, s. 1; SOR/88-89, s. 2; SOR/92-585, s. 2; SOR/93-464, s. 1; SOR/95-55, s. 3.

5.1 A foreign-registered control product that is exempt from registration under paragraph 5(1)(d) is exempt from the prohibition in respect of importation in paragraph 5(1)(a) of the Act. SOR/93-464, s. 2.

REGISTRATION OF CONTROL PRODUCTS REQUIRED [SOR/92-585, s. 2(F)]

6. Subject to section 5, every control product imported into, sold or used in Canada or used or contained in another control product in Canada shall be registered in accordance with these Regulations. SOR/83-937, s. 2; SOR/92-585, s. 2(F).

6.1 Where the Minister requests a registrant to amend the registration of a control product, the registrant shall make an application to the Minister to amend the certificate of registration in accordance with the Minister's request. SOR/88-109, s. 2; SOR/92-585, s. 2(F).

APPLICATION FOR REGISTRATION [SOR/92-585, s. 2(F)]

7. An application for a certificate of registration or an application to amend a certificate of registration shall be made to the Minister and shall

- (a) state the name and address of the applicant and be signed by the applicant;
- (b) where the application is made by an agent of the applicant, state, in addition to the name and address of the applicant, the name and address of the agent and be signed by the agent;
- (c) state the name and address of the manufacturer of the control product and the place of manufacture;
- (d) state the brand name of the control product, if any;
- (e) state the product name of the control product referred to in paragraph 27(2)(a);
- (f) in the case of a control product
 - (i) that contains an active ingredient, state the name, content by percentage weight and the specifications of each such ingredient, and
 - (ii) that is a device, state all the specifications that are relevant to the safety, merit or value of the device;
- (g) state the name and address of the manufacturer of each ingredient of the control product;
- (h) state the size, type and specifications of the package in which the control product is to be sold; and
- (i) set out the guarantee statement referred to in paragraph 27(2)(e). SOR/88-109, s. 3; SOR/92-585, s. 2.

8. An applicant or registrant who is not resident in Canada shall appoint an agent permanently resident in Canada to whom any notice or correspondence under the Act and these Regulations may be sent. SOR/92-585, s. 2(F).

9. (1) In addition to the information required by section 7, an applicant shall provide the Minister with such further or other information as will allow the Minister to determine the safety, merit and value of the control product.

(2) Without limiting the generality of subsection (1), where a control product

(a) is a device that has not been previously assessed or evaluated for the purposes of the Act and these Regulations or contains an ingredient that has not been so assessed or evaluated, the applicant shall provide the Minister with the results of scientific investigations respecting

(i) the effectiveness of the control product for its intended purposes,

(ii) the safety of the control product to persons occupationally exposed to it when it is manufactured, stored, displayed, distributed or used,

(iii) the safety of the control product to the host plant, animal or article in relation to which it is to be used,

(iv) the effects of the control product on representative species of non-target organisms relative to the intended use of the control product,

(v) the degree of persistence, retention and movement of the control product and its residues,

(vi) suitable methods of analysis for detecting the active ingredient and measuring the specifications of the control product,

(vii) suitable methods of analysis for detecting significant amounts of the control product, including its residues in food, feed and the environment under practical conditions of use,

(viii) suitable methods for the detoxification or neutralization of the control product in soil, water, air or on articles,

(ix) suitable methods for the disposal of the control product and its empty packages,

(x) the stability of the control product under practical conditions of storage and display, and

(xi) the compatibility of the control product with other control products with which it is recommended or likely to be mixed; or

(b) is intended for use on living plants or animals or products derived therefrom which plants, animals or products are for human consumption, the applicant shall provide the Minister with the results of scientific investigations respecting

(i) the effects of the control product or its residues when administered to test animals for the purposes of assessing any risk to humans or animals, and

(ii) the effects of storing and processing food or feed, in relation to which the control product was used, on the dissipation or degradation of the control product and any of its residues.

SOR/92-585, s. 2(F).

10. Every application for a certificate of registration and every application to amend a certificate of registration shall be accompanied by five copies of the proposed label for the control product or reasonable facsimiles thereof. SOR/88-109, s. 4; SOR/92-585, s. 2(F).

11. An applicant shall, when requested to do so by the Minister, provide the Minister with

(a) a sample of the control product;

(b) a sample of the technical grade of its active ingredient; and

(c) a sample of the laboratory standard of its active ingredient. SOR/92-585, s. 2(F).

FEES FOR REGISTRATION

[SOR/92-585, s. 2(F)]

12. [Repealed, SOR/97-174, s. 1]

REGISTRATION

[SOR/92-585, s. 2(F)]

13. (1) Where the Minister receives an application for a certificate of registration or an application to amend a certificate of registration, he shall, subject to section 18, register the control product or amend the registration thereof, as the case may be, and record in a register of control products the information provided in accordance with sections 7 and 9.

(2) In addition to the information mentioned in subsection (1), the register of control products shall contain

(a) the specifications of each control product;

(b) the label for each control product;

(c) the registration number assigned to each control product; and

(d) such other information as the Minister deems necessary.

(3) Where a control product or an amendment to the registration of a control product is registered, the Director General shall issue a certificate of registration bearing the registration number of the control product. SOR/88-109, s. 6; SOR/92-585, s. 2.

DURATION AND RENEWAL OF REGISTRATION

[SOR/92-585, s. 2(F)]

14. (1) Subject to section 20, and unless otherwise provided in a certificate of registration, the registration of a control product

(a) that is a device, is valid so long as the control product complies with the conditions in relation to which the registration was granted; and

(b) that is not a device expires on December 31, in the year designated by the Minister, which designated year shall not be later than five years from December 31 in the year in which the control product is registered.

(2) The registration of a control product may be renewed, on application by the registrant to the Minister, for additional periods not exceeding five years each, and five copies of the current label for the control product shall accompany an application for renewal. SOR/79-180, s. 1; SOR/88-109, s. 7; SOR/88-416, s. 1; SOR/92-585, s. 2(F); SOR/97-174, s. 2.

(3) [Repealed, SOR/97-174, s. 2.]

15. Notwithstanding section 14, where a control product was, immediately preceding 1978, registered under these Regulations, the registration of the control product expires on December 31, 1980. SOR/79-180, s. 2; SOR/92-585, s. 2(F).

16. Where the registrant intends to discontinue the sale of a control product, he shall so inform the Minister and the registration of that control product shall, on such terms and conditions, if any, as the Minister may specify, be continued to allow any stocks of the control product to be substantially exhausted through sales. SOR/92-585, s. 2(F).

TEMPORARY REGISTRATION

[SOR/92-585, s. 2(F)]

17. (1) The Minister may, upon such terms and conditions, if any, as he may specify, register a control product for a period not exceeding one year where

- (a) the applicant agrees to endeavour to produce additional scientific or technical information in relation to the control product; or
- (b) the control product is to be sold only for the emergency control of infestations that are seriously detrimental to public health, domestic animals, natural resources or other things.

(2) All terms and conditions specified by the Minister under subsection (1) shall be contained in the temporary certificate of registration issued by the Director General. SOR/88-285, s. 1; SOR/92-585, s. 2.

REFUSAL TO REGISTER

[SOR/92-585, s. 2(F)]

18. The Minister shall refuse to register, or to amend the registration of, a control product if

- (a) the application for registration, the application to amend the certificate of registration or the label for the control product does not comply with the Act and these Regulations;
- (b) the information provided to the Minister on the application is insufficient to enable the control product to be assessed or evaluated;
- (c) the applicant fails to establish that the control product has merit or value for the purposes claimed when the control product is used in accordance with its label directions;
- (d) the use of the control product would lead to an unacceptable risk of harm to
 - (i) things on or in relation to which the control product is intended to be used, or
 - (ii) public health, plants, animals or the environment; or
- (e) the control product is not required to be registered. SOR/88-109, s. 8; SOR/92-585, s. 2(F); SOR/94-683, s. 5.

CANCELLATION AND SUSPENSION OF REGISTRATION

[SOR/92-585, s. 2(F)]

19. During the period of registration of a control product, the registrant shall, when requested to do so by the Minister, satisfy the Minister that the availability of the control product will not lead to an unacceptable risk of harm to

- (a) things on or in relation to which the control product is intended to be used; or
- (b) public health, plants, animals or the environment. SOR/92-585, s. 2(F).

20. The Minister may, on such terms and conditions, if any, as he may specify, cancel or suspend the registration of a control product when, based on current information available to him, the safety of the control product or its merit or value for its intended purposes is no longer acceptable to him. SOR/92-585, s. 2(F).

21. Where the Minister

- (a) refuses to register or amend the registration of a control product, or
- (b) cancels or suspends the registration of a control product,

he shall send to the applicant or the registrant, as the case may be, a notice by registered mail stating that registration has been refused or that the registration has been cancelled or suspended and the reasons therefor. SOR/88-109, s. 9; SOR/92-585, s. 2(F).

22. Where the registration of a control product has been suspended, the control product shall not be deemed to be registered, but subsection 5(1) of the Act shall not apply to a person, other than the registrant, who sells the control product, if the person had the control product for sale on the day immediately preceding the day on which the notice of suspension was mailed to the registrant under section 21. SOR/92-585, s. 2(F); SOR/93-232, s. 2.

23. An applicant or registrant who has received a notice under section 21 may, within 30 days from the day on which the notice was received by him, apply in writing to the Minister for a hearing setting out in the application the matters that he intends to raise at the hearing. SOR/92-585, s. 2(F).

24. Where the Minister receives an application for a hearing, he shall appoint a Review Board (hereinafter referred to as "the Board"), consisting of not less than three persons and shall refer the subject matter of the application to the Board.

25. (1) The Board shall inquire into the subject matter of the application and give the person who applied for the hearing and all other persons who may be affected by the subject matter of the hearing an opportunity to make representations to the Board at the hearing.

(2) As soon as possible after the hearing, the Board shall

(a) make a report containing its recommendations respecting the subject matter of the hearing and its reasons therefor and shall send a copy of the report to the Minister and to the person who applied for the hearing; and

(b) send to the Minister all documents and other material that the Board used at the hearing.

(3) After considering the report of the Board, the Minister may take such action with respect to the subject matter of the hearing as he deems advisable and shall notify the person who applied for the hearing of any action so taken.

RECORDS

26. Every registrant shall make a record of all quantities of a control product stored, manufactured or sold by him and the record shall

(a) be retained for three years from the time it is made; and

(b) be made available to the Director General at his request at such time and in such manner as the Director General may require. SOR/85-686, s. 1; SOR/92-585, s. 2.

LABELLING

27. (1) No label shall be used on a control product unless it has been approved by the Minister and, unless the Minister otherwise directs, every label shall show the information required by sections 28 to 38.

(2) Where a label is required to show

(a) the product name of the control product, it shall be descriptive of the physical form and purpose of the control product and shall include the common name of its active ingredient, when established, and may include a distinctive brand or trademark;

(b) the product class designation of the control product, it shall be shown in capital letters and be (i) "RESTRICTED", where the Minister, in his concern for the health of man or the safety of plants, animals or the environment has set forth additional essential conditions to be shown on

the label respecting the display, distribution, use limitations or qualifications of persons who may use the control product, or

(ii) "DOMESTIC", where the control product is to be displayed and distributed for use in and around a dwelling,

or such other word or words indicating the product class designation as may be acceptable to the Minister, where the control product is to be displayed and distributed for general use in commercial activities specified on the label;

(c) information respecting the nature and degree of hazard inherent in the control product, the nature and degree of hazard shall be identified by the appropriate precautionary symbols and signal words selected from Schedule III, together with a statement respecting the nature of the primary hazard to which the symbol relates;

(d) a statement directing the user to read the label, the statement shall be in the following form: "READ THE LABEL BEFORE USING";

(e) a guarantee statement, it shall be set out in the following manner:

(i) the word in capital letters "GUARANTEE", followed by

(ii) a colon, followed by

(iii) the common name of the active ingredient of the control product as set out in CSA Standard Z143-1980, *Common Name for Pest Control Chemicals*, dated January, 1980 or, where no common name for the ingredient is set out in that Standard, the chemical or other name of that ingredient followed by

(iv) the contents of the active ingredient expressed,

(A) in the case of a liquid control product, as a percentage by mass, or mass per unit volume, or both, as required by the Minister,

(B) in the case of a dust, wettable powder or other dry formulation, as a percentage by mass, or

(C) where clauses (A) and (B) do not apply, in terms acceptable to the Minister, followed by

(v) the viscosity, specific gravity, particle size or such other property or specification determined by the Minister to be necessary for guarantee purposes;

(f) the registration number of the control product, it shall be set out in the following manner:

(i) the word and abbreviation in capital letters "REGISTRATION NO.", followed by

(ii) the assigned registration number, followed by

(iii) the words in capital letters "PEST CONTROL PRODUCTS ACT";

(g) a declaration of net quantity of the package for the control product, the declaration shall be expressed

(i) by volume, when the product is liquid or gas or is viscous,

(ii) by mass, when the product is solid or pressure-packed, or

(iii) where subparagraphs (i) and (ii) do not apply, in terms acceptable to the Minister;

(h) the name and postal address of the registrant, the name and postal address of the resident agent, if any, of the registrant shall also be shown;

(i) the directions for the use of the control product, the directions shall include dosage rates, timing of application and use limitations;

(j) information identifying any significant hazard respecting the handling, storage, display, distribution and disposal of the control product, the information shall include instructions respecting procedures to alleviate the hazard and, when required by the Minister, instructions respecting decontamination procedures and disposal of the control product and its empty packages;

(k) information identifying any significant hazard to

(i) things on or in relation to which the control product is intended to be used, or
(ii) public health, plants, animals or the environment,
the information shall include instructions respecting the procedures to alleviate any such hazard;
(l) instructions in first aid, the instructions shall be under the heading in capital letters "FIRST AID INSTRUCTIONS" and shall set out the practical measures to be taken in the event of poisoning, intoxication or injury caused by the control product;
(m) toxicological information essential to the treatment of persons who are poisoned, intoxicated or injured by the control product, the information shall be under the heading in capital letters "TOXICOLOGICAL INFORMATION" and shall
(i) state an antidote and remedial measures,
(ii) describe the symptoms of intoxication, and
(iii) state the ingredients not mentioned in the guarantee statement that may affect the treatment;
and
(n) a notice to the user of the control product, the notice shall be in the following form:
"NOTICE TO USER--This control product is to be used only in accordance with the directions on this label. It is an offence under the *Pest Control Products Act* to use a control product under unsafe conditions.". SOR/88-89, s. 3; SOR/92-585, s. 2(F).

28. The label for a control product that is a device of a type and kind listed in Schedule I, shall contain the information referred to in paragraphs 27(2)(f), (h), (i), (j) and (k).

29. The display panel shall consist of one principal display panel and at least one secondary display panel.

30. Where the primary purpose of a control product is not for controlling, preventing, destroying, mitigating, attracting or repelling any pest, but is represented as having such properties or contains an active ingredient possessing such properties, the control product shall have a display panel with

(a) the information referred to in paragraphs 27(2)(a), (b), (c), (g) and (h), shown on the principal display panel; and
(b) the information referred to in paragraphs 27(2)(e), (f), (i), (l) and (m), shown on the secondary display panel. SOR/92-585, s. 2(F).

31. Where the primary purpose of a control product is for controlling, preventing, destroying, mitigating, attracting or repelling any pest, the control product shall have a display panel with
(a) the information referred to in paragraphs 27(2)(a), (b), (c), (d), (e), (f), (g) and (h), shown on the principal display panel; and
(b) the information referred to in paragraphs 27(2)(i), (j), (k), (l), (m) and (n), shown on the secondary display panel.

32. Section 31 applies to the label for a control product that is within the meaning of paragraph (a) of the definition "control product" in section 2 of the Act. SOR/92-585, s. 2(F).

33. Notwithstanding sections 29, 30 and 31, the Minister may, for reasons satisfactory to him, approve the inclusion of the information required by those sections elsewhere than on the display panel.

34. (1) Where the principal display panel shows the product class designation "RESTRICTED", the notice referred to in paragraph 27(2)(n) shall appear prominently at the top of a secondary display panel followed by the heading in capital letters "RESTRICTED USES", followed by the directions for use, dosage rates, timing of application and use limitations to which the restriction relates all of which shall be circumscribed by a line to set the information apart from all other information required to be shown on the secondary display panel.

(2) Notwithstanding subsection (1), where the principal display panel shows the product class designation "RESTRICTED", the directions for use, dosage rates, timing of application and use limitations to which the restriction relates, together with the information referred to in paragraphs 27(2)(a), (b), (c), (d), (e), (f), (g), (h), (i) and (k) may, with the approval of the Minister, appear in a brochure or leaflet that will accompany the package for the control product.

35. When the information required to be shown on the label is, pursuant to section 33, not included in the display panel, the display panel shall contain the words in capital letters "READ ATTACHED BROCHURE (or LEAFLET) BEFORE USING" prominently displayed thereon. SOR/92-585, s. 2(F).

36. Subject to the approval of the Minister, additional information relating to the control product and any graphic design or symbol may be shown on the label if it does not unreasonably detract or obscure the information required to be shown on the label. SOR/92-585, s. 2(F).

37. A registrant may include on the label the following limitation of warranty statement: "Seller's guarantee shall be limited to the terms set out on the label and subject thereto, the buyer assumes the risk to persons or property arising from the use or handling of this product and accepts the product on that condition". SOR/92-585, s. 2(F).

38. Where a control product is distributed in a bulk container, the information referred to in paragraphs 27(2)(a), (b), (e), (f), (g), (h), (l), and (m) shall be shown
(a) on the bulk container; and
(b) on the shipping bill respecting the control product or on a statement accompanying the shipment.

39. (1) Except as set out in subsections (2) and (3), the information on the label of a control product shall be in both the English and the French languages as of the earlier of
(a) the day after December 31, 2002 on which the registration of the control product is granted, amended or renewed, and
(b) January 1, 2008.
(2) Until January 1, 2008, if the entirety of the information on the label of a control product is not already in the English and the French languages, the amended label following the amendment of a registration, in accordance with paragraph 17(1)(b), to authorize the use of the control product for the emergency control of infestations is exempt from the requirement of paragraph (1)(a).

(3) The information on the label of a registered control product that is not authorized to be manufactured, imported, sold or used in Canada may be in either the English or the French language, or both. SOR/92-585, s. 2(F); SOR/2001-529, s. 1.

UNITS OF MEASUREMENT ON LABELS

40. (1) Units of measurement shown on a label shall be expressed in accordance with the International System of Units (metric) as set out in Schedule I to the *Weights and Measures Act*.

(2) The declaration of net quantity shall be shown in the decimal system to three figures, except that where the net quantity is below 100 grams, millilitres, cubic centimetres, square centimetres or centimetres, it may be shown to two figures and, in either case, any final zero appearing to the right of the decimal point need not be shown.

(3) A net quantity that is less than a whole number shall be shown

(a) in the decimal system with the numeral zero preceding the decimal point; or

(b) in words.

(4) The metric units in the declaration of net quantity shall be shown

(a) in millilitres, where the net volume of the product is less than 1 000 millilitres, except that 500 millilitres may be shown as being 1/2 litre;

(b) in litres, where the net volume is 1 000 millilitres or more;

(c) in grams, where the net mass is less than 1 000 grams, except that 500 grams may be shown as being 1/2 kilogram;

(d) in kilograms, where the net mass is 1 000 grams or more;

(e) where paragraphs (a) to (d) do not apply, in units described in the *Weights and Measures Act* that are acceptable to the Minister.

(5) Units of measurement shown on a label may also be in accordance with Canadian units of measurement (imperial) as set out in Schedule II to the *Weights and Measures Act*. SOR/85-706, s. 1.

41. All information shown on a label shall be printed in a manner that is conspicuous, legible and indelible. SOR/92-585, s. 2(F).

DENATURATION

42. Where the physical properties of a control product are such that the presence of the control product may not be recognized when it is used and is likely to expose a person or domestic animal to a severe health risk, the control product shall be denatured by means of colour, odour or such other means as the Minister may approve to provide a signal or warning as to its presence.

STORAGE AND DISPLAY

43. A control product shall be stored and displayed in accordance with any conditions set forth on the label, and a control product bearing the POISON symbol superimposed on the DANGER symbol shall be stored and displayed apart from food for humans or feed for animals

(a) in a separate room; or

(b) separated by a physical barrier so as to avert the contamination of the food or feed. SOR/92-585, s. 2(F).

DISTRIBUTION

44. A control product shall be distributed in a manner that is consistent with any special conditions specified by the Minister and, when required by the Minister, the conditions shall be shown

(a) on the label; and

(b) on the shipping bill respecting the control product or on a statement accompanying the shipment. SOR/92-585, s. 2(F).

PROHIBITIONS RESPECTING USE

45. (1) No person shall use a control product in a manner that is inconsistent with the directions or limitations respecting its use shown on the label.

(2) No person shall use a control product imported for the importer's own use in a manner that is inconsistent with the conditions set forth on the importer's declaration respecting the control product.

(3) No person shall use a control product that is exempt from registration under paragraph 5(a) for any purpose other than the manufacture of a registered control product. SOR/92-585, s. 2(F).

PACKAGING

46. (1) The package for every control product shall be sufficiently durable and be designed and constructed so that it will contain the control product safely under practical conditions of storage, display and distribution.

(2) Every package shall be designed and constructed to permit

(a) the withdrawal of any or all of the contents in a manner that is safe to the user; and

(b) the closing of the package in a manner that will contain the control product satisfactorily under practical conditions.

(3) Every package shall be constructed so as to minimize the degradation or change of its contents resulting from interaction or from the effects of radiation or other means.

(4) When the package is essential to the safe and effective use of the control product, it shall be designed and constructed to meet specifications acceptable to the Minister on registration of the control product. SOR/92-585, s. 2(F).

STANDARDS

47. (1) Subject to subsections (2), (3) and (4), every control product shall conform to the specifications and bear the label contained in the register of control products.

(2) No control product containing 2,4,5-T (2,4,5-trichlorophenoxy acetic acid) as its active ingredient or containing an active ingredient based on or derived from 2,4,5-T shall contain 2,3,7,8-tetrachlorodibenzo-p-dioxin in excess of 100 parts per billion parts of 2,4,5-T.

(3) No control product containing fenoprop (2,4,5-trichlorophenoxy propionic acid) as its active ingredient or containing an active ingredient based on or derived from fenoprop shall contain 2,3,7,8-tetrachlorodibenzo-p-dioxin in excess of 100 parts per billion parts of fenoprop.

(4) No control product containing trifluralin (2,6-dinitro-N, N-dipropyl-4-trifluoromethylaniline) as its active ingredient or containing an active ingredient based on or derived from trifluralin shall contain N-nitrosodi-n-propylamine (NDPA) in excess of one part per million parts of trifluralin. SOR/79-180, s. 3; SOR/82-591, s. 1; SOR/92-585, s. 2(F).

48. Every control product shall have the chemical and physical composition and uniformity of mix necessary for it to be effective for the purposes for which it is intended.

GENERAL PROHIBITIONS

49. A control product shall not contain an active ingredient unless it is present in an amount sufficient to add materially to the effectiveness, merit or value of the control product. SOR/92-585, s. 2(F).

50. A label shall not contain any information respecting any organism or causative agent of a disease of humans mentioned in Schedule A to the *Food and Drugs Act*. SOR/92-585, s. 2(F).

51. Unless otherwise authorized by the Minister,

- (a) a label shall not contain any information respecting any organism or causative agent of a disease of domestic animals that is required to be reported under the *Animal Disease and Protection Act*;
- (b) information that is required by or under these Regulations to be shown on a label shall not appear on the bottom of the package; and
- (c) words stating, implying or inferring that a control product is approved, accepted or recommended by the Government of Canada or by any department or agency thereof shall not appear on a package or label or in any advertisement respecting a control product. SOR/92-585, s. 2(F).

SAMPLING

52. An inspector may take a sample of a control product in a manner approved by the Director General as being representative of the lot from which it is taken, and in the case of a control product that is

- (a) a liquid packaged in containers of less than one gallon, the sample may consist of the entire package;
- (b) a dry material packaged in containers of less than 10 pounds, the sample may consist of the entire package;
- (c) a device, the sample may consist of the entire device;
- (d) a liquid or material packaged in greater quantities than those mentioned in paragraphs (a) and (b), or any material, substance or thing that may contain an active ingredient or may be contaminated by a control product or its residues, the sample shall consist of a quantity deemed necessary by the Director General. SOR/92-585, s. 2.

DETENTION

53. (1) A control product seized pursuant to section 10 of the Act may be detained by an inspector at any place by attaching a detention tag to at least one package of the control product in the lot that has been seized.

(2) Upon attaching a detention tag to a package pursuant to subsection (1), the inspector shall deliver or mail to the owner or other person from whom the control product was seized a notice of detention together with information respecting the quantity, identity and location of the control product seized.

(3) Except with the written authority of an inspector, no person shall alter or remove a detention tag placed on a package pursuant to subsection (1).

(4) Where a control product has been seized and detained by an inspector, he may, in order to preserve or safeguard the control product or alleviate any hazard, require the removal of the

control product to such a place of safe keeping as he may designate, and the owner of the control product shall pay to the Minister upon request all reasonable costs incidental to such removal and safe keeping.

(5) Any control product forfeited to Her Majesty pursuant to subsection 10(3) of the Act may be destroyed or disposed of in such manner as the Minister may direct and the owner shall pay to the Minister, upon request, all reasonable costs incidental to such destruction or disposition. SOR/93-232, s. 2.

54. Where a control product has been seized and detained by an inspector, the registrant shall be entitled to a hearing if he so requests, and sections 24 and 25 apply in respect of the hearing. SOR/92-585, s. 2(F).

IMPORT

55. A control product may be imported into Canada if it is accompanied by a declaration, in a form specified by the Minister, which form shall be signed by the importer and shall state

- (a) the name and address of the person who is shipping the control product;
- (b) the name and brand, if any, of the control product;
- (c) the common name or chemical name of the active ingredient of the control product and the amount of the active ingredient contained therein;
- (d) the total amount of the control product being imported;
- (e) the name and address of the importer; and
- (f) the purpose of the importation of the control product using the words
 - (i) "For Resale", together with the registration number of the control product, where it is registered under these Regulations and is being imported for the purpose of resale,
 - (ii) "For Manufacturing Purposes", where the control product is being imported for use in the manufacture of a registered control product, or
 - (iii) "For Research Purposes", where the control product is being imported for use by a person for research purposes. SOR/92-585, s. 2(F).

56. Where the collector of customs at a port of entry is not satisfied that an importer's declaration is complete and in order, he shall hold the control product at the port of entry or place the control product in bond and forthwith advise a Regional Pesticides Officer. SOR/92-585, s. 2.

57. The collector of customs at a port of entry shall forward one copy of every importer's declaration to a Regional Pesticides Officer. SOR/92-585, s. 2.

SCHEDULE I

(ss. 3 and 28)

1. Garment bags, cabinets or chests that are manufactured, represented or sold as a means to protect clothing or fabrics from pests.
2. Apparatuses that are manufactured, represented or sold as a means to attract or destroy flying insects, or to attract and destroy flying insects.
3. Devices that are manufactured, represented or sold as a means to repel pests by causing physical discomfort by means of sound, touch or electromagnetic radiation.
4. Devices for attachment to garden watering hoses that are manufactured, represented or sold as a means to dispense or apply a control product.

5. Devices that are manufactured, represented or sold as a means of providing the automatic or unattended application of a control product.

6. Devices that are sold for use with chemical products containing cyanide as a means to control animal pests.

SOR/93-232, s. 2.

SCHEDULE II

(s. 5)

1. Feed for animals.

2. Fertilizer that is subject to the *Fertilizers Act* if the control product contained therein is registered under these Regulations.

3. Seed that has been treated with a control product registered for the purpose of treating seed, if
(a) the seed is sold and shipped in bulk and the shipping documents bear information setting forth the common name or chemical name of the active ingredient of the control product used to treat the seed; and

(b) where the seed is packaged, the package bears a label with the words "This seed is treated with", followed by the name of the control product including the common name or chemical name of its active ingredient together with the appropriate precautionary symbols and signal words selected from Schedule III and such other statements as are required by these Regulations and are applicable to the control product used to treat the seed.

4. A water conditioner that

(a) is represented to control algae and is for use in or around a dwelling in humidifiers, fish aquaria, water beds or any appliance having a water reservoir;

(b) contains 60 per cent or less copper sulphate that is registered pursuant to these Regulations; and

(c) is in a package and has a label that has a display panel consisting of one principal display panel and at least one secondary display panel if

(i) the principal display panel contains

(A) the identity of the water conditioner in terms of its function referred to in paragraph (a),

(B) the information set out in items 1 to 3 of the table to section 9 in respect of that water conditioner,

(C) in respect of items 2 and 3 of the table to this section, the symbol shown in Schedule III for the signal word "Poison"; and

(D) the relevant signal words set out in Column II of an item of the table to this section, and

(ii) the secondary display panel contains the information set out in items 5 to 7 of the table to section 9 in respect of that water conditioner.

TABLE

| Item | Column I Copper Sulphate Concentration of Water Conditioner | Column II Signal Words |
|------|--|---------------------------|
| 1. | Less than 12% | None |
| 2. | 12% or greater but less than 30% | "Caution-- Poison" |

3. 30% or greater but less than 61%

"Warning--
Poison"

5. to 7. [Repealed, SOR/2001-318, s. 2]

8. A device that is manufactured, represented or sold as a means to attract and destroy flying insects, by means other than the use of an active ingredient that is a chemical, and that is intended for use indoors if

(a) the device has been certified by the Canadian Standards Association under CSA Standard C22.2 No. 189-1979, *High-Voltage Insect Killers*, dated June, 1979, to conform to that Standard; and

(b) the label of that device contains

(i) the symbol or design of the Canadian Standards Association,

(ii) the identity of the device in terms of its function,

(iii) the information set out in items 3 to 6 of the table to section 9 in respect of that device,

(iv) the statement of precaution "This device should not be installed directly over surfaces where food is exposed, processed or prepared.", and

(v) the statement "To aid in the reduction of house-fly population, use this device in conjunction with sanitary practices."

9. A device that is manufactured, represented or sold as a means to attract and destroy flying insects by means other than the use of an active ingredient that is a chemical and is intended for use outdoors, if

(a) the device has been certified by the Canadian Standards Association under CSA Standard C22.2 No. 189-1979, *High-Voltage Insect Killers*, dated June, 1979, to conform to that Standard; and

(b) the label of that device contains

(i) the symbol or design of the Canadian Standards Association,

(ii) the identity of the device in terms of its function,

(iii) the information set out in items 3 to 6 of the table to this section, in respect of that device,

(iv) the words "For Outdoor Residential and Recreational Use.", and

(v) the words "This device does not control black flies, mosquitoes or other biting flies."

TABLE

1. A guarantee statement set out in the following manner:

(a) the word "GUARANTEE" in upper case letters, followed by

(b) a colon, followed by

(c) the common name of the active ingredient of the control product as set out in CSA Standard Z143-1980, *Common Name for Pest Control Chemicals*, dated January, 1980, or, where no common name for the ingredient is set out in that Standard, the chemical or other name of that ingredient, followed by

(d) the contents of the active ingredient expressed

(i) in the case of a control product that is a liquid, as a percentage by mass or as mass per unit volume or both, or

(ii) in the case of a control product that is a dust, a wettable powder or other dry formulation, as a percentage by mass.

2. A declaration of net quantity of the control product in the package expressed

(a) by volume, in the case of a control product that is a liquid or gas or is viscous, or

- (b) by mass, in the case of a control product that is solid or pressure-packed.
3. The name and postal address of the Canadian agent or distributor.
 4. The directions for the use of the control product, including dosage rates, time of application and use limitation.
 5. Information identifying any hazards respecting the handling, storage, display, distribution and disposal of the control product, including instructions respecting procedures to alleviate the hazards.
 6. (1) Information identifying any hazards to
 - (a) things on or in relation to which the control product is intended to be used; and
 - (b) public health, plants, animals or the environment.
 (2) Instructions respecting procedures to alleviate the hazards referred to in paragraphs (1)(a) and (b).
 7. Instructions in first aid, under the heading "FIRST AID INSTRUCTIONS" in upper case setting out the practical measures to be taken in the event of poisoning, intoxication or injury caused by the control product.
 10. A swimming pool product that
 - (a) is represented or sold as a product the function of which is to control bacteria or algae or both;
 - (b) contains an active ingredient that is registered pursuant to these Regulations of the type, concentration and available chlorine set out in the table to this section; and
 - (c) is in a package and has a label that has a display panel consisting of one principal display panel and at least one secondary display panel where
 - (i) the principal display panel contains
 - (A) the identity of the product in terms of its function referred to in paragraph (a),
 - (B) the information set out in items 1 to 3 of the table to section 9 in respect of that product,
 - (C) the relevant signal words set out in column V of an item of the table to this section,
 - (D) in respect of an active ingredient set out in column I of items 1 to 6 of the table to this section, the symbol shown in Schedule III for the signal word "Corrosive", superimposed on the symbol shown in that Schedule for the relevant signal word "Warning" or "Caution" set out in column V of item 1 of the table to this section and in paragraph (b) of items 2 to 6 in column V of the table to this section, and
 - (E) in respect of an active ingredient set out in column I of items 2 to 6 of the table to this section, the symbol shown in Schedule III for the signal word "Poison", superimposed on the symbol shown in that Schedule for the relevant signal word "Warning" or "Caution" set out in paragraph (a) of items 2 to 6 in column V of the table to this section, and
 - (ii) the secondary display panel contains the information set out in items 4 to 7 of the table to section 9 in respect of that product.

TABLE

| Column I Item | Column II Active Ingredient | Column III Concentration % | Column III Available Chlorine % | Column IV Symbols | Column V Signal Words |
|------------------|--------------------------------|-------------------------------|------------------------------------|----------------------|--------------------------|
| 1. | Sodium Hypochlorite | 10.8 | 10.3 | Corrosive Warning | "Warning Corrosive" |
| 2. | Calcium Hypochlorite | 65 or | 65 or | (a) Poison | (a) "Warning-- |

| | | | | |
|--|-----|----|---|---|
| | 70 | 70 | Warning (b) Corrosive Caution | Poison" (b) "Caution-- Corrosive" |
| 3. Lithium Hypochlorite | 29 | 35 | (a) Poison Warning (b) Corrosive Caution | (a) "Warning-- Poison" (b) "Caution-- Corrosive" |
| 4. Trichloro-s-triazinetrione | 100 | 90 | (a) Poison Caution (b) Corrosive Caution | (a) "Caution-- Poison" (b) "Caution-- Corrosive" |
| 5. Sodium Dichloro-s-triazinetrione | 100 | 60 | (a) Poison Caution (b) Corrosive Caution | (a) "Caution-- Poison" (b) "Caution-- Corrosive" |
| 6. Sodium Dichloro-s- triazinetrione dihydrate | 100 | 56 | (a) Poison Caution (b) Corrosive Caution | (a) "Caution-- Poison" (b) "Caution-- Corrosive" |

11. A spa product that

(a) is represented or sold as a product the function of which is to control bacteria or algae or both;

(b) contains an active ingredient registered pursuant to these Regulations of the type, concentration and available chlorine set out in the table to this section; and

(c) is in a package and has a label that has a display panel consisting of one principal display panel and at least one secondary display panel where

(i) the principal display panel contains

(A) the identity of the product in terms of its function referred to in paragraph (a),

(B) the information set out in items 1 to 3 of the table to section 9 in respect of that product,

(C) the relevant signal words set out in column V of an item of the table to this section,

(D) in respect of an active ingredient set out in column I of items 1 to 3 and 5 of the table to this section, the symbol shown in Schedule III for the signal word "Corrosive", superimposed on the symbol shown in that Schedule for the relevant signal word "Caution" set out in paragraph (b) of items 1 to 3 in column V of the table to this section, and in column V of item 5 of the table to this section, and

(E) in respect of an active ingredient set out in column I of items 1 to 3 of the table to this section, the symbol shown in Schedule III for the signal word "Poison", superimposed on the symbol shown in that Schedule for the relevant signal word "Warning" or "Caution" set out in paragraph (a) of items 1 to 3 in column V of the table to this section, and

(ii) the secondary display panel contains the information set out in items 4 to 7 of the table to section 9 in respect of that product.

TABLE

| Column I | Column II | Column III | Column IV | Column V |
|----------|-----------|------------|-----------|----------|
|----------|-----------|------------|-----------|----------|

| Item | Active Ingredient | Concentration % | Available Chlorine % | Symbols | Signal Words |
|------|---|-----------------|----------------------|--|---|
| 1. | Lithium Hypochlorite | | 29 35 | (a) Poison Warning (b) Corrosive Caution | (a) "Warning--Poison" (b) "Caution-- Corrosive" |
| 2. | Sodium Dichloro-s- triazinetrione | | 10 0 62 | (a) Poison Caution (b) Corrosive Caution | (a) "Caution--Poison" (b) "Caution-- Corrosive" |
| 3. | Sodium Dichloro-s- triazinetrione dihydrate | | 10 0 56 | (a) Poison Caution (b) Corrosive Caution | (a) "Caution--Poison" (b) "Caution-- Corrosive" |
| 4. | Sodium Bromide | | 35 -- | None | None |
| 5. | Potassium Monopersulfate | | 32 -- | Corrosive Caution | "Caution--Corrosive" |

SOR/80-628, s. 1; SOR/88-89, s. 4; SOR/92-585, s. 2; SOR/92-655, s. 1; SOR/2001-318, s. 2.

SCHEDULE III

(s. 27 and Sch. II)

PRECAUTIONARY SYMBOLS AND SIGNAL WORDS

GRAPHIC IS NOT DISPLAYED, SEE C.R.C., C. 1253, P. 10171

SCHEDULE IV

(s. 5)

1. After January 1, 1984, any active ingredient or any source of active ingredient except an active ingredient that has been accepted for use in a control product that is registered as of January 1, 1984.

2. After January 1, 1984, an active ingredient used in any new formulated control product.

3. In this schedule,

"new formulated control product" means a control product formulation not registered as of January 1, 1984 for which the application to register is received after January 1, 1984.

4. Any active ingredient used in a control product described in Schedule II.

SOR/83-937, s. 3; SOR/88-89, s. 5; SOR/92-585, s. 2(F).

Pest Control Products Act, R.S.C. 2002, c. 28[Not in force]

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

[Assented to 12th December, 2002]

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.

Pesticides Act

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

Notice of Currency:* This document is up to date.

*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the [Table of Public Statutes \(Legislative History\)](#).

Amended by: 1993, c. 27, Sched.; 1994, c. 27, s. 117; 1997, c. 37, s. 5; 1998, c. 35, ss. 77-102; 2000, c. 22, s. 3; 2000, c. 26, Sched. F, s. 14; 2001, c. 9, Sched. G, s. 7; 2001, c. 17, s. 6; 2002, c. 4, s. 66; 2002, c. 17, Sched. C, s. 22.

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Interpretation

1. (1) In this Act,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) the person having the charge, management or control, of the pesticide, substance or thing; ("personne responsable")

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

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

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

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

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

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

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

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

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

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

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

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

Idem, Director

(2) In this Act,

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

Health or safety

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

Powers and duties of Minister

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

(a) investigate problems relating to pesticides and the control of pests;

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

Appointment of Directors

3. (1) The Minister shall appoint in writing such employees of the Ministry as the Minister considers necessary as Directors in respect of such sections of this Act and in respect of such of the regulations or sections thereof as are set out in the appointments.

Limitation of authority of Director

(2) The Minister, in an appointment under subsection (1), may limit the authority of a Director in such manner as the Minister considers necessary or advisable. R.S.O. 1990, c. P.11, s. 3.

Prohibited use of pesticides

4. No person, whether acting or not acting under the authority of a licence or permit under this Act or an exemption under the regulations, shall discharge or cause or permit the discharge of a pesticide or of any substance or thing containing a pesticide into the environment that,

- (a) causes or is likely to cause impairment of the quality of the environment for any use that can be made of it greater than the impairment, if any, for such use that would necessarily result from the proper use of the pesticide;
- (b) causes or is likely to cause injury or damage to property or to plant or animal life greater than the injury or damage, if any, that would necessarily result from the proper use of the pesticide;
- (c) causes or is likely to cause harm or material discomfort to any person greater than the harm or material discomfort, if any, that would necessarily result from the proper use of the pesticide;
- (d) adversely affects or is likely to affect adversely the health of any person to a greater degree than the adverse effect, if any, that would necessarily result from the proper use of the pesticide;
- (e) impairs or is likely to impair the safety of any person to a greater degree than the impairment, if any, of the safety of any person that would necessarily result from the proper use of the pesticide; or
- (f) renders or is likely to render directly or indirectly any property or plant or animal life unfit for use by humans to a degree greater than the unfitness, if any, that would necessarily result from the proper use of the pesticide. R.S.O. 1990, c. P.11, s. 4.

Licences relating to exterminations

Prohibition as to exterminations

5. (1) No person shall engage in, perform or offer to perform an extermination except under and in accordance with a licence of a prescribed class and except by the use of a pesticide of a class and under the conditions for use prescribed for that class of licence or unless exempt under the regulations.

Licence required to operate extermination business

(2) No person shall operate an extermination business except under and in accordance with a licence of a prescribed class or unless exempt under the regulations.

Idem, assistant structural exterminator

(3) No person shall serve for a period of more than six months as an assistant to the holder of a licence to perform structural exterminations unless the person is licensed as an assistant exterminator or is exempt under the regulations.

Notice as to assistants to land exterminators or water exterminators

(4) No person shall serve for a period of more than seven days as an assistant to the holder of a licence to perform land exterminations or water exterminations unless the holder of the licence to perform the exterminations notifies the Director in writing or the person is exempt under the regulations. R.S.O. 1990, c. P.11, s. 5.

Licence to sell, offer to sell or transfer

6. Unless exempt by the regulations, no person shall sell, offer to sell or transfer any pesticide unless the pesticide is classified in accordance with the regulations and except under and in accordance with a licence that shall be for such class and in respect of each premises on, in or from which the pesticide is or will be sold, offered for sale or transferred. R.S.O. 1990, c. P.11, s. 6; 1997, c. 37, s. 5 (1).

Where permit required

7. (1) No person shall perform a land extermination or a structural extermination,
(a) by means of a pesticide;
(b) by means of a pesticide of a class; or
(c) under the conditions of use,
prescribed for the purpose of this section unless the person is the holder of a permit for the land extermination or the structural extermination issued by the Director or is exempt under the regulations.

Idem

(2) No person shall perform a water extermination unless the person is the holder of a permit issued by the Director for the water extermination or is exempt under the regulations. R.S.O. 1990, c. P.11, s. 7.

Act of officer, etc., of corporation

8. For the purposes of this Act and the regulations, an act or thing done or omitted to be done by an officer, official, employee or agent of a corporation in the course of his or her employment or in the exercise of his or her powers or the performance of his or her duties shall be deemed to be also an act or thing done or omitted to be done by the corporation. R.S.O. 1990, c. P.11, s. 8.

Liability insurance

9. An operator shall insure against liability or furnish a bond as provided for by the regulations. R.S.O. 1990, c. P.11, s. 9.

Advisory Committee

10. (1) The Committee known as the Pesticides Advisory Committee established under *The Pesticides Act*, being chapter 346 of the Revised Statutes of Ontario, 1970, and consisting of not fewer than ten members appointed by the Lieutenant Governor in Council one of whom may be designated by the Lieutenant Governor in Council as chair and for whom the Lieutenant Governor in Council may appoint a person who is not a member as secretary, is continued under the name Pesticides Advisory Committee in English and Comité consultatif sur les pesticides in French.

Quorum

(2) Six members of the Committee constitute a quorum.

Functions

(3) The Committee shall,

- (a) review annually the content and operation of this Act and the regulations and recommend changes or amendments therein to the Minister;
- (b) inquire into and consider any matter the Committee considers advisable concerning pesticides and the control of pests, and any matter concerning pesticides and the control of pests referred to it by the Minister, and report thereon to the Minister;
- (c) review publications of the Government of Ontario respecting pesticides and the control of pests, and report thereon to the Minister; and
- (d) perform such other functions as the regulations prescribe. R.S.O. 1990, c. P.11, s. 10.

Licences and permits: issue, renewal and revocation

11. (1) Subject to subsection (2), the Director shall issue or renew a licence under section 5 or 6, and subject to subsection (3), the Director shall issue a permit under section 7 to any person who applies for the licence or permit, as the case may be, in accordance with the regulations and who meets the requirements of this Act and the regulations for the particular class of licence or for the permit applied for and who pays the fee prescribed for the licence or permit.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (1) is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (1) by striking out "the fee prescribed" and substituting "the required fee". See: 2001, c. 9, Sched. G, ss. 7 (1), 8 (6).

Revocation and refusal of licence

(2) Subject to section 13, the Director may refuse to issue or renew a licence or may suspend or revoke a licence where, in the opinion of the Director,

- (a) the applicant or licensee is in contravention of this Act or the regulations;
- (b) the licensee is in breach of any term or condition of the licence;
- (c) the applicant or licensee or, where the applicant or licensee is a corporation, its officers or directors, is or are not competent to carry on the activity that would be or is authorized by the licence;
- (d) the past conduct of the applicant or licensee or, where the applicant or licensee is a corporation, of any of its officers or directors, affords reasonable grounds for belief that the activity that would be or is authorized by the licence will not be carried on with honesty and integrity;
- (e) the applicant or licensee does not possess or will not have available all premises, facilities and equipment necessary to carry on the activity authorized by the licence in accordance with this Act, the regulations and the licence;
- (f) the applicant or licensee is not in a position to observe or carry out the provisions of this Act, the regulations and the licence;
- (g) the licensee has been grossly negligent in carrying on the activity that is authorized by the licence; or
- (h) the licensee has fraudulently misrepresented their services in performing an extermination or in carrying on an extermination business.

Revocation and refusal of permit

(3) The Director may refuse to issue or may cancel a permit, may impose terms and conditions in issuing or after issuing a permit and may alter the terms and conditions of a permit that has been issued where the Director is of the opinion, upon reasonable and probable grounds, that,

- (a) the applicant or permittee is not competent to perform the extermination for which the permit is required;
- (b) the applicant or permittee does not possess or will not have available all facilities and equipment necessary to perform the extermination in accordance with this Act, the regulations and the permit;

- (c) there is or is likely to be danger to the health or safety of any person;
- (d) there is or is likely to be harm or material discomfort to any person;
- (e) there is or is likely to be impairment of the quality of the environment for any use that is being or is likely to be made of it;
- (f) there is or is likely to be injury or damage to any property or to plant or animal life;
- (g) any property or plant or animal life is or is likely to be rendered directly or indirectly unfit for use by humans;
- (h) a different method of control or extermination will or will likely be substantially as effective as the proposed extermination for which a permit is required under section 7 and will or will likely cause less impairment of the environment, if any, for any use that is being or is likely to be made of it or less harm to or adverse effect, if any, on any plant or animal life, humans or property; or
- (i) the use of the pesticide will not be or will not likely be effective or necessary to carry out the extermination. R.S.O. 1990, c. P.11, s. 11.

Term of licence

12. A licence expires as prescribed by the regulations. R.S.O. 1990, c. P.11, s. 12.

Review, refusal to issue licences, etc.

13. (1) Where the Director proposes,

- (a) to refuse to issue or renew a licence;
- (b) to suspend or revoke a licence; or
- (c) to make, amend or vary a control order,

he or she shall serve notice of the proposal, together with written reasons therefor, on the applicant, licensee or person to whom the Director intends to direct the control order. R.S.O. 1990, c. P.11, s. 13 (1).

Notice

(2) A notice under subsection (1) shall state that the applicant, licensee or person to whom the Director intends to direct the control order that is entitled to a hearing by the Tribunal if they mail or deliver to the Director and the Tribunal, within fifteen days after the notice under subsection (1) is served on them, notice in writing requiring a hearing. R.S.O. 1990, c. P.11, s. 13 (2); 2000, c. 26, Sched. F, s. 14 (4).

Powers of Director where no hearing

(3) Where an applicant, licensee or person to whom the Director intends to direct the control order does not require a hearing by the Tribunal in accordance with subsection (2), the Director may carry out the proposal stated in the notice under subsection (1). R.S.O. 1990, c. P.11, s. 13 (3); 2000, c. 26, Sched. F, s. 14 (4).

Powers of Tribunal where hearing

(4) Where an applicant, licensee or person to whom the Director intends to direct the control order requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time and place for and hold the hearing and may by order direct the Director to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Director. R.S.O. 1990, c. P.11, s. 13 (4); 2000, c. 26, Sched. F, s. 14 (4).

Extension of time for requiring hearing

(5) The Tribunal may extend the time for the giving of notice requiring a hearing by an applicant, licensee or person to whom the Director intends to direct a control order referred to in subsection (1), either before or after the expiration of such time, where it is satisfied that there are

reasonable grounds for applying for the extension and that there are apparent grounds for granting relief to the applicant, licensee or person to whom the Director intends to direct the control order referred to in subsection (1), and the Tribunal may give such directions as it considers proper consequent upon the extension. R.S.O. 1990, c. P.11, s. 13 (5); 2000, c. 26, Sched. F, s. 14 (4).

Continuation of licence pending renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of a licence, the licensee has applied for a renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue,

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (6) is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (2) by striking out "the prescribed fee" and substituting "the required fee". See: 2001, c. 9, Sched. G, ss. 7 (2), 8 (6).

(a) until the renewal is granted; or

(b) where the licensee is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Tribunal has expired and, where a hearing is required, until the Tribunal has made its decision. R.S.O. 1990, c. P.11, s. 13 (6); 2000, c. 26, Sched. F, s. 14 (4).

Emergency notice

(7) Despite subsection (6), where the Director is of the opinion that an emergency exists by reason of,

(a) danger to the safety or health of any person;

(b) impairment or immediate risk of impairment of the environment for any use that is being or is likely to be made of it;

(c) injury or damage or immediate risk of injury or damage to property, or to plant or animal life;

(d) the rendering or immediate risk of rendering directly or indirectly of any property or plant or animal life unfit for use by humans; or

(e) a failure by a licensee to have in force insurance against liability or to furnish or have in force a bond as required by section 9,

the Director, by a notice to a licensee or to a person to whom the Director intends to direct a control order, together with written reasons therefor, may refuse to renew, suspend or revoke a licence or make, amend or vary a control order and, even if the licensee or person to whom the control order is directed requires a hearing by the Tribunal, the licence shall not be deemed to continue or the suspension, revocation or the making, amendment or variation of the control order is effective upon the service of the notice, as the case requires. R.S.O. 1990, c. P.11, s. 13 (7); 2000, c. 26, Sched. F, s. 14 (4).

Where permit cancelled or terms or conditions imposed or altered

(8) Where the Director refuses to issue or cancels a permit or imposes or alters a term or condition in a permit that has been issued, the Director shall forthwith thereafter serve or cause to be served notice of his or her decision, upon the applicant or permittee, together with written reasons therefor. R.S.O. 1990, c. P.11, s. 13 (8).

Reconsideration

(9) Where the Director issues a permit subject to a term or condition, refuses to issue or cancels a permit or imposes or alters a term or condition in a permit that has been issued and the applicant or permittee makes submissions to the Director, the Director, within three days after receiving the submissions, shall reconsider and vary, rescind or confirm his or her decision and shall serve or cause to be served notice of such variance, rescission or confirmation upon the applicant or permittee together with written reasons therefor and where the Director varies or rescinds the

decision, the Director shall take such action as may be necessary to make the variation or rescission effective. R.S.O. 1990, c. P.11, s. 13 (9).

Notice

(10) A permit issued by the Director subject to a term or condition and a notice under subsection (8) shall inform the applicant or permittee that they are entitled to make submissions to the Director, in person or by an agent and by telephone or otherwise and that they are entitled to a hearing by the Tribunal if they mail or deliver to the Director and the Tribunal, within fifteen days after the notice under subsection (9) is served on them, notice in writing requiring a hearing and they may so make such submissions and so require such a hearing. R.S.O. 1990, c. P.11, s. 13 (10); 2000, c. 26, Sched. F, s. 14 (4).

Effect of service of notice

(11) Despite the making of submissions by an applicant or a permittee under subsection (10), the issuance of a permit subject to a term or condition or the cancellation of a permit or the imposition or alteration of a term or condition in a permit that has been issued by the Director is effective upon the issuance of the permit or upon the service of the notice under subsection (8). R.S.O. 1990, c. P.11, s. 13 (11).

Application of subs. (4), (5)

(12) Subsections (4) and (5) apply with necessary modifications to a hearing by the Tribunal required under subsection (10). R.S.O. 1990, c. P.11, s. 13 (12); 2000, c. 26, Sched. F, s. 14 (4).

Hearings

14. (1) The Director, the applicant, licensee, permittee or person to whom the Director intends to direct a control order who has required a hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under section 13. R.S.O. 1990, c. P.11, s. 14 (1); 2000, c. 26, Sched. F, s. 14 (4).

Notice of hearing

(2) The Tribunal shall afford to the applicant, licensee, permittee or person to whom the Director intends to direct a control order a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence or permit or to take such action as will preclude the necessity for making, amending or varying the control order. R.S.O. 1990, c. P.11, s. 14 (2); 1994, c. 27, s. 117; 2000, c. 26, Sched. F, s. 14 (4); 2001, c. 9, Sched. G, s. 7 (3).

Examination of documentary evidence

(3) An applicant, licensee, permittee or person to whom the Director intends to direct a control order who is a party to proceedings under section 13 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1990, c. P.11, s. 14 (3).

Members holding hearing not to have taken part in investigation, etc.

(4) Members of the Tribunal holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or party's representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law. R.S.O. 1990, c. P.11, s. 14 (4); 2000, c. 26, Sched. F, s. 14 (4).

(5) Repealed: 1997, c. 37, s. 5 (2).

Findings of fact

(6) The findings of fact of the Tribunal following on a hearing shall be based exclusively on evidence admissible or matters that may be noticed under the *Statutory Powers Procedure Act*. 1998, c. 35, s. 78; 2000, c. 26, Sched. F, s. 14 (4).

(7) Repealed: 2000, c. 26, Sched. F, s. 14 (3).

Release of documentary evidence

(8) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to the person by the Tribunal within a reasonable time after the matter in issue has been finally determined. R.S.O. 1990, c. P.11, s. 14 (8); 2000, c. 26, Sched. F, s. 14 (4).

Appeals

15. (1) Any party to proceedings before the Tribunal may appeal from its decision or order on a question of law to the Divisional Court in accordance with the rules of court. R.S.O. 1990, c. P.11, s. 15 (1); 2000, c. 26, Sched. F, s. 14 (4).

(2) Repealed: 1997, c. 37, s. 5 (4).

Minister entitled to be heard

(3) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under subsection (1). R.S.O. 1990, c. P.11, s. 15 (3).

Appeal to Minister

(4) Any party to a hearing before the Tribunal, within thirty days after receipt of the decision of the Tribunal or within thirty days after final disposition of an appeal, if any, under subsection (1), may appeal in writing to the Minister on any matter other than a question of law and the Minister shall confirm, alter or revoke the decision of the Tribunal as to the matter in appeal as he or she considers in the public interest. R.S.O. 1990, c. P.11, s. 15 (4); 2000, c. 26, Sched. F, s. 14 (4).

Protection from personal liability

16. (1) Except in the case of an application for judicial review or an action or proceeding that is specifically provided for with respect to a person referred to in this subsection in any Act or in a regulation under this or any other Act, no action or other proceeding for damages or otherwise shall be instituted against an employee of the Ministry, a member of the Tribunal or the Committee or a Crown employee within the meaning of the *Public Service Act* who is a provincial officer or is acting under the direction of an employee of the Ministry, or such member or provincial officer for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority. R.S.O. 1990, c. P.11, s. 16 (1); 2000, c. 26, Sched. F, s. 14 (4).

Crown not relieved of liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. R.S.O. 1990, c. P.11, s. 16 (2).

Provincial officers

17. (1) The Minister may designate in writing one or more officers or employees of the Ministry or other persons as provincial officers for the purposes of this Act and the regulations. R.S.O. 1990, c. P.11, s. 17 (1).

Provincial officers are peace officers

(2) A provincial officer is a peace officer for the purpose of enforcing this Act. 1998, c. 35, s. 79.

Investigation and prosecution

(3) A provincial officer may investigate offences under this Act and may prosecute any person whom the provincial officer reasonably believes is guilty of an offence under this Act. 1998, c. 35, s. 79.

Obstruction

(4) No person shall hinder or obstruct any provincial officer or any employee or agent of the Ministry in the performance of his or her duties under this Act. 1998, c. 35, s. 79.

False information

(5) No person shall orally, in writing or electronically, give or submit false or misleading information in any statement, document or data to any provincial officer, the Minister, the Ministry, any employee or agent of the Ministry or any person involved in carrying out a program of the Ministry in respect of any matter related to this Act or the regulations. 1998, c. 35, s. 79; 2001, c. 9, Sched. G, s. 7 (4).

Same

(6) No person shall include false or misleading information in any document or data required to be created, stored or submitted under this Act. 1998, c. 35, s. 79.

Refusal to furnish information

(7) No person shall refuse to furnish any provincial officer, the Minister, the Ministry or any employee or agent of the Ministry with information required for the purposes of this Act and the regulations. 1998, c. 35, s. 79.

Calling for assistance of member of police force

18. Whenever a provincial officer is required or empowered by this Act or the regulations to do or direct the doing of anything, such provincial officer may take such steps and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any member of the Ontario Provincial Police Force or the police force in the area where the assistance is required and it is the duty of every member of a police force to render such assistance. R.S.O. 1990, c. P.11, s. 18.

Inspection by provincial officer

19. (1) For the administration of this Act or the regulations, a provincial officer may, without a warrant or court order, at any reasonable time and with any reasonable assistance, make inspections, including,

- (a) entering any place in which the provincial officer reasonably believes a pesticide can be found;
- (b) entering any place in or from which the provincial officer reasonably believes a pesticide is being, has been or may be discharged into the environment;
- (c) entering any place that the provincial officer reasonably believes is likely to contain documents related to,
 - (i) an activity or undertaking that is, or is required to be, the subject of a permit, licence or order under this Act,
 - (ii) an activity or undertaking that is exempted by a regulation from any requirement to have a permit or licence under this Act and that is regulated by the provisions of the regulation, or
 - (iii) the discharge of a pesticide into the environment; and
- (d) entering any place that the provincial officer reasonably believes,
 - (i) is, or is required to be, subject to or referred to in a permit, licence or order under this Act, or
 - (ii) is subject to or referred to in a regulation that provides for an exemption from any requirement to have a permit or licence under this Act, where the regulation includes provisions that regulate the place.

Same

- (2) During an inspection under subsection (1), the provincial officer may,
- (a) make necessary excavations;
 - (b) require that any thing be operated, used or set in motion under conditions specified by the provincial officer;
 - (c) take samples for analysis;
 - (d) conduct tests or take measurements;
 - (e) examine, record or copy any document or data, in any form, by any method;
 - (f) record the condition of a place or the natural environment by means of photograph, video recording or other visual recording;
 - (g) require the production of any document or data, in any form, required to be kept under this Act and of any other document or data, in any form, related to the purposes of the inspection;
 - (h) remove from a place documents or data, in any form, produced under clause (g) for the purpose of making copies; and
 - (i) make reasonable inquiries of any person, orally or in writing.

Limitation re records

(3) A record made under clause (2) (f) must be made in a manner that does not intercept any private communication and that accords with reasonable expectations of privacy.

Limitation re removal of documents, data

(4) A provincial officer shall not remove documents or data under clause (2) (h) without giving a receipt for them and shall promptly return the documents or data to the person who produced them.

Power to exclude persons

(5) A provincial officer who exercises the power set out in clause (2) (i) may exclude from the questioning any person except counsel for the individual being questioned. 1998, c. 35, s. 80.

Inspection of vehicles and vessels

19.1 (1) In this section,

"vehicle" includes a trailer or other equipment attached to the vehicle.

Requirement to stop

(2) For the administration of this Act or the regulations, a provincial officer may signal a vehicle or vessel to stop.

Same

(3) On the provincial officer's signal to stop, the operator of the vehicle or vessel shall immediately come to a safe stop.

Same

(4) For the purposes of this section, a signal to stop includes,

- (a) intermittent flashes of red light, in the case of a vehicle;
- (b) intermittent flashes of blue light, in the case of a vessel; and
- (c) a hand signal to stop by a provincial officer who is readily identifiable as a provincial officer.

Sign to report

(5) Where a clearly marked sign is posted indicating that a class of vehicles or vessels should report to a certain place in the vicinity of the sign, the operator of a vehicle or vessel that passes the sign and that falls within the class of vehicles or vessels indicated shall report forthwith to the place the sign directs.

Same

(6) Where the operator of a vehicle or vessel stops under subsection (3) or reports under subsection (5), the provincial officer may make any reasonable inquiries of the operator and the operator shall produce for inspection any documents related to the operation or ownership of the

vehicle or vessel, including licenses, permits and any documents that are required to be kept by the law of any jurisdiction in relation to the carriage of any cargo or container.

Inspection powers

(7) Based on questioning or examination of documents conducted under subsection (6), the provincial officer may, without warrant or court order, inspect any means of containment that the provincial officer reasonably believes is being used for the handling or transportation of a pesticide.

Same

(8) As part of an inspection under subsection (7), the provincial officer may open or require the operator to open any cargo hold, container or other means of containment.

Same

(9) During an inspection conducted under subsection (6) or (7), the provincial officer may exercise such powers under subsection 19 (2) as are reasonably required for the administration of this Act or the regulations.

Same

(10) Subsections 19 (3), (4) and (5) apply to the exercise of a power under subsection (9). 1998, c. 35, s. 80.

Power to administer other Acts

19.2 A provincial officer who exercises any power set out in section 19, 19.1, 22, 23 or 23.1 may, if the provincial officer is designated as such under the *Environmental Protection Act*, the *Nutrient Management Act, 2002* or the *Ontario Water Resources Act*, as the case may be, do anything authorized by,

(a) section 156, 156.1, 160, 161 or 161.1 of the *Environmental Protection Act*;

(b) section 13, 14 or 23 of the *Nutrient Management Act, 2002*; or

(c) section 15, 15.1, 19, 20 or 20.1 of the *Ontario Water Resources Act, 2002*, c. 4, s. 66 (1).

Entry to dwellings

19.3 A person shall not exercise a power conferred by this Act to enter a room actually used as a dwelling without the consent of the occupier except under the authority of an order under section 20. 1998, c. 35, s. 80.

Identification

19.4 On request, a provincial officer who exercises a power under this Act shall identify himself or herself as a provincial officer either by the production of a copy of his or her designation or in some other manner and shall explain the purpose of the exercise of the power. 1998, c. 35, s. 81.

Entry, etc., may be prohibited

19.5 (1) A provincial officer may by order prohibit entry into all or part of any land or place or prohibit the use of, interference with, disruption of, or destruction of any thing in any of the following circumstances:

1. During an inspection under section 19, section 19.1 or 20.

2. During a search under section 23.

3. During the time required for the provincial officer to obtain an order under section 20 of this Act or a warrant under section 158 of the *Provincial Offences Act*.

4. During a search carried out under a warrant issued under section 158 of the *Provincial Offences Act*.

Requirements for order

(2) An order under subsection (1) shall not be issued unless the provincial officer reasonably believes that,

- (a) in the case of an order prohibiting entry, there is on the land or in the place a thing that will afford evidence of an offence under this Act;
- (b) in the case of an order prohibiting the use of, interference with, disruption of, or destruction of a thing, the thing will afford evidence of an offence under this Act; or
- (c) in the case of an order prohibiting entry or an order prohibiting the use of, interference with, disruption of, or destruction of a thing, there is a discharge or a likelihood of discharge of a pesticide or a substance or thing containing a pesticide into the environment, out of the normal course of events, from the land, place or thing, that has resulted or is likely to result in an effect referred to in any of clauses 29 (a) to (f).

Notice of order

(3) The provincial officer shall give notice of the order in the manner that he or she considers appropriate in the circumstances.

Contents of notice

(4) Notice of the order shall include an explanation of the rights provided by subsections (6) and (7).

Order not effective where no notice

(5) An order under subsection (1) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order.

Request for rescission

(6) A person aggrieved by the order may make an oral or written request to the Director to rescind it and may make oral or written submissions to the Director in support of the request.

Powers of Director

(7) The Director shall give prompt consideration to any request or submissions made under subsection (6) and may rescind the order.

Same

(8) For the purposes of subsection (7), the Director may substitute his or her own opinion for that of the provincial officer.

Same

(9) A Director who rescinds an order under subsection (7) shall give such directions to a provincial officer as the Director considers appropriate to bring the rescission to the attention of persons affected.

No stay

(10) A request for rescission of an order under subsection (1) does not stay the order, unless the Director orders otherwise in writing.

Duration of order

(11) An order under subsection (1) shall,

(a) subject to clause (b), be effective for the shorter of the length of time necessary to complete the inspection or search referred to in that subsection or a period not exceeding two days excluding holidays; or

(b) where the inspection or search referred to in subsection (1) is under an order under section 20 of this Act or under a warrant issued under section 158 of the *Provincial Offences Act* and a time limit for the inspection or search is specified in the order or warrant, be effective until the expiration of that time. 1998, c. 35, s. 81.

Order of justice: prohibiting entry, or use, etc., of things

19.6 (1) Where a justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground for believing that it is appropriate for the administration of this Act or the regulations or necessary to protect human health or safety or to protect property, the justice may

issue an order prohibiting entry into all or part of any land or place or prohibiting the use of, interference with, disruption of, or destruction of any thing.

Same

(2) The prohibition under the justice's order shall, subject to subsection (3), be for such period of time as is set out in the order.

Expiry

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order or the day that is 30 days after the date on which the order is made.

Renewal

(4) An order under this section may be renewed for any reason set out in subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days.

Notice of application

(5) An initial order under subsection (1) may be issued on application without notice.

Same

(6) A renewal order under subsection (4) may be issued on application made with such notice, if any, as is specified for the purpose under subsection (7).

Same

(7) In an order under subsection (1) or (4), a justice may specify notice requirements that must be met by a person applying for a renewal of the order or for a further renewal of the order, as the case may be.

Notice of order

(8) A provincial officer may give notice of an order under subsection (1) or (4) in the manner that he or she considers appropriate in the circumstances.

Order not effective where no notice

(9) An order under subsection (1) or (4) is not effective in any court proceeding against a person where the person satisfies the court that the person neither knew nor should have known of the order. 1998, c. 35, s. 81.

Securing of place

19.7 Where an order under section 19.5 or 19.6 is in effect, a provincial officer may take measures to secure the land, place or thing to which the order relates by means of locks, gates, fences, security guards or such other means as the provincial officer deems necessary to prevent entry into the land or place or to prevent the use of, interference with, disruption of, or destruction of the thing. 1998, c. 35, s. 81.

Order of justice: authorizing inspection

20. (1) A justice may issue an order authorizing a provincial officer to do anything set out in subsection 19 (1) or (2) or section 19.1 if the justice is satisfied, on evidence under oath by a provincial officer, that there is reasonable ground to believe that it is appropriate for the administration of this Act or the regulations for the provincial officer to do anything set out in subsection 19 (1) or (2) or section 19.1 and that the provincial officer may not be able to effectively carry out his or her duties without an order under this section because,

- (a) no occupier is present to grant access to a place that is locked or otherwise inaccessible;
- (b) a person has prevented the provincial officer from doing anything set out in subsection 19 (1) or (2) or section 19.1;
- (c) there is reasonable ground to believe that a person may prevent a provincial officer from doing anything set out in subsection 19 (1) or (2) or section 19.1;

- (d) it is impractical, because of the remoteness of the place to be inspected or because of any other reason, for the provincial officer to obtain an order under this section without delay if access is denied; or
- (e) there is reasonable ground to believe that an attempt by the provincial officer to do anything set out in subsection 19 (1) or (2) or section 19.1 without the order,
 - (i) might not achieve its purpose, or
 - (ii) might endanger human health or safety, property or the natural environment.

Same

(2) Subsections 19 (3), (4) and (5) apply to an inspection under an order under this section.

Expiry

(3) Unless renewed, an order under this section expires on the earlier of the day specified for the purpose in the order and the day that is 30 days after the date on which the order is made.

Renewal

(4) An order under this section may be renewed in the circumstances in which an order may be made under subsection (1), before or after expiry, for one or more periods each of which is not more than 30 days.

When to be executed

(5) An order under this section shall be carried out between 6 a.m. and 9 p.m., unless the order otherwise authorizes.

Application without notice

(6) An order under this section may be issued or renewed on application without notice. 1998, c. 35, s. 82.

Samples and copies

21. A provincial officer may detain samples or copies obtained under section 19, 19.1 or 20 for any period and for any of the purposes of this Act and the regulations. 1998, c. 35, s. 83.

Seizure during inspection

22. During an inspection under section 19, 19.1 or 20, a provincial officer may, without a warrant or court order, seize any thing that is produced to the provincial officer or that is in plain view, if,

- (a) the provincial officer reasonably believes that the thing will afford evidence of an offence under this Act;

- (b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence under this Act and that the seizure is necessary to prevent the continuation or repetition of the offence; or

- (c) the thing is discharging or is likely to discharge a pesticide, or a substance or thing containing a pesticide, into the environment out of the normal course of events and impairment of the environment has resulted or is likely to result. 1998, c. 35, s. 83.

Searches relating to offences

23. (1) In this section,

"offence" means an offence under section 4, 6 or 7. R.S.O. 1990, c. P.11, s. 23 (1).

Search by provincial officer re actual pollution

(2) A provincial officer may, without a search warrant, search any place other than a room actually used as a dwelling if the provincial officer has reasonable ground to believe,

- (a) that an offence has been committed;

- (b) that there is in such place any thing that will afford evidence as to the commission of the offence; and

- (c) that there are exigent circumstances that make it impractical to obtain a search warrant. R.S.O. 1990, c. P.11, s. 23 (2).

Seizure during search

(3) During a search under subsection (2), a provincial officer, without warrant or court order, may seize any thing if,

(a) the provincial officer reasonably believes that the thing will afford evidence of an offence; or
(b) the provincial officer reasonably believes that the thing was used or is being used in connection with the commission of an offence and that the seizure is necessary to prevent the continuation or repetition of the offence. 1998, c. 35, s. 84.

(4) Repealed: 1998, c. 35, s. 84.

Detention or removal

23.1 (1) A provincial officer who seizes any thing under section 22 or 23 may remove the thing or may detain it in the place where it is seized.

Receipt

(2) Where possible, the provincial officer shall inform the person from whom a thing is seized under section 22 or 23 as to the reason for the seizure and shall give the person a receipt for the thing seized. 1998, c. 35, s. 85.

Report to justice re: seizure

24. (1) A provincial officer who seizes any thing during an inspection or search under section 22 or 23 shall bring the thing seized before a justice or, if that is not reasonably possible, shall report the seizure to a justice. 1998, c. 35, s. 86.

Seizure

(2) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of a thing seized by a provincial officer during an inspection or search under section 22 or 23. R.S.O. 1990, c. P.11, s. 24 (2).

Disposition of certain things

24.1 (1) Where the Director believes that, given the nature of a thing seized under section 22 or 23, the thing may pose a risk to human health or safety or to property, the Director may direct the person having custody of the thing, to dispose of the thing in a manner satisfactory to the Director.

Disposition of seized perishables

(2) Where the person having custody of any thing seized under section 22 or 23 believes that the thing will rot, spoil or otherwise perish, the person may dispose of the thing.

Non-application of provision

(3) Section 24 does not apply to a thing disposed of in accordance with this section.

Forfeiture

(4) A thing disposed of in accordance with this section is forfeited to the Crown. 1998, c. 35, s. 87.

Notice of disposal

24.2 (1) Where a thing has been disposed of in accordance with section 24.1, the Director shall ensure that a provincial officer gives written notice of the seizure and disposal, within 15 days of the disposal,

(a) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized; and

(b) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner. 1998, c. 35, s. 87.

Contents of notice

(2) Notice under subsection (1) shall include,

- (a) a description of the thing seized sufficient to enable it to be identified;
- (b) the location at which the thing was seized;
- (c) the date of the seizure and disposal;
- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure and disposal;
- (f) a reference to the statutory provision authorizing the seizure and disposal; and
- (g) a reference to the statutory provision permitting the person to apply to the Superior Court of Justice for relief against the forfeiture. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

Forfeiture may be ordered

24.3 (1) On the application of the Director, the Superior Court of Justice may order that a thing seized under section 22 or 23 or under a warrant issued under the *Provincial Offences Act* in connection with the commission or suspected commission of an offence under this Act be forfeited to the Crown. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

Where no order to be made

(2) No order shall be made under subsection (1) unless the court is satisfied that,

- (a) the seizure was lawful; and
- (b) no later than seven days before the hearing of the application, written notice has been provided by a provincial officer,
 - (i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,
 - (ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner,
 - (iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and
 - (iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 87.

Contents of notice

(3) Notice under subsection (2) shall include,

- (a) a description of the thing seized sufficient to enable it to be identified;
- (b) the location at which the thing was seized;
- (c) the date of the seizure;
- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure;
- (f) a reference to the statutory provision authorizing the seizure;
- (g) a statement that an order for forfeiture of the thing is being sought under this section; and
- (h) a statement that the person to whom the notice is provided may make submissions to the Superior Court of Justice with respect to the issuance of an order under this section. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

Disposition of things forfeited

(4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 87.

Relief against forfeiture

(5) A person who had an interest in a thing forfeited under section 24.1 or this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 87; 2001, c. 9, Sched. G, s. 7 (17).

When relief not to be ordered

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with a notice under section 41.1 requiring the person to pay an administrative penalty in connection with a matter that was associated with the seizure of the thing, unless the requirement to pay the administrative penalty is rescinded under section 41.1; or
- (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 87.

Use of force

25. (1) A provincial officer may use such force as is reasonably necessary,

- (a) to carry out an order issued under this Act, other than an order issued by a provincial officer;
- (b) to execute a warrant issued under the *Provincial Offences Act*; or
- (c) to prevent the destruction of any thing that the provincial officer reasonably believes may afford evidence of an offence under this Act. R.S.O. 1990, c. P.11, s. 25; 1998, c. 35, s. 88 (1, 2).

Same

(2) For the purposes of clause (1) (a), an order issued by the Director that confirms or amends an order issued by a provincial officer is not an order issued by a provincial officer. 1998, c. 35, s. 88 (3).

Order for use of monitoring device, etc.

25.1 (1) In this section,

"device" means a substance or tracking device that, when placed or installed in or on any place, land or thing, may be used to help ascertain, by electronic or other means, the origin, identity or location of anything.

Order may be issued

(2) On application without notice, a justice may issue an order in writing authorizing a provincial officer, subject to this section, to use any device, investigative technique or procedure or to do any thing described in the order if the justice is satisfied by evidence under oath that there are reasonable grounds to believe that an offence against this Act has been or will be committed and that information concerning the offence will be obtained through the use of the device, technique or procedure or the doing of the thing.

Limitation

(3) An order under this section shall not authorize the interception of any private communication.

Same

(4) No device, technique or procedure shall be used to intercept any private communication under an order issued under this section.

Terms and conditions of order

(5) An order issued under this section shall contain such terms and conditions as the justice considers advisable in the circumstances.

Activities under order

- (6) An order issued under this section may authorize a provincial officer,
(a) to place, install, maintain or remove a device in or on any land, place or thing; and
(b) to monitor, or to have monitored, a device or information from a device placed or installed in or on any land, place or thing.

Duration of order

(7) An order issued under this section is valid for a period of 60 days or for such shorter period as may be specified in the order.

Further orders

(8) A justice may issue further orders under subsection (2). 1998, c. 35, s. 89.

Permit or licence condition, permission to inspect

26. It is a condition of every permit or licence under this Act that the holder must forthwith on request permit provincial officers to carry out inspections authorized by section 19, 19.1 or 20 of this Act, section 156, 156.1 or 158 of the *Environmental Protection Act*, section 13, 14 or 16 of the *Nutrient Management Act, 2002* or section 15, 15.1 or 17 of the *Ontario Water Resources Act* of any place, other than any room actually used as a dwelling, to which the permit or licence relates. 1998, c. 35, s. 90; 2002, c. 4, s. 66 (2).

Order by provincial officer: contraventions

26.1 (1) A provincial officer may issue an order to any person that the provincial officer reasonably believes is contravening or has contravened,

- (a) a provision of this Act or the regulations;
- (b) a provision of an order under this Act; or
- (c) a term or condition of a licence or permit issued under this Act.

Information to be included in order

(2) The order shall,

- (a) specify the provision, term or condition that the provincial officer believes is being or has been contravened;
- (b) briefly describe the nature and, where applicable, the location of the contravention; and
- (c) state that a review of the order may be requested in accordance with section 26.3.

What order may require

(3) The order may require the person to whom it is directed to comply with any directions set out in the order within the time specified relating to,

- (a) achieving compliance with the provision, term or condition;
- (b) preventing the continuation or repetition of the contravention;
- (c) the securing, whether through locks, gates, fences, security guards or other means, of any land, place or thing;
- (d) where the contravention has any of the effects mentioned in subsection 28 (1), doing all or any of the things specified in subsection 28 (2);
- (e) the removal of a pesticide or a substance or thing contaminated by or containing a pesticide;
- (f) where the contravention has caused damage to or endangered or is likely to cause damage to or endanger existing water supplies, providing alternate water supplies;
- (g) submitting a plan for achieving compliance with the provision, term or condition, including the engagement of contractors or consultants satisfactory to a provincial officer;
- (h) submitting an application for a licence or permit;
- (i) monitoring and recording in relation to the environment and reporting on the monitoring and recording; and
- (j) posting notice of the order. 1998, c. 35, s. 91.

Amendment or revocation of order under s. 26.1

26.2 (1) An order issued under section 26.1 may, by order, be amended or revoked by the provincial officer who issued it or by the Director.

Same

(2) A provincial officer or Director who amends or revokes an order shall give written notice of the amendment or revocation to the person to whom the order is directed. 1998, c. 35, s. 91.

Review, order under ss. 26.1 or 26.2

26.3 (1) A person to whom an order under section 26.1 or 26.2 is directed may, within seven days after being served with a copy of the order, request that the Director review the order. 1998, c. 35, s. 91.

Manner of making request

(2) The request may be made orally, with written confirmation served on the Director within the time specified in subsection (1), or in writing. 1998, c. 35, s. 91.

Contents of request for review

(3) A written request for review under subsection (1) or a written confirmation of an oral request under subsection (2) shall include,

- (a) the portions of the order in respect of which the review is requested;
- (b) any submissions that the applicant for the review wishes the Director to consider; and
- (c) for the purpose of subsection (7), an address for service by mail or by facsimile transmission or by such other means of service as the regulations may prescribe. 1998, c. 35, s. 91.

No automatic stay

(4) The request for review does not stay the order, unless the Director orders otherwise in writing. 1998, c. 35, s. 91.

Decision of Director

(5) A Director who receives a request for review may,

- (a) revoke the order of the provincial officer; or
- (b) by order directed to the person requesting the review, confirm or amend the order of the provincial officer. 1998, c. 35, s. 91.

Same

(6) For the purposes of subsection (5), the Director may substitute his or her own opinion for that of the provincial officer. 1998, c. 35, s. 91.

Notice of decision

(7) The Director shall serve the person requesting the review with a copy of,

- (a) a decision to revoke the order of the provincial officer; or
- (b) an order to confirm or amend the order of the provincial officer, together with reasons. 1998, c. 35, s. 91.

Automatic confirmation of order

(8) If, within seven days of receiving a written request for review or a written confirmation of an oral request for review, the Director does not make a decision under subsection (5) and give oral or written notice of the decision to the person requesting the review, the order in respect of which the review is sought shall be deemed to have been confirmed by order of the Director. 1998, c. 35, s. 91.

Same

(9) For the purpose of an appeal to the Tribunal, a confirming order deemed to have been made by the Director under subsection (8),

- (a) shall be deemed to be directed to each person to whom the order of the provincial officer was directed; and

(b) shall be deemed to have been served, on each person to whom the order of the provincial officer was directed, at the expiry of the time period referred to in subsection (8). 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Non-application of notice requirement under s. 13

26.4 Section 13 does not apply to orders under sections 26.1, 26.2 and 26.3. 1998, c. 35, s. 91.

Appeal to Tribunal, order under s. 26.3

26.5 (1) Where the Director has made an order under section 26.3, any person to whom the order is directed may, by written notice served on the Director and the Tribunal within 15 days after service on the person of a copy of the order require a hearing by the Tribunal. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Extension of time for requiring hearing

(2) The Tribunal may extend the time for giving notice under subsection (1) where it is satisfied that there are reasonable grounds for the extension and that there are apparent grounds for granting relief. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Same

(3) The Tribunal may give such directions as it considers proper consequent on the extension. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Effect of Director's order

(4) Section 143 of the *Environmental Protection Act* applies with necessary modifications to orders made under section 26.3 of this Act. 1998, c. 35, s. 91.

Examination of documentary evidence

(5) The person requiring the hearing by the Tribunal shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Rules governing Tribunal hearings

(6) Subsections 14 (4) to (8) apply to hearings under this section. 1998, c. 35, s. 91.

Parties

(7) The Director, the person requiring the hearing and any other person specified by the Tribunal are parties to the hearing. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Powers of Tribunal

(8) The Tribunal may by order confirm, alter or revoke the order of the Director and for the purpose the Tribunal may substitute its own opinion for that of the Director. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Appeals from Tribunal hearings

(9) Section 15 applies to decisions of the Tribunal under this section. 1998, c. 35, s. 91; 2000, c. 26, Sched. F, s. 14 (4).

Stop order

27. (1) Where the Director or a provincial officer is of the opinion, upon reasonable and probable grounds, that an emergency exists by reason of,

(a) danger to the health or safety of any person;

(b) impairment or immediate risk of impairment of the quality of the environment for any use that is being or is likely to be made of it;

(c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life; or

(d) the rendering or the immediate risk of rendering directly or indirectly any property or plant or animal life unfit for use by humans,

consequent upon the handling, storage, use, disposal, transportation or display of a pesticide or a substance or thing containing a pesticide, the Director or provincial officer, as the case may be, may make an oral or written stop order directed to the person responsible for the pesticide or the substance or thing containing the pesticide ordering such person to stop immediately the handling, storage, use, disposal, transportation or display of the pesticide or the substance or thing containing the pesticide either permanently or for a specific period of time. R.S.O. 1990, c. P.11, s. 27 (1).

Immediate appeal

(2) A person who is affected by a stop order made by a provincial officer under subsection (1) may appeal therefrom in person or by an agent and by telephone or otherwise to the Director and the Director, after receiving the submissions of the person and of the provincial officer, shall vary, rescind or confirm the stop order of the provincial officer. R.S.O. 1990, c. P.11, s. 27 (2).

Written reasons for order

(3) Where the Director makes a stop order or varies or confirms a stop order under subsection (2), the Director shall forthwith thereafter serve or cause to be served a written copy of the stop order or a written copy of the stop order as varied or confirmed, as the case requires, together with written reasons therefor, upon the person to whom the stop order or the stop order as varied or confirmed is directed. R.S.O. 1990, c. P.11, s. 27 (3).

Public notice

(4) The Director shall give notice of the stop order or the varied or confirmed stop order, together with written reasons therefor, to the municipality in which the emergency exists and to the public in such manner as the Director considers appropriate. R.S.O. 1990, c. P.11, s. 27 (4).

Notice

(5) A stop order, or a stop order as varied or confirmed under subsection (3) shall state that the person to whom it is directed is entitled to a hearing by the Tribunal if the person mails or delivers to the Director and the Tribunal, within fifteen days after a copy of the stop order, or the stop order as varied or confirmed, under subsection (3), is served on the person, notice in writing requiring a hearing. R.S.O. 1990, c. P.11, s. 27 (5); 2000, c. 26, Sched. F, s. 14 (4).

Effect of stop order

(6) Even if an appeal is taken against a stop order, the stop order is effective at and from the time it is communicated to the person to whom it is directed until confirmed, varied or rescinded on appeal and such person shall comply with the stop order immediately. R.S.O. 1990, c. P.11, s. 27 (6).

Appeal to Tribunal

(7) Where the Director has made a stop order or has varied or confirmed upon appeal to the Director a stop order made by a provincial officer, any person to whom the order is directed may, by written notice mailed to or served upon the Director and the Tribunal within fifteen days after service upon the person of a copy of the stop order or of the stop order as varied or confirmed, as the case requires, require a hearing by the Tribunal. R.S.O. 1990, c. P.11, s. 27 (7); 2000, c. 26, Sched. F, s. 14 (4).

Powers of Tribunal where hearing

(8) Where a person to whom a stop order is directed requires a hearing by the Tribunal in accordance with subsection (7), the Tribunal shall appoint a time and place for and hold the hearing and the Tribunal may by order confirm, alter or rescind the order of the Director and for such purposes the Tribunal may substitute its opinion for that of the Director. R.S.O. 1990, c. P.11, s. 27 (8); 2000, c. 26, Sched. F, s. 14 (4).

Parties

(9) The Director, the person who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. R.S.O. 1990, c. P.11, s. 27 (9); 2000, c. 26, Sched. F, s. 14 (4).

Procedure

(10) Subsection 13 (5), subsections 14 (2), (3), (4), (6) and (8) and section 15 apply with necessary modifications to proceedings under this section. R.S.O. 1990, c. P.11, s. 27 (10); 2001, c. 9, Sched. G, s. 7 (5).

Revocation of stop order

(11) The Director, by an order, may rescind a stop order and in such case shall serve or cause to be served a copy of the rescinding order upon the person to whom the stop order was directed and shall give notice of the rescinding order to the municipality referred to in subsection (4) and to the public in such manner as the Director considers appropriate. R.S.O. 1990, c. P.11, s. 27 (11).

Control order

28. (1) Where the handling, storage, use, disposal, transportation or display of a pesticide or a substance or thing containing a pesticide,

(a) causes or is likely to cause impairment of the quality of the environment for any use that is being or is likely to be made of it;

(b) causes or is likely to cause injury or damage to property or to plant or animal life;

(c) causes or is likely to cause harm or material discomfort to any person;

(d) adversely affects or is likely to affect adversely the health of any person;

(e) impairs or is likely to impair the safety of any person;

(f) renders or is likely to render directly or indirectly any property or plant or animal life unfit for use by humans,

the Director, subject to section 13, may make a control order directed to the person responsible for the pesticide or the substance or thing containing the pesticide.

Content of control order

(2) The Director, in a control order, may order the person to whom the order is directed to,

(a) limit or control the rate of discharge of a pesticide or a substance or thing containing a pesticide into the environment in accordance with the directions set out in the order;

(b) stop the discharge of a pesticide or a substance or thing containing a pesticide into the environment,

(i) permanently,

(ii) for a specified period of time, or

(iii) in the circumstances set out in the order; and

(c) comply with any directions set out in the order relating to the manner in which a pesticide or a substance or thing containing a pesticide or the container of either of them may be handled, stored, used, disposed of, transported or displayed.

Amendment of control order

(3) The Director, under any of the circumstances set out in subsection (1) and in accordance with subsection (2), by a further order, may amend or vary a control order and sections 13, 14 and 15 apply with necessary modifications.

Revocation of control order

(4) The Director, by an order, may rescind a control order and in such case shall serve or cause to be served a copy of the rescinding order upon the person to whom the control order was directed. R.S.O. 1990, c. P.11, s. 28.

Discharge of pesticide, Director to be notified

29. Every person who discharges a pesticide or a substance or thing containing a pesticide in or into the environment out of the normal course of events that,

- (a) causes or is likely to cause impairment of the quality of the environment for any use that can be made of it;
- (b) causes or is likely to cause injury or damage to property or to plant or animal life;
- (c) causes or is likely to cause harm or material discomfort to any person;
- (d) adversely affects or is likely to adversely affect the health of any person;
- (e) impairs or is likely to impair the safety of any person; or
- (f) renders or is likely to render directly or indirectly any property or plant or animal life unfit for use by humans,

shall forthwith notify the Director. R.S.O. 1990, c. P.11, s. 29.

Damage repair, cleaning and decontamination

Minister may order repair of damage

30. (1) Where any person discharges or causes or permits the discharge of a pesticide or a substance or thing containing a pesticide that causes or is likely to cause injury or damage to or impairment of,

- (a) the quality of the environment for any use that is being or is likely to be made of it;
- (b) any property or water;
- (c) plant or animal life; or
- (d) a person,

the Minister, where he or she is of the opinion that it is in the public interest to do so, may order the person responsible for the pesticide or the substance or thing containing the pesticide to do all things and take all steps within such time or times as may be specified in the order for the purpose of preventing or repairing, as the case requires, such injury or damage or impairment or to restore such quality.

Cleaning and decontamination

(2) Every person responsible for a pesticide or a substance or thing containing a pesticide shall take such measures and do such things within such time or times with respect to the cleaning and decontamination of the environment, or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder as may be prescribed.

Idem

(3) No person shall use the environment or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder unless the cleaning and decontamination thereof has been completed in the prescribed manner or has been approved by the Director in writing. R.S.O. 1990, c. P.11, s. 30.

Orders, successors, etc., bound, records

Successors and assigns

31. (1) An order of a court, the Minister, the Director or a provincial officer under this Act is binding on the executor, administrator, administrator with the will annexed, guardian of property or attorney for property of the person to whom it was directed, and on any other successor or assignee of the person to whom it was directed. 2001, c. 17, s. 6 (3).

Limitation

(2) If, pursuant to subsection (1), an order is binding on an executor, administrator, administrator with the will annexed, guardian of property or attorney for property, their obligation to incur

costs to comply with the order is limited to the value of the assets they hold or administer, less their reasonable costs of holding or administering the assets. 2001, c. 17, s. 6 (3).

Receivers and trustees

(3) An order of a court, the Minister, the Director or a provincial officer under this Act that relates to property is binding on a receiver or trustee that holds or administers the property. 2001, c. 17, s. 6 (3).

Limitation

(4) If, pursuant to subsection (3), an order is binding on a trustee, other than a trustee in bankruptcy, the trustee's obligation to incur costs to comply with the order is limited to the value of the assets held or administered by the trustee, less the trustee's reasonable costs of holding or administering the assets. 2001, c. 17, s. 6 (3).

Exception

(5) Subsection (3) does not apply to an order that relates to property held or administered by a receiver or trustee in bankruptcy if,

(a) within 10 days after taking or being appointed to take possession or control of the property, or within 10 days after the issuance of the order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property; or

(b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 6 (3).

Extension of period

(6) The Director may extend the 10-day period for giving notice under clause (5) (a), before or after it expires, on such terms and conditions as he or she considers appropriate. 2001, c. 17, s. 6 (3).

Notice under subs. (5)

(7) Notice under clause (5) (a) or (b) must be given in the manner prescribed by the regulations referred to in subsection 19 (7) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3).

Index record

(8) The Ministry shall maintain an alphabetical index record of the names of all persons to whom orders are directed under this Act. 2001, c. 17, s. 6 (3).

Expiry of order, etc.

(9) When an order has expired or is rescinded or set aside, the Ministry shall note that fact in the index record. 2001, c. 17, s. 6 (3).

Search of index record

(10) The Ministry shall, on the request of any person, make a search of the index record and inform the person making the request as to whether or not the name of a particular person appears in the index record and shall permit inspection of any order relating to that person. 2001, c. 17, s. 6 (3).

Definitions, ss. 31.1 to 31.6

31.1 In this section and in sections 31.2 to 31.6,

"fiduciary" means an executor, administrator, administrator with the will annexed, trustee, guardian of property or attorney for property, but does not include a trustee in bankruptcy or trustee in bankruptcy representative; ("représentant fiduciaire")

"fiduciary property" means property held or administered by a fiduciary in the capacity of fiduciary, or property in respect of which a fiduciary has powers or duties in the capacity of fiduciary; ("bien fiduciaire")

"fiduciary representative" means, with respect to a fiduciary, an officer, director, employee or agent of the fiduciary, or a lawyer, consultant or other advisor of the fiduciary who is acting on behalf of the fiduciary; ("représentant d'un représentant fiduciaire")

"municipality" includes a local board, as defined in the *Municipal Affairs Act*, and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganised township or unsurveyed territory; ("municipalité")

"municipal representative" means, with respect to a municipality, an officer, employee or agent of the municipality, or a lawyer, consultant or other advisor of the municipality who is acting on behalf of the municipality; ("représentant municipal")

"non-municipal property" means, with respect to a municipality, property that is not owned, leased or occupied by the municipality; ("bien non municipal")

"receiver representative" means, with respect to a receiver, an officer, director, employee or agent of the receiver, or a lawyer, consultant or other advisor of the receiver who is acting on behalf of the receiver; ("représentant d'un séquestre")

"secured creditor representative" means, with respect to a secured creditor, an officer, director, employee or agent of the secured creditor, or a lawyer, consultant or other advisor of the secured creditor who is acting on behalf of the secured creditor; ("représentant d'un créancier garanti")

"trustee in bankruptcy representative" means, with respect to a trustee in bankruptcy, an officer, director, employee or agent of the trustee in bankruptcy, or a lawyer, consultant or other advisor of the trustee in bankruptcy who is acting on behalf of the trustee in bankruptcy. ("représentant d'un syndic de faillite") 2001, c. 17, s. 6 (3); 2002, c. 17, Sched. C, s. 22 (1).

Interpretation, ss. 31.3 to 31.6

31.2 Sections 31.3 to 31.6 shall not be construed as affecting any cause of action that a person would have in the absence of those sections. 2001, c. 17, s. 6 (3).

Actions taken by municipalities

31.3 (1) For the purposes of this Act, a municipality or a municipal representative who takes an action described in subsection (2) is not, for that reason alone,

- (a) the person having the charge, management or control of the handling, storage, use, disposal, transportation or display of a pesticide, substance or thing; or
- (b) the person having the charge, management or control of a pesticide, substance or thing. 2001, c. 17, s. 6 (3).

Actions

(2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to non-municipal property.
2. Any action taken for the purpose of preserving or protecting non-municipal property, including action to,
 - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
 - ii. secure the property by means of locks, gates, fences, security guards or other means, or
 - iii. ensure that the property is insured under a contract of insurance.
3. Any action taken on non-municipal property for the purpose of responding to,
 - i. any danger to the health or safety of any person that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property,

- ii. any impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property, or
 - iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property.
4. Any action taken with respect to non-municipal property to exercise a right under any Act to collect rent or levy by distress in relation to an unpaid amount.
 5. Any action taken on non-municipal property under or for the purpose of Part XI of the *Municipal Act, 2001*.
 6. Any action taken on non-municipal property under or for the purpose of the *Building Code Act, 1992*, the *Fire Protection and Prevention Act, 1997* or an Act prescribed by the regulations referred to in paragraph 6 of subsection 168.12 (2) of the *Environmental Protection Act*.
 7. Any other action prescribed by the regulations referred to in paragraph 7 of subsection 168.12 (2) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3); 2002, c. 17, Sched. C, s. 22 (2).

Actions taken by secured creditors

- 31.4 (1)** For the purposes of this Act, a secured creditor or a secured creditor representative who takes an action described in subsection (2) is not, for that reason alone,
- (a) the person having the charge, management or control of the handling, storage, use, disposal, transportation or display of a pesticide, substance or thing; or
 - (b) the person having the charge, management or control of a pesticide, substance or thing. 2001, c. 17, s. 6 (3).

Actions

(2) The actions referred to in subsection (1) are the following:

1. Any action taken for the purpose of conducting, completing or confirming an investigation relating to the secured property.
2. Any action taken for the purpose of preserving or protecting the secured property, including action to,
 - i. ensure the supply of water, sewage services, electricity, artificial or natural gas, steam, hot water, heat or maintenance,
 - ii. secure the property by means of locks, gates, fences, security guards or other means,
 - iii. ensure that the property is insured under a contract of insurance, or
 - iv. pay taxes due or collect rents owing with respect to the property.
3. Any action taken on the secured property for the purpose of responding to,
 - i. any danger to the health or safety of any person that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property,
 - ii. any impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property, or
 - iii. any injury or damage or serious risk of injury or damage to any property or to any plant or animal life that results from the presence or discharge of a pesticide, or any substance or thing containing a pesticide, on, in or under the property.
4. Any other action prescribed by the regulations referred to in paragraph 4 of subsection 168.17 (2) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3).

Receivers and trustees in bankruptcy

31.5 (1) A receiver or trustee in bankruptcy is not required to comply with any order under this Act that is issued by the Minister, the Director or a provincial officer if the order did not arise from the gross negligence or wilful misconduct of the receiver or trustee in bankruptcy, or of a receiver representative or trustee in bankruptcy representative, and,

(a) not later than 10 days after being served with the order, or within such longer period as may be specified by the Director in the order, the receiver or trustee in bankruptcy notifies the Director that they have abandoned, disposed of or otherwise released their interest in the property to which the order relates; or

(b) the order was stayed under Part I of the *Bankruptcy and Insolvency Act* (Canada) and the receiver or trustee in bankruptcy notified the Director, before the stay expired, that they abandoned, disposed of or otherwise released their interest in the property. 2001, c. 17, s. 6 (3).

Notice under subs. (1)

(2) Notice under clause (1) (a) or (b) must be given in the manner prescribed by the regulations referred to in subsection 168.20 (8) of the *Environmental Protection Act*. 2001, c. 17, s. 6 (3).

Obligations of fiduciaries

31.6 If the Minister, the Director or a provincial officer issues an order under any provision of this Act to a fiduciary or fiduciary representative with respect to fiduciary property, the obligation of the fiduciary or fiduciary representative to incur costs to comply with the order is limited to the value of the assets they hold or administer on the date they are served with the order, less their reasonable costs of holding or administering the assets, unless the order arose from the gross negligence or wilful misconduct of the fiduciary or fiduciary representative. 2001, c. 17, s. 6 (3).

The Crown

32. This Act binds the Crown. R.S.O. 1990, c. P.11, s. 32.

Licences or permits not transferable

33. A licence or a permit under this Act is not transferable. R.S.O. 1990, c. P.11, s. 33.

Exemption from regulations, applicants for licence

34. Where, in the opinion of the Director, it is in the public interest to do so, the Director may exempt an applicant for a licence issued by the Director under section 6 or the holder of such a licence from any provision of the regulations and issue a licence to the applicant or modify the licence of the licensee, as the case may be, upon such terms and conditions, or alter or revoke the terms and conditions, as the Director considers necessary. R.S.O. 1990, c. P.11, s. 34.

Regulations

35. The Lieutenant Governor in Council may make regulations,

1. prescribing classes of licences and the requirements for licences and renewals;
2. exempting any person or class of persons from this Act or the regulations or any provision thereof and prescribing terms and conditions attaching to any such exemption;
3. providing for the issue and renewal of licences and prescribing fees therefor;

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 3 is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (6) by striking out "and prescribing fees therefor" at the end. See: 2001, c. 9, Sched. G, ss. 7 (6), 8 (6).

4. prescribing expiry dates or the method of determining the expiry dates of licences or any class of licences;

5. providing for the issue of permits, prescribing fees therefor and the requirements therefor;

Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 5 is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (7) by striking out "the issue of permits, prescribing fees therefor and" and substituting "the issue of permits and". See: 2001, c. 9, Sched. G, ss. 7 (7), 8 (6).

6. prescribing terms and conditions with respect to sales, offers to sell, transfers or premises in, on or from which sales, offers to sell or transfers of a pesticide are or will be made that shall attach to any class of licence;
 7. providing for the examination of applicants for permits and licences and renewals of licences, and prescribing fees for such examinations;
- Note: On a day to be named by proclamation of the Lieutenant Governor, paragraph 7 is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (8) by striking out "and prescribing fees for such examinations" at the end. See: 2001, c. 9, Sched. G, ss. 7 (8), 8 (6).**
8. providing for the appointment of examiners for applicants for licences and permits, the period for which such appointments may be made and the remuneration of examiners;
 9. requiring applicants for licences to undergo medical examinations;
 10. prescribing the procedures, conditions and notices for exterminations and for the airing out of buildings, structures and vehicles;
 11. fixing the amount and type of insurance or bond that shall be carried or furnished by operators and prescribing the form, requirements and terms thereof;
 12. prescribing pesticides, classes of pesticides and conditions of use for the purpose of section 7;
 13. prescribing that a type or class of structural extermination may be deemed a land extermination and prescribing that a type or class of land extermination may be deemed a structural extermination for the purpose of this Act and the regulations;
 14. permitting any class of operator or exterminator to perform or to undertake to perform any extermination for which the members of the class are not licensed and prescribing the conditions that shall attach to the permission;
 15. exempting any machine, apparatus, equipment, or class thereof, from this Act or the regulations, or any provision thereof;
 16. exempting any type or class of building, vehicle or structure from this Act or the regulations or any provision thereof;
 17. excluding any land or water from the operation of this Act or the regulations or any provision thereof;
 18. regulating or prohibiting the installation, operation, maintenance and use of any machine, apparatus or equipment used for extermination;
 19. governing the signs, marking or other identification of vehicles or machines used in exterminations;
 20. regulating the construction of any enclosed space or vault in which movable property may be placed during the periods of extermination and airing out;
 21. prescribing functions, practices and procedures, tenure of office and remuneration of the Committee;
 22. prescribing forms and providing for their use for the purposes of this Act;
 23. governing, regulating or prohibiting the use, handling, storage, display or disposal of pesticides;
 24. prohibiting or regulating the sale, offering for sale or transfer of pesticides;
 - 24.1 classifying pesticides or providing for the classification of pesticides by the Minister or a person designated by the Minister, or by another method of classification, and providing for a means of informing the public of the classifications;
 25. prohibiting the holders of any class of licence from using any designated pesticide or class of pesticides;

26. regulating the type of containers and the labelling of containers for pesticides, other than the containers in which pesticides are sold or offered for sale;
27. regulating the disposal of containers of pesticides;
28. prescribing documents or data required to be created, stored and submitted by any person and the methods of creating, storing and submitting the documents and data;
 - 28.1 prescribing the location at which documents or data must be created or stored;
 - 28.2 providing for the inspection and examination of documents and data;
 - 28.3 providing for the preparation and signing of documents by electronic means, the filing of documents by direct electronic transmission and the printing of documents filed by direct electronic transmission;
29. exempting any plant or animal life, organism, substance or thing or any class of any of them or any quantity or concentration of any organism or substance from this Act or the regulations or any provision thereof;
30. respecting premises on, in or from which any pesticide or class of pesticide is sold, offered for sale or transferred;
31. regulating and controlling, for the purpose of preventing or reducing the contamination by pesticides of the environment, property, plant or animal life, or of any person, the transportation of any designated pesticide or class of pesticides by any vehicle operated on any highway or road or the transportation of any designated pesticide or class of pesticides together with any commodity or class of commodities by a vehicle operated on any highway or road;
32. prohibiting the transportation of any designated pesticide or class of pesticides together with any commodity or class of commodity by a vehicle operated on any highway or road;
33. prescribing the records to be kept by persons responsible for the transportation of any designated pesticide or class of pesticides by a vehicle operated on a highway or road;
34. requiring, regulating or prohibiting the removal or disposal of any substance or thing that has come into contact with any pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder;
35. requiring and prescribing measures to be taken and things to be done with respect to the cleaning and decontamination of the environment or any plant or animal life, substance or thing that has come into contact with a pesticide by any means other than in accordance with this Act and the regulations or a licence, permit or order thereunder and the time or times within which such measures shall be taken and things done;
36. providing for the method of service of any document given, served or delivered under this Act;
37. deeming a person to be a person involved in carrying out a program of the Ministry for the purpose of subsection 17 (5). R.S.O. 1990, c. P.11, s. 35; 1997, c. 37, s. 5 (5, 6); 1998, c. 35, s. 92; 2001, c. 9, Sched. G, s. 7 (9).

Scope of regulations

36. (1) Any regulation may be general or particular in its application and may be limited as to time or place or both.

Adoption of codes in regulations

(2) Any regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted. R.S.O. 1990, c. P.11, s. 36.

Fees

37. The Minister may establish and require the payment of fees in respect of any matter under this Act, specify to whom the fees are paid, provide for the retention of all or part of the fees by the person to whom they are paid and provide for the refund of fees. 2001, c. 9, Sched. G, s. 7 (10).

Service

38. (1) Any document given, served or delivered under this Act is sufficiently given, served or delivered if it is,

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom it is required to be given, served or delivered at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations respecting service.

When service deemed made

(2) Where service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive the document until a later date. 1998, c. 35, s. 93.

Enforcement of performance of things required to be done

39. Where the Minister or the Director has authority to order or require that any matter or thing be done, the Minister may order that, in default of its being done by the person ordered or required to do it, such matter or thing shall be done at the expense of such person, and the Minister may recover the cost of doing it, with costs, by action in a court of competent jurisdiction as a debt due to the Crown by such person. R.S.O. 1990, c. P.11, s. 39.

40. Repealed: 1998, c. 35, s. 94.

Presiding judge

41. The counsel or agent acting on behalf of the Crown, by notice to the clerk of the Ontario Court of Justice, may require that a provincial judge preside over a proceeding in respect of an offence under this Act. R.S.O. 1990, c. P.11, s. 41; 2001, c. 9, Sched. G, s. 7 (11).

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by the Statutes of Ontario, 1998, chapter 35, section 95 by adding the following section:

Director may impose administrative penalties

41.1 (1) Where the Director is of the opinion that a person,

- (a) has contravened a provision of this Act or the regulations;
- (b) has failed to comply with an order under this Act;
- (c) has failed to comply with a term or condition of a licence or permit made or issued under this Act; or
- (d) who, being a director or officer of a corporation that engages in an activity that may cause an effect mentioned in subsection 49 (3) contrary to this Act or the regulations, has failed to take all reasonable care to prevent the corporation from causing or permitting such unlawful effect, the Director may, subject to the regulations under subsection (12), issue a notice in writing requiring the person to pay an administrative penalty in the amount set out in the notice for each day or part of a day on which the contravention or failure occurred or continues.

Note: On the day section 95 of the *Environmental Statute Law Amendment Act, 1998* comes into force, subsection (1) is amended by the Statutes of Ontario, 2000, chapter 22, subsection 3 (1) by adding "or" at the end of clause (b), by striking out "or" at the end of clause (c) and by repealing clause (d). See: 2000, c. 22, ss. 3 (1), 4 (4).

Limitation

(2) The Director shall not issue a notice in respect of a contravention or failure later than two years after the later of,

- (a) the day the contravention or failure occurred; and
- (b) the day on which the evidence of the contravention or failure first came to the attention of the Director or a provincial officer.

Amount of penalty, limited

(3) An administrative penalty in respect of a contravention or failure shall not exceed \$5,000 for each day or part of a day on which the contravention or failure occurs or continues.

Note: On the day section 95 of the *Environmental Statute Law Amendment Act, 1998* comes into force, subsection (3) is amended by the Statutes of Ontario, 2000, chapter 22, subsection 3 (2) by striking out "\$5,000" and substituting "\$10,000". See: 2000, c. 22, ss. 3 (2), 4 (4).

Contents of notice

(4) A notice of an administrative penalty shall be served on the person who is required to pay the penalty and shall,

- (a) contain a description of the contravention or failure to which the notice relates, including, where appropriate, the date and location of the contravention or failure;
- (b) specify the amount of the penalty determined by the Director in accordance with the regulations under subsection (12);
- (c) give particulars respecting the time for paying the penalty and the manner of payment; and
- (d) provide information to the person as to the person's right to require a hearing of the matter by the Board.

Note: On the day section 41.1 comes into force, clause (d) is amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, subsection 14 (4) by striking out "Board" and substituting "Tribunal". See: 2000, c. 26, Sched. F, s. 14 (4).

Hearing may be required

(5) A person who is required by a notice to pay an administrative penalty may, within 15 days after service of the notice on the person, by a written notice served on the Director and the Board, require the Board to hold a hearing with respect to the matter to which the notice relates and, in such case, the requirement to pay is stayed until the disposition of the matter.

Note: On the day section 41.1 comes into force, subsection (5) is amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, subsection 14 (4) by striking out "Board" and substituting "Tribunal". See: 2000, c. 26, Sched. F, s. 14 (4).

Board's powers on hearing

(6) At a hearing by the Board of a matter to which a notice of an administrative penalty relates, the Board shall determine whether in the circumstances, the notice should be confirmed, rescinded or amended.

Note: On the day section 41.1 comes into force, subsection (6) is amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, subsection 14 (4) by striking out "Board" and substituting "Tribunal". See: 2000, c. 26, Sched. F, s. 14 (4).

Same

(7) The Board shall not vary the amount of the penalty unless the Board considers the amount to be unreasonable.

Note: On the day section 41.1 comes into force, subsection (7) is amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, subsection 14 (4) by striking out "Board" and substituting "Tribunal". See: 2000, c. 26, Sched. F, s. 14 (4).

Same

(8) For greater certainty, the regulations under subsection (12) apply to decisions of the Board under subsections (6) and (7).

Note: On the day section 41.1 comes into force, subsection (8) is amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, subsection 14 (4) by striking out "Board" and substituting "Tribunal". See: 2000, c. 26, Sched. F, s. 14 (4).

No offence to be charged if penalty is paid

(9) Where a person who is required by a notice by the Director or after a decision of the Board to pay an administrative penalty in respect of a contravention or failure pays the amount of the penalty in accordance with the notice or decision, the person shall not be charged with an offence in respect of the contravention or failure.

Note: On the day section 41.1 comes into force, subsection (9) is amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, subsection 14 (4) by striking out "Board" and substituting "Tribunal". See: 2000, c. 26, Sched. F, s. 14 (4).

Failure to pay when required

(10) Where a person who is required to pay an administrative penalty in accordance with a notice by the Director fails to comply with the requirement and no hearing provided for under this section is pending in the matter or, after such hearing, fails to pay an administrative penalty in accordance with a decision of the Board,

Note: On the day section 41.1 comes into force, subsection (10) is amended by the Statutes of Ontario, 2000, chapter 26, Schedule F, subsection 14 (4) by striking out "Board" and substituting "Tribunal". See: 2000, c. 26, Sched. F, s. 14 (4).

(a) the notice or decision may be filed with a local registrar of the Ontario Court (General Division) and the notice or decision may be enforced as if it were an order of the court;

Note: On the day section 95 of the *Environmental Statute Law Amendment Act, 1998* comes into force, clause (a) is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (12) by striking out "Ontario Court (General Division)" and substituting "Superior Court of Justice". See: 2001, c. 9, Sched. G, ss. 7 (12), 8 (7).

(b) the Director may by order suspend any licence or permit that has been issued to the person under this Act until the administrative penalty is paid; and

(c) the Director may refuse to issue any licence or permit to the person under this Act until the administrative penalty is paid.

Same

(11) Section 129 of the *Courts of Justice Act* applies in respect of a notice or decision filed with the Ontario Court (General Division) under subsection (10) and, for the purpose, the date on which the notice or decision is filed shall be deemed to be the date of the order.

Note: On the day section 95 of the *Environmental Statute Law Amendment Act, 1998* comes into force, subsection (11) is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (13) by striking out "Ontario Court (General Division)" and substituting "Superior Court of Justice". See: 2001, c. 9, Sched. G, ss. 7 (13), 8 (7).

Regulations

(12) The Lieutenant Governor in Council may make regulations,

(a) specifying the form and content of notices of administrative penalties;

(b) specifying the types of contraventions or failures in respect of which a notice may not be issued under this section and the circumstances when the Director shall not issue a notice under this section;

(c) governing the determination of the amounts of administrative penalties, including the criteria to be considered and including providing for different amounts depending on when an administrative penalty is paid;

(d) respecting any other matter necessary for the administration of a system of administrative penalties provided for by this section.

General or particular

(13) A regulation under subsection (12) may be general or particular in its application.

Application

(14) This section does not apply to contraventions or failures that occurred before this section came into force.

See: 1998, c. 35, ss. 95, 104 (2).

Offences

Contravention of Act or regulations

42. (1) Every person who contravenes this Act or a regulation is guilty of an offence. R.S.O. 1990, c. P.11, s. 42 (1).

Offence, orders

(2) Every person who fails to comply with an order under this Act is guilty of an offence. R.S.O. 1990, c. P.11, s. 42 (2).

Offence, licence or permit

(3) Every person who fails to comply with a term or condition of a licence or permit made or issued under this Act is guilty of an offence. R.S.O. 1990, c. P.11, s. 42 (3).

Offence re fees

(4) Every person who fails to pay a fee that the person is required to pay under section 37 is guilty of an offence. 2001, c. 9, Sched. G, s. 7 (14).

Penalties, general

Individuals

43. (1) Every individual convicted of an offence under this Act is liable,

(a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$20,000; and

(b) on each subsequent conviction,

(i) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$50,000,

(ii) to imprisonment for a term of not more than one year, or

(iii) to both such fine and imprisonment.

Corporations

(2) Every corporation convicted of an offence under this Act is liable,

(a) on a first conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$100,000; and

(b) on each subsequent conviction, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$200,000. 1998, c. 35, s. 96.

Penalty re monetary benefit

44. The court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may increase a fine imposed upon the person by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence, despite any maximum fine elsewhere provided. R.S.O. 1990, c. P.11, s. 44.

Penalties, more serious offences

Application of subs. (2) and (3)

45. (1) Subsections (2) and (3) apply to the following offences:

1. An offence under subsection 42 (1) or 49 (2) that posed, poses or may pose a risk of an effect mentioned in subsection 49 (3).

2. An offence under subsection 42 (2), other than an offence of failing to comply with an order under section 27.

3. An offence of contravening section 17.

4. An offence under subsection 42 (3). 1998, c. 35, s. 97 (1); 2000, c. 22, s. 3 (3).

Corporations, subs. (1)

(2) Every corporation convicted of an offence described in subsection (1) is liable, in substitution for any penalty provided in section 43, for each day or part of a day on which the offence occurs

or continues, to a fine of not more than \$250,000 on a first conviction and not more than \$500,000 on each subsequent conviction. 1998, c. 35, s. 97 (1).

Individuals, subs. (1)

(3) Every individual convicted of an offence described in subsection (1) is liable, in substitution for any penalty provided in section 43,

- (a) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$50,000 on a first conviction and not more than \$100,000 on each subsequent conviction;
- (b) to imprisonment for a term of not more than one year; or
- (c) to both such fine and imprisonment. 1998, c. 35, s. 97 (1).

Application of subs. (3.1) and (3.2)

(3.0.1) Subsections (3.1) and (3.2) apply to the following offences:

1. An offence under this Act that causes an effect mentioned in subsection 49 (3).
2. An offence of failing to comply with an order under section 27. 2000, c. 22, s. 3 (4).

Corporations, subs. (3.0.1)

(3.1) Every corporation convicted of an offence described in subsection (3.0.1) is liable, in substitution for any penalty elsewhere provided, for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$6,000,000 on a first conviction and not more than \$10,000,000 on each subsequent conviction. 1998, c. 35, s. 97 (1); 2000, c. 22, s. 3 (5).

Individuals, subs. (3.0.1)

(3.2) Every individual convicted of an offence described in subsection (3.0.1) is liable, in substitution for any penalty elsewhere provided,

- (a) for each day or part of a day on which the offence occurs or continues, to a fine of not more than \$4,000,000 on a first conviction and not more than \$6,000,000 on each subsequent conviction;
- (b) to imprisonment for a term of not more than five years less one day; or
- (c) to both such fine and imprisonment. 1998, c. 35, s. 97 (1); 2000, c. 22, s. 3 (6).

Subsequent conviction

(4) For the purposes of determining the penalty to which a person is liable under section 43 or under this section, a conviction of the person for an offence under this Act is a subsequent conviction if the person has previously been convicted of an offence under,

- (a) this Act;
- (b) the *Environmental Protection Act*, other than for an offence related to Part IX of that Act;
- (b.1) the *Nutrient Management Act, 2002*; or
- (c) the *Ontario Water Resources Act*. 1998, c. 35, s. 97 (2); 2002, c. 4, s. 66 (3).

Order to prevent damage, etc.

46. (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may order the person,

- (a) to take such action as the court directs, including but not limited to providing an alternate water supply, within the time specified in the order to prevent, eliminate or ameliorate damage that results from or is in any way connected to the commission of the offence; and
- (b) to comply with any order that the Director has issued to the person in relation to damage that results from or is in any way connected to the commission of the offence. 1998, c. 35, s. 98 (1).

Other conditions

(2) An order under subsection (1) may contain such other conditions relating to the circumstances of the offence and of the person that contributed to the commission of the offence as the court

considers appropriate to prevent similar unlawful conduct or to contribute to rehabilitation. R.S.O. 1990, c. P.11, s. 46 (2).

Variation of order

(3) The court that made an order under subsection (1) may, at any time upon its own initiative or upon application by counsel for the prosecutor or upon the application of the person convicted or counsel or agent for the person convicted, with notice to the other party, after a hearing or, with the consent of the parties, without a hearing, make any changes in or additions to the conditions prescribed in the order that in the opinion of the court are rendered desirable by a change in circumstances. R.S.O. 1990, c. P.11, s. 46 (3).

Conflict

(4) Nothing in subsection (1) authorizes the making of an order that conflicts with an order previously made under this Act by the Minister or the Director, but an order may be made under subsection (1) supplementing the provisions of an order in respect of the prevention, decrease or elimination of harm to the environment and the restoration of the environment. R.S.O. 1990, c. P.11, s. 46 (4).

(5) Repealed: 1998, c. 35, s. 98 (2).

Continuation in force

(6) Where a person bound by an order under subsection (1) is imprisoned, the order continues in force except in so far as the imprisonment renders it impossible for the person to comply for the time being with the order. R.S.O. 1990, c. P.11, s. 46 (6).

Restitution orders

46.1 (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may make an order for restitution against the person convicted of the offence, requiring the person to pay another person for reasonable expenses actually incurred by the other person on account of damage to property in which the other person has an interest that results from or is in any way connected to the commission of the offence, in such amount and on such terms and conditions as the court considers just. 1998, c. 35, s. 99.

Expenses incurred, interpretation

(2) For the purposes of subsection (1), expenses are incurred on account of damage to property if they are incurred,

- (a) to prevent, eliminate or ameliorate the damage;
- (b) to replace the property that suffered the damage; or
- (c) to restore the property to the state that it was in before the damage. 1998, c. 35, s. 99.

Same

(3) For greater certainty, for the purposes of clause (2) (a), expenses incurred to provide an alternate water supply may be expenses incurred to prevent, eliminate or ameliorate damage. 1998, c. 35, s. 99.

Amount of order

(4) The amount of the order for restitution shall not exceed the replacement value of the property as of the date the order is issued. 1998, c. 35, s. 99.

No restitution to person who committed offence

(5) The court shall not make an order for restitution in favour of any person on account of damage that is the result of,

- (a) the commission of an offence by the person; or

(b) a contravention or failure in respect of which a notice under section 41.1 has been served on the person requiring the person to pay an administrative penalty, unless the requirement to pay the administrative penalty has been rescinded. 1998, c. 35, s. 99.

Notification of order

(6) Where a court makes an order for restitution, it shall cause a copy of the order or a notice of the content of the order to be given to the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 99.

Filing of order in court

(7) An order for restitution may be filed with a local registrar of the Superior Court of Justice and the responsibility for filing shall be on the person to whom the restitution is ordered to be paid. 1998, c. 35, s. 99; 2001, c. 9, Sched. G, s. 7 (17).

Enforcement of order

(8) An order for restitution filed under subsection (7) may be enforced as if it were an order of the court. 1998, c. 35, s. 99.

Same

(9) Section 129 of the *Courts of Justice Act* applies in respect of an order for restitution filed under subsection (7) and, for the purpose, the date of filing shall be deemed to be the date of the order. 1998, c. 35, s. 99.

Civil remedy

(10) A civil remedy for an act or omission is not affected by reason only that an order for restitution under this section has been made in respect of that act or omission. 1998, c. 35, s. 99.

Forfeiture on conviction

46.2 (1) On its own initiative or on the request of the prosecutor, the court that convicts a person of an offence under this Act, in addition to any other penalty imposed by the court, may, if conviction is in relation to an offence in connection with which a thing has been seized under section 22 or 23 or under a warrant issued under the *Provincial Offences Act*, order that the thing be forfeited to the Crown. 1998, c. 35, s. 99.

Same

(2) The court shall not make an order under subsection (1) unless the court is satisfied that,

(a) the seizure of the thing was lawful; and

(b) no later than seven days before the hearing of the request, written notice was provided by a provincial officer,

(i) to every person whom the provincial officer knows or has reason to believe is an owner of the thing seized,

(ii) to every person who has a security interest in the thing that is perfected by registration under the *Personal Property Security Act* against the name of any person whom the provincial officer knows or has reason to believe is the owner,

(iii) where the thing seized is a vehicle, to every person who has a security interest in the vehicle that is perfected by registration under the *Personal Property Security Act* against the vehicle identification number of the vehicle, and

(iv) where the thing seized is a vehicle and the vehicle is registered under the *Highway Traffic Act*, to the registered owner. 1998, c. 35, s. 99.

Contents of notice

(3) Notice under subsection (2) shall include,

(a) a description of the thing seized sufficient to enable it to be identified;

(b) the location at which the thing was seized;

(c) the date of the seizure;

- (d) the name and telephone number of the provincial officer who seized the thing or of his or her delegate;
- (e) a statement of the reason for the seizure;
- (f) a reference to the statutory provision authorizing the seizure;
- (g) a statement that an order for forfeiture of the thing is being sought under this section; and
- (h) a statement that the person to whom the notice is provided may make submissions to the court with respect to the issuance of an order under this section. 1998, c. 35, s. 99.

Disposition of things forfeited

(4) A thing forfeited under this section may be disposed of as the Director directs. 1998, c. 35, s. 99.

Relief against forfeiture

(5) A person who had an interest in a thing forfeited under this section may apply to the Superior Court of Justice for relief against the forfeiture and the court may make an order providing for any relief that it considers appropriate, including, but not limited to, one or more of the following orders:

1. An order directing that the thing or any part of the thing be returned to the applicant.
2. An order directing that any interest in the thing be vested in the applicant.
3. An order directing that an amount be paid by the Crown to the applicant by way of compensation for the forfeiture. 1998, c. 35, s. 99; 2001, c. 9, Sched. G, s. 7 (17).

When relief not to be ordered

(6) The court shall not make an order for relief under subsection (5) in respect of a thing forfeited where the person applying for the relief,

- (a) has been served with a notice under section 41.1 requiring the person to pay an administrative penalty in connection with a matter that was associated with the seizure of the thing, unless the requirement to pay the administrative penalty is rescinded under section 41.1; or
- (b) has been charged with an offence that was associated with the seizure of the thing, unless the charge has been withdrawn or dismissed. 1998, c. 35, s. 99.

Where fine not paid

46.3 (1) Where a person is convicted of an offence under this Act and a fine is imposed,
(a) a thing seized in connection with the offence and not forfeited to the Crown under section 24.1, 24.3 or 46.2 shall not be returned until the fine has been paid; and
(b) if payment of the fine is in default within the meaning of section 69 of the *Provincial Offences Act*, a justice may order that the thing be forfeited to the Crown.

Application of subss. 46.2 (2) to (6)

(2) Subsections 46.2 (2) to (6) apply with necessary modifications in relation to an order under clause (1) (b). 1998, c. 35, s. 99.

Costs of seizure, etc.

46.4 If a person is convicted of an offence under this Act, the justice may, in addition to any other penalty, order the person to pay all or part of the expenses incurred by the Ministry with respect to the seizure, storage or disposition of any thing seized in connection with the offence. 1998, c. 35, s. 99.

Suspension for default in payment of fine

47. (1) Where a person is in default of payment of a fine imposed upon conviction for an offence against this Act, the *Environmental Protection Act*, the *Nutrient Management Act, 2002*, the *Ontario Water Resources Act* or the regulations made under any of them, on the application of the Director, an order may be made under subsection 69 (2) of the *Provincial Offences Act* directing that,

(a) one or more of the person's licences be suspended; and
(b) no licence be issued to the person,
until the fine is paid. R.S.O. 1990, c. P.11, s. 47 (1); 2002, c. 4, s. 66 (4).

Duty of Director

(2) The Director shall,

(a) on being informed of an outstanding order referred to in subsection (1), suspend the person's licence, if it is not already suspended under another order referred to in subsection (1); and
(b) on being informed that the fine and any applicable prescribed administrative fee for the reinstatement of the licence are paid, reinstate the licence, unless the Director has been informed that,

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is amended by the Statutes of Ontario, 2001, chapter 9, Schedule G, subsection 7 (15) by striking out "any applicable prescribed administrative fee" and substituting "any applicable administrative fee". See: 2001, c. 9, Sched. G, ss. 7 (15), 8 (6).

(i) there is another outstanding order referred to in subsection (1) directing that the licence be suspended, or

(ii) the licence is suspended under any other order or under another statute. R.S.O. 1990, c. P.11, s. 47 (2).

Regulations

(3) The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section. R.S.O. 1990, c. P.11, s. 47 (3).

Definition

(4) In this section,

"licence" means a licence or permit under this Act or the regulations. R.S.O. 1990, c. P.11, s. 47 (4).

Limitation

48. A proceeding for an offence against this Act or the regulations shall not be commenced after two years after the date on which the offence was, or is alleged to have been, committed. R.S.O. 1990, c. P.11, s. 48.

Duty of director or officer of corporation

49. (1) Every director or officer of a corporation that engages in an activity that may cause an effect mentioned in subsection (3) contrary to this Act or the regulations has a duty to take all reasonable care to prevent the corporation from causing or permitting such unlawful effect.

Offence

(2) Every person who has a duty under subsection (1) and who fails to carry out that duty is guilty of an offence.

Effects

(3) The effect referred to in subsection (1) is any one or more of,

(a) impairment of the quality of the environment for any use that can be made of it;

(b) injury or damage to property or plant or animal life;

(c) harm or material discomfort to any person;

(d) an adverse effect on the health of any person;

(e) impairment of the safety of any person; or

(f) directly or indirectly rendering any property or plant or animal life unfit for human use, from a pesticide or any substance or thing containing a pesticide to a greater degree than would necessarily result from the proper use or storage of the pesticide.

Liability to conviction

(4) A director or officer of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted or convicted. R.S.O. 1990, c. P.11, s. 49.

Service of offence notice, etc., offences re: vehicles

50. (1) In this section,

"commercial motor vehicle" and "motor vehicle" have the same meanings as in the *Highway Traffic Act*; ("véhicule utilitaire", "véhicule automobile")

"offence notice or summons" means,

(a) an offence notice or summons under Part I of the *Provincial Offences Act*, or

(b) a summons under Part III of the *Provincial Offences Act*. ("avis d'infraction ou assignation")

R.S.O. 1990, c. P.11, s. 50 (1); 1998, c. 35, s. 100 (1).

Service of offence notice or summons

(2) Delivery of an offence notice or summons to the operator of a commercial motor vehicle in respect of an offence under this Act related to the use of the vehicle shall be deemed to be personal service of the offence notice or summons on the owner or lessee of the vehicle who is named in the offence notice or summons. R.S.O. 1990, c. P.11, s. 50 (2).

Employer

(3) Delivery of an offence notice or summons to the operator of a motor vehicle in respect of an offence under this Act related to the use of the vehicle in the course of the operator's employment shall be deemed to be personal service of the offence notice or summons on the employer of the operator of the vehicle. R.S.O. 1990, c. P.11, s. 50 (3).

(4) Repealed: 1998, c. 35, s. 100 (2).

Exception

(5) Subsection (2) does not apply if, at the time of the offence, the vehicle was in the possession of the operator without the consent of the owner or lessee of the vehicle, as the case may be, but the burden of proof of that shall be on the owner or lessee of the vehicle. R.S.O. 1990, c. P.11, s. 50 (5).

Permit holder deemed owner

(6) For the purposes of this section, the holder of a permit under Part II of the *Highway Traffic Act* shall be deemed to be the owner of the vehicle referred to in the permit if a number plate under that Part bearing a number that corresponds to the permit was displayed on the vehicle at the time the offence was committed. R.S.O. 1990, c. P.11, s. 50 (6).

Application of subs. (6)

(7) Subsection (6) does not apply if the number plate was displayed on the vehicle without the consent of the holder of the permit, but the burden of proof of that shall be on the holder of the permit. R.S.O. 1990, c. P.11, s. 50 (7).

Service of offence notice, etc., corporations, etc.

Service on municipal corporations

50.1 (1) Service of an offence notice or summons on a municipal corporation may be effected by delivering it personally to the mayor, warden, reeve or other chief officer of the municipal corporation or to the clerk of the municipal corporation.

Service on other corporations

(2) Service of an offence notice or summons on a corporation other than a municipal corporation may be effected by delivering it personally to the manager, secretary or other officer of the corporation or to a person apparently in charge of a branch office of the corporation.

Service on partnership

(3) Service of an offence notice or summons on a partnership may be effected by delivering it personally to a partner or to a person apparently in charge of an office of the partnership.

Service on a sole proprietorship

(4) Service of an offence notice or summons on a sole proprietorship may be effected by delivering it personally to the sole proprietor or to a person apparently in charge of an office of the sole proprietorship.

Substituted service

(5) On application without notice, a justice, on being satisfied that service cannot be made effectively in accordance with subsections (1) to (4), may by order authorize another method of service that has a reasonable likelihood of coming to the attention of the municipal corporation, other corporation, partnership or sole proprietorship. 1998, c. 35, s. 101.

Official documents, evidence

51. (1) In this section,

"official document" means,

(a) an approval, certificate, consent, licence, notice, permit, order or return under this Act or the regulations,

(b) a certificate as to service of a document mentioned in clause (a),

(c) a certificate or report as to the analysis, description, ingredients, quality, quantity or temperature of any solid, liquid or gas or any combination of any of them,

(d) a certificate or report as to the analysis, description, quality or quantity of any odour, heat, sound, vibration, radiation or any combination of any of them,

(e) a certificate or report as to the custody of any solid, liquid or gas or any combination of any of them,

(f) a certificate as to the custody of any book, record or report or as to the custody of any other document, or

(g) a certificate as to whether or not any document or notification was received or issued by the Minister or the Ministry under this Act or the regulations.

Same

(2) An official document, other than an official document mentioned in clause (1) (c) or (d), that purports to be signed by the Minister or an employee in the Ministry shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document.

Idem

(3) An official document mentioned in clause (1) (c), (d) or (e) that purports to be signed by an analyst shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the official document without proof of the signature or position of the person appearing to have signed the official document. R.S.O. 1990, c. P.11, s. 51.

Note: On a day to be named by proclamation of the Lieutenant Governor, the Act is amended by the Statutes of Ontario, 1998, chapter 35, section 102 by adding the following section:

Electronic signature

51.1 (1) Despite any requirement under this Act, for the purposes of anything done under this Act, a document may be prepared and signed by electronic means in an electronic format and may be filed by direct electronic transmission, if the preparation, signature and filing are in accordance with the regulations.

Deemed filing

(2) A printed copy of a document filed under subsection (1) shall be deemed to have been filed as the original document if it is printed in accordance with the regulations.

See: 1998, c. 35, ss. 102, 104 (2).

Proceedings to prohibit continuation or repetition of contravention

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

Appeal

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

Power to restrain by order upon conviction

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

Administrative changes to control orders and permits

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

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

Conflict with other legislation

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

Pesticides Act

R.R.O. 1990, REGULATION 914

Amended to O. Reg. 229/03

GENERAL

Notice of Currency:* This document is up to date.

*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the [Table of Regulations \(Legislative History\)](#).

This Regulation is made in English only.

Definitions

1. In this Regulation,

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

(a) effectively protect the user from adverse effects that might result from breathing in the pesticide during the handling or use of the pesticide, and

(b) comply with any requirements respecting respiratory devices that are set out on the pesticide's label;

"adequate protective clothing" means clothing including rubber or neoprene boots, rubber or neoprene gloves, hats, coats and other garments that effectively protect the user from adverse effects that might result from a pesticide coming in contact with the skin during or after the handling or use of the pesticide;

"agricultural or forestry production" means the production of plants, animals or both by an agriculturist, but does not include production in connection with the management of Crown forests pursuant to the *Crown Forest Sustainability Act, 1994*;

"agriculturist" means a person who uses farm land for agricultural or forestry production;

"certified agriculturist" means an agriculturist who is certified under subsection 94 (1);

"Crown employee" means a Crown employee within the meaning of the *Public Service Act*;

"drainage ditch" means an artificial water course, added to the natural land drainage system, primarily to collect and convey water and that, for some period each year, does not contain flowing water;

"farm land" means land that falls within the farmlands property class under section 7 of the *Assessment Act*;

"farm structure" means a structure used for agricultural or forestry production but does not include a structure used primarily for human habitation;

"fumigant" means a pesticide that is or that produces a gas, vapour, fume or smoke and that operates as a pesticide exclusively or primarily by the action of the gas, vapour, fume or smoke;

"fumigant gas" means a fumigant that is a gas at a temperature of 20° C and standard pressure;

"general vendor" means a person who holds a general vendor's licence;

"herbicide" means any pesticide used for the destruction or control of any vegetation;

"limited vendor" means a person who holds a limited vendor's licence;

"sell" means sell, transfer or offer to sell or transfer;

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

(a) has successfully completed, within the previous 24 months, a course approved by the Director for assistants of holders of exterminators' licences concerning basic pesticide safety, or

(b) satisfies the Director that the person is qualified to work as an assistant to the holder of an exterminator's licence;

"trainee" means a person, other than a technician or licensed exterminator, who is at least 16 years of age and,

(a) is enrolled in a course approved by the Director for assistants of holders of exterminators' licences concerning basic pesticide safety, or

(b) assists the holder of an exterminator's licence in the performance of an extermination;

"warning placard" means, in respect of an extermination, a placard that,

(a) is at least 35 centimetres high and 25 centimetres wide,

(b) bears the word "DANGER" in red capital letters at least seven centimetres high on a white background,

(c) indicates that an extermination is being performed on the premises or at specified nearby premises,

(d) sets out the name of the exterminator and the exterminator's emergency telephone number,

(e) sets out the name and registration number of the pesticide under the *Pest Control Products Act* (Canada), and

(f) sets out the date and time at which airing out can begin. R.R.O. 1990, Reg. 914, s. 1; O. Reg. 27/91, s. 1; O. Reg. 119/91, s. 1; O. Reg. 405/98, s. 1; O. Reg. 228/00, s. 1.

The Pesticides Advisory Committee

2. (1) The Committee shall meet,

(a) at the request of the Minister;

(b) at the request of the chair; or

(c) at the request of any three members of the Committee. R.R.O. 1990, Reg. 914, s. 2 (1).

(2) The secretary of the Committee shall,

(a) keep a record of all business transacted at a meeting of the Committee;

(b) have the custody of all reports, submissions and correspondence received by the Committee; and

(c) produce the records and other documents mentioned in clause (b) for inspection when requested by the Minister or an officer of the Ministry designated by the Minister. R.R.O. 1990, Reg. 914, s. 2 (2).

(3) Revoked: O. Reg. 110/99, s. 1.

(4) Revoked: O. Reg. 110/99, s. 1.

3. (1) A member of the Committee shall be paid remuneration and expenses as follows:

1. For each day of attendance, for a period in excess of three hours, at a meeting of the Committee, or upon other official business of the Committee,

i. \$300 if the member is the chair or the vice-chair acting as chair,

ii. \$250 if the member is the vice-chair, or

iii. \$200 in any other case.

2. For each occasion that the member is engaged upon business of the Committee for a period in excess of one hour but not in excess of three hours for which remuneration would be paid under paragraph 1 except for the short duration of the business proceedings, one-half of the daily rate set out in paragraph 1.

3. Paragraph 1 applies in like manner for each day that the member is engaged for a period in excess of three hours, in preparation for a meeting or other official business of the Committee.
 4. Paragraph 2 applies in like manner for each occasion that the member is engaged for a period in excess of one hour but not in excess of three hours, in preparation for a meeting or other official business of the Committee.
 5. Necessary travel and other allowable expenses incurred by the member in the performance of his or her duties as a member of the Committee.
 6. For each hour in a day in excess of nine and one-half hours, at a meeting of the Committee, upon other official business of the Committee, or travelling necessary to the official business of the Committee, .08 of the daily rate set out in paragraph 1.
 7. Paragraphs 1, 2, 3, 4 and 6 do not apply to a member who is a Crown employee of the Government of Ontario or Canada who is a member in the course of his or her employment for the Crown. R.R.O. 1990, Reg. 914, s. 3 (1); O. Reg. 25/92, s. 1 (1).
- (2) No member receiving payment under paragraph 3 or 4 of subsection (1) shall receive more than one day's payment with respect to any one day of meetings of the Committee, or upon other official business of the Committee. R.R.O. 1990, Reg. 914, s. 3 (2).
 - (3) Subsection (2) does not apply if the chair authorizes more than one day's preparation because of the quantity or complexity of the material required to be reviewed. O. Reg. 25/92, s. 1 (2).

Application Form

4. An application for a licence or permit shall be made on the appropriate form supplied by the Ministry. O. Reg. 405/98, s. 3.

General Requirements for Exterminator's Licence

5. (1) An applicant for the issuance or renewal of any class of exterminator's licence must meet the following qualifications:
 1. The applicant must be at least 16 years of age.
 2. The applicant must have grade 10 standing or other qualifications that the Director considers equivalent.
 3. The applicant must have successfully completed, within the previous 12 months, a course approved by the Director for exterminators of the relevant class or must have other qualifications that the Director considers equivalent.
 4. The applicant must be physically fit for the purpose of performing exterminations. O. Reg. 405/98, s. 4.
- (2) Unless the Director directs otherwise, paragraph 3 of subsection (1) does not apply to an applicant for the renewal of any class of exterminator's licence unless the licence sought to be renewed expired or was revoked or surrendered more than 24 months before the application for renewal was made. O. Reg. 405/98, s. 4.
- (2.1) The Director may require an applicant for the issuance or renewal of an exterminator's licence to provide a report from a legally qualified medical practitioner respecting the applicant's physical fitness for the purpose of performing exterminations. O. Reg. 405/98, s. 4.
- (3) Every applicant for an exterminator's licence and every exterminator shall notify the Director in writing of any change in the information furnished in or with the applicant's application within ten days after the effective date of the change. R.R.O. 1990, Reg. 914, s. 5 (3); O. Reg. 27/91, s. 3 (1).
- (4) The holder of an exterminator's licence shall carry the licence or a legible copy when carrying out an activity authorized by the licence, subject to subsection (5). O. Reg. 228/00, s. 2.

(5) When carrying out an extermination, the holder may have the licence or a legible copy readily available at the extermination site instead of carrying it. O. Reg. 228/00, s. 2.

Licences and Fees

6. (1) The fees shown in the following Table are payable for the issuance or renewal of a licence:

TABLE

| Type of licence | Fee |
|--------------------------|-------|
| Operator's licence | \$200 |
| Exterminator's licence | 90 |
| General vendor's licence | 200 |
| Limited vendor's licence | 110 |

O. Reg. 228/00, s. 3.

(2) The fee for the issuance or renewal of a licence shall be submitted with the application. O. Reg. 405/98, s. 5.

7. An operator's licence, or a renewal thereof, expires on the 15th day of February in the year following its issue. R.R.O. 1990, Reg. 914, s. 7.

8. An exterminator's licence or a vendor's licence, or a renewal of either of them, expires on the last day of the sixtieth month following the date upon which the licence or the renewal takes effect. R.R.O. 1990, Reg. 914, s. 8.

9. (1) An application for the issuance or renewal of a licence shall be made to the Director. O. Reg. 405/98, s. 6.

(2) An application for a renewal of a licence shall be made in the case of,

(a) an operator's licence, at least thirty days prior to the expiry date of the licence;

(b) an exterminator's licence, at least thirty days prior to the expiry date of the licence; and

(c) a vendor's licence, at least sixty days prior to the expiry date of the licence. R.R.O. 1990, Reg. 914, s. 9 (2).

Examiners

10. (1) The Director shall appoint the examiners of applicants for licences. R.R.O. 1990, Reg. 914, s. 10 (1).

(2) The term of an appointment as an examiner is three years and is subject to cancellation by the Director. R.R.O. 1990, Reg. 914, s. 10 (2).

(2.1) An examiner may designate, in writing, another person to act as a substitute examiner in the place of an examiner for any examination specified in the designation. O. Reg. 27/91, s. 4.

(3) An examiner, other than one who is a Crown employee, shall be paid, for each day that he or she is engaged upon work as an examiner,

(a) \$100; and

(b) necessary travelling and other expenses. R.R.O. 1990, Reg. 914, s. 10 (3).

11. Revoked: O. Reg. 405/98, s. 7.

12. Revoked: O. Reg. 405/98, s. 8.

13. Revoked: O. Reg. 405/98, s. 8.

Operators' Licences

14. An operator's licence is authority to operate an extermination business. O. Reg. 405/98, s. 9.

15. (1) Every applicant for an operator's licence or a renewal thereof shall submit such information and material as the Director may require with respect to the character, qualifications and financial responsibility of the applicant or where the applicant is a corporation, with respect

to the corporation and the character and qualifications of the directors and officers of the corporation. R.R.O. 1990, Reg. 914, s. 15 (1); O. Reg. 405/98, s. 10 (1).

(2) Where several persons intend to operate an extermination business in association with each other under the authority of one operator's licence it is a requirement for the licence that each of such persons signs the application for the licence. R.R.O. 1990, Reg. 914, s. 15 (2).

(3) Where the applicant is a corporation it shall designate on the application form the directors or officers who are the official representatives of the corporation and whose duty it is to ensure that the Act and the regulations thereunder are complied with and who shall sign the application. R.R.O. 1990, Reg. 914, s. 15 (3); O. Reg. 405/98, s. 10 (2).

(4) Every applicant whose application is in the process of being considered and every operator shall notify the Director, in writing, of any change in the information furnished on the application form or under section 18 within ten days after the effective date of the change. O. Reg. 27/91, s. 6; O. Reg. 405/98, s. 10 (3).

16. Revoked: O. Reg. 405/98, s. 11.

17. (1) An applicant for an operator's licence or a renewal thereof shall satisfy the Director that the applicant is at least eighteen years of age or, in the case of a corporation that the official representatives are each at least eighteen years of age. R.R.O. 1990, Reg. 914, s. 17; O. Reg. 405/98, s. 12 (1).

(2) An applicant for the issuance or renewal of an operator's licence shall satisfy the Director that,

(a) the applicant is the holder of a current exterminator's licence of any class, if the applicant is an individual;

(b) at least one of the applicants is the holder of a current exterminator's licence of any class, if the applicants are two or more individuals; or

(c) at least one of the official representatives of the applicant is the holder of a current exterminator's licence, if the applicant is a corporation. O. Reg. 405/98, s. 12 (2).

(3) Revoked: O. Reg. 228/00, s. 4.

18. (1) Subject to subsection (2), the Director may require an applicant for an operator's licence or renewal thereof to appear before the Director and submit evidence and information respecting the qualifications of the applicant and any other person involved in the control and management of the extermination business. R.R.O. 1990, Reg. 914, s. 18 (1); O. Reg. 405/98, s. 13.

(2) At least seven days before the appearance mentioned in subsection (1) the applicant shall be given notice of,

(a) the date, time and place fixed for his or her appearance before the Director; and

(b) the particulars of the information and evidence that the Director may require the applicant to produce. R.R.O. 1990, Reg. 914, s. 18 (2).

19. (1) An operator shall not employ a person to assist in performing exterminations unless the person is a licensed exterminator, a technician or a trainee. O. Reg. 405/98, s. 14 (1).

(1.1) An operator may employ people other than licensed exterminators, technicians and trainees to do work in connection with the operator's business, but the operator shall ensure that,

(a) they comply with subsection 20.1 (1);

(b) they do not handle any pesticide unless it is in a sealed container;

(c) they do not handle any empty plastic, glass or metal container that has been used to hold a Schedule 1, 2 or 5 pesticide unless the container has been rinsed in accordance with subsection 27 (1);

(d) they do not do anything that is detrimental to the performance of an extermination, to public safety or to the environment; and

(e) they do not suffer any harm as a result of exposure to a pesticide or the performance of an extermination. O. Reg. 405/98, s. 14 (1).

(1.2) An operator shall employ at least one licensed exterminator for every three or fewer technicians and trainees who assist in performing exterminations. O. Reg. 405/98, s. 14 (1).

(1.3) An operator shall ensure that every technician and trainee employed by the operator is supervised by a licensed exterminator. O. Reg. 405/98, s. 14 (1).

(2) An operator who carries on business at more than one location shall,

(a) have a licensed exterminator in charge at each location who is normally present at least once during each business day;

(b) notify the Director of the address of each location and the name of the licensed exterminator in charge at each location; and

(c) notify the Director of any change in the information furnished under clause (b) within ten days after the effective date of the change. R.R.O. 1990, Reg. 914, s. 19 (2).

(3) Every holder of an operator's licence shall display the licence or a legible copy thereof in a prominent place at each location where the holder carries on business. O. Reg. 27/91, s. 8.

(4) In subsections (1), (1.1), (1.2) and (1.3),

"operator", in addition to the meaning it has in the Act, includes a person who,

(a) is a licensed exterminator and performs exterminations, or

(b) causes exterminations to be performed by a licensed exterminator who is,

(i) an employee of the person, if the person is not a partnership or corporation,

(ii) a partner or employee of the partnership, if the person is a partnership, or

(iii) a director, officer or employee of the person, if the person is a corporation. O. Reg. 405/98, s. 14 (2).

Insurance Requirements

20. (1) An operator shall carry insurance in a form approved by the Superintendent of Financial Services of the Province of Ontario for every extermination business carried on by the operator with respect to the liability of the operator and all of the operator's employees arising out of any extermination business carried on by the operator for death, injury or property damage. R.R.O. 1990, Reg. 914, s. 20 (1); O. Reg. 405/98, s. 15 (1).

(2) Subject to subsection (3), where an operator carries on an extermination business, the liability coverage provided by the contract of insurance required under subsection (1) shall be in an amount of not less than \$25,000 to each employee of the operator provided that the contract of insurance may limit the insurer's liability under the contract of insurance arising out of any one incident to \$50,000. R.R.O. 1990, Reg. 914, s. 20 (2).

(3) If an operator furnishes satisfactory evidence that the operator's business is covered under the *Workplace Safety and Insurance Act, 1997* and that the operator is paying all premiums and other amounts due under that Act as they fall due, the operator is exempt from subsection (2) as long as the operator continues to pay all such amounts as they fall due and to comply with all applicable provisions of that Act. O. Reg. 405/98, s. 15 (2).

(4) The contract of insurance required under subsection (1) shall provide comprehensive coverage in an amount of not less than \$1,000,000 with respect to death, injury or property damage arising out of any one incident. O. Reg. 405/98, s. 15 (2).

(5) The contract of insurance required under subsection (1) shall provide pollution coverage respecting the emission or discharge of chemicals into the environment as part of the business

operated under the authority of the licence in an amount of not less than \$200,000 with respect to death, injury or property damage arising out of any one incident. O. Reg. 405/98, s. 15 (2).

(6) If the extermination business carried on by an operator involves the application of pesticides from an airborne machine, the contract of insurance required under subsection (1) shall provide coverage for liability for off target pesticide deposition in an amount of not less than,

(a) \$100,000 with respect to death or injury arising out of any one incident; and

(b) \$25,000 with respect to property damage arising out of any one incident. O. Reg. 405/98, s. 15 (2).

(7) In subsections (4), (5) and (6), a reference to death or injury means death of or injury to a person who is not an employee of the operator. O. Reg. 405/98, s. 15 (2).

(8) The contract of insurance required under subsection (1) may provide that the insured shall be responsible for the first \$2,500 of each claim for which coverage is required under subsections (4), (5) and (6). O. Reg. 405/98, s. 15 (2).

(9) Every contract of insurance furnished in satisfaction of the requirements of this section shall provide that,

(a) the insurer shall give 30 days notice by registered mail to the Director prior to any cancellation of the contract by the insurer or the insured taking effect;

(b) the contract of insurance shall remain in full force and effect until the notice provided for in clause (a) has expired; and

(c) the insurer shall pay any claims covered by the contract of insurance to any person making such a claim who has recovered a judgment thereon despite any act or default of the insured which might make the policy void or give the insurer a defence to an action by the insured provided that such provision shall not limit the insurer's right to recover any payment so made from the insured. R.R.O. 1990, Reg. 914, s. 20 (9); O. Reg. 405/98, s. 15 (3).

Technicians and Trainees

20.1 (1) A person shall not assist the holder of an exterminator's licence in the performance of an extermination unless the person is a licensed exterminator, technician or trainee. O. Reg. 405/98, s. 16.

(1.1) While a licensed exterminator is engaged in assisting another holder of an exterminator's licence in the performance of an extermination not authorized by the first-named exterminator's licence, every provision of this Regulation affecting technicians applies to the first-named exterminator as if he or she were a technician, except the following provisions:

1. The definition of "technician" in section 1.

2. Subsection 19 (1.2).

3. Subsection (2) of this section. O. Reg. 228/00, s. 5 (1).

(2) Every technician shall, while assisting in the performance of an extermination, carry on his or her person a copy of a document confirming that he or she has successfully completed, within the previous 24 months, a course approved by the Director for assistants of holders of exterminators' licences concerning basic pesticide safety. O. Reg. 405/98, s. 16; O. Reg. 228/00, s. 5 (2).

(3) Every trainee shall, while assisting in the performance of an extermination, carry on his or her person a copy of identification supplied by his or her employer confirming that the trainee works for the employer as a trainee. O. Reg. 405/98, s. 16; O. Reg. 228/00, s. 5 (3).

(3.1) While a technician or trainee is actually carrying out an extermination, having the required document readily available at the site of the extermination is sufficient compliance with subsection (2) or (3). O. Reg. 228/00, s. 5 (4).

- (4) Subsection 5 (3) of the Act does not apply to a technician. O. Reg. 405/98, s. 16.
- (5) Subsection 5 (4) of the Act does not apply to a technician or trainee. O. Reg. 405/98, s. 16.
- (6) A technician shall not assist the holder of an exterminator's licence in the performance of an extermination unless a licensed exterminator visits the technician at the extermination site at least once a week to observe the performance of the technician and supervise the technician's work. O. Reg. 405/98, s. 16; O. Reg. 228/00, s. 5 (5).
- (7) A trainee shall not assist the holder of an exterminator's licence in the performance of an extermination unless the trainee is accompanied and supervised at all times by a licensed exterminator. O. Reg. 405/98, s. 16.
- (8) A technician or trainee shall not,
- (a) select or recommend to a client a pesticide for use in an extermination;
 - (b) select the method of application or the rate of application of a pesticide used in an extermination;
 - (c) mix or fill equipment with a Schedule 1 or Schedule 5 pesticide in preparation for an extermination;
 - (d) apply a Schedule 1 or Schedule 5 pesticide during an extermination; or
 - (e) mix, fill equipment with or apply a Schedule 2 pesticide that is a suspension in air, bird control product, rodenticide or soil fumigant, except in the presence of a licensed exterminator authorized to use the pesticide. O. Reg. 405/98, s. 16.
- (9) A technician who is present at an extermination and who is not accompanied by a licensed exterminator shall have readily available at the extermination site a work order, invoice, job sheet or other form of written instructions respecting the extermination, including the location, the target pest, the name of the pesticide to be used, the pesticide's registration number under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada), the name and licence number of the supervising exterminator and a unique number or other identifier by which the extermination is identified in the business records of the technician's employer. O. Reg. 405/98, s. 16; O. Reg. 110/99, s. 2; O. Reg. 228/00, s. 5 (6).
- (10) When a licensed exterminator visits a technician at an extermination site to observe the performance of the technician and supervise the technician's work, the technician shall request the licensed exterminator to enter his or her licence number on the written instructions referred to in subsection (9), and to sign and date the document. O. Reg. 405/98, s. 16; O. Reg. 228/00, s. 5 (7).
- (11) The technician shall keep with him or her at the extermination site for at least 30 days all written instructions that have been signed by a licensed exterminator under subsection (10). O. Reg. 405/98, s. 16; O. Reg. 228/00, s. 5 (8).
- (12) Revoked: O. Reg. 228/00, s. 5 (9).
- 20.2** (1) An exterminator shall not supervise at the same time a total of more than three technicians or trainees working at one or more exterminations. O. Reg. 405/98, s. 16.
- (1.1) Subsection (1) does not apply if the following conditions are satisfied:
1. A licensed exterminator is training a group of technicians or trainees.
 2. The technicians or trainees take part in one or more exterminations as part of their training.
 3. None of the exterminations in which the technicians or trainees take part is performed for payment. O. Reg. 228/00, s. 6 (1).
- (1.2) Despite subsection (1), an exterminator may supervise at the same time up to seven technicians or trainees working at one or more exterminations if the following conditions are satisfied:

1. The exterminator holds a Mosquito/Biting Flies water exterminator's licence.
2. The exterminator is supervising only technicians or trainees who are working at water exterminations to control mosquito larvae.
3. Each extermination is performed pursuant to a permit issued under subsection 7 (2) of the Act authorizing the prevention or control of mosquito-borne disease. O. Reg. 229/03, s. 1.
 - (2) An exterminator who supervises the work of a technician or trainee shall ensure that the technician or trainee carries out his or her work safely and in accordance with the Act and this Regulation. O. Reg. 405/98, s. 16.
 - (3) An exterminator who supervises the work of a technician or trainee shall,
 - (a) ensure that the technician or trainee receives any necessary training relating to the specific work that he or she will be performing; and
 - (b) make a record respecting the training. O. Reg. 228/00, s. 6 (2).
 - (3.1) The employer of the trainee or technician shall keep the record until at least two years after the trainee or technician leaves the employer's employment. O. Reg. 228/00, s. 6 (2).
 - (4) An exterminator who supervises the work of a technician shall ensure that the technician complies with subsection 20.1 (9). O. Reg. 405/98, s. 16.
 - (5) An exterminator who supervises the work of a technician shall visit the technician at the extermination site at least once a week to observe the performance of the technician and on each visit shall enter his or her licence number on the written instructions referred to in subsection 20.1 (9), and shall sign and date the document. O. Reg. 405/98, s. 16; O. Reg. 228/00, s. 6 (3).
 - (6) An exterminator who supervises the work of a trainee shall accompany and supervise the trainee at all times when the trainee is assisting the holder of an exterminator's licence in the performance of an extermination. O. Reg. 405/98, s. 16.
 - (7) Revoked: O. Reg. 228/00, s. 6 (4).

20.3 If a licensed exterminator is working on an extermination or is responsible for the conduct of an extermination, and other persons who are employed by the same operator but are not licensed exterminators, technicians or trainees are doing work in connection with the operator's business at the location where the extermination is taking place, the licensed exterminator shall ensure that the other persons,

- (a) comply with subsection 20.1 (1);
- (b) do not handle any pesticide unless it is in a sealed container;
- (c) do not handle any empty plastic, glass or metal container that has been used to hold a Schedule 1, 2 or 5 pesticide unless the container has been rinsed in accordance with subsection 27 (1);
- (d) do not do anything that is detrimental to the performance of an extermination, to public safety or to the environment; and
- (e) do not suffer any harm as a result of exposure to a pesticide or the performance of the extermination. O. Reg. 405/98, s. 16.

Classes of Pesticides

21. (1) In this section, "registrant", with respect to a pesticide, means the person who registers the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada), and includes the Canadian agent for the registrant of the pesticide under the *Pest Control Products Act* (Canada). O. Reg. 118/01, s. 1.

- (2) The Committee shall accept and consider an application from a registrant for the classification of a pesticide. O. Reg. 118/01, s. 1.

(3) Subject to subsection (4), the Committee shall recommend to the Director that he or she classify a pesticide as a Schedule 1, 2, 3, 4, 5 or 6 pesticide, if it considers it appropriate to do so having regard to the Act and the scheme of this Regulation. O. Reg. 118/01, s. 1.

(4) The Committee may recommend to the Director that he or she refuse to classify a pesticide if the Committee is of the opinion that,

(a) it does not have sufficient information to recommend that the pesticide be classified;

(b) proper use of the pesticide, as described on its label and in accordance with the Act and this Regulation, is likely to have one or more of the effects mentioned in clauses 49 (3) (a), (b), (c), (d), (e) and (f) of the Act, to an extent that is excessive, unreasonable or unnecessary; or

(c) it is not in the public interest to classify the pesticide. O. Reg. 118/01, s. 1.

(5) The Committee may recommend to the Director that he or she reclassify a pesticide if it considers it appropriate to do so having regard to the Act and the scheme of this Regulation and if,

(a) the registrant requests the reclassification;

(b) the registrant consents to the reclassification; or

(c) the Committee has notified the registrant that it intends to do so and has considered any submissions made by the registrant. O. Reg. 118/01, s. 1.

(6) The Committee may recommend to the Director that he or she declassify a pesticide if,

(a) the registrant requests the declassification and the Committee considers it appropriate to do so having regard to the Act and the scheme of this Regulation;

(b) the registrant consents to the declassification and the Committee considers it appropriate to do so having regard to the Act and the scheme of this Regulation;

(c) the pesticide is no longer registered under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada);

(d) the Committee has notified the registrant of newly available scientific or other information suggesting that proper use of the pesticide, as described on its label and in accordance with the Act and this Regulation, is likely to have one or more of the effects mentioned in clauses 49 (3) (a), (b), (c), (d), (e) and (f) of the Act, to an extent that is excessive, unreasonable or unnecessary and the Committee has considered any submissions made by the registrant with respect to that information; or

(e) the Committee has notified the registrant of newly available scientific or other information suggesting that it is no longer in the public interest that the pesticide be classified and the Committee has considered any submissions made by the registrant with respect to that information. O. Reg. 118/01, s. 1.

(7) The Director may ask the Committee to consider whether a pesticide should be reclassified under subsection (5) or declassified under subsection (6) and, if the Director does so, the Committee shall comply. O. Reg. 118/01, s. 1.

(8) The Director shall make a decision with respect to the subject matter of each recommendation of the Committee under subsections (3), (4), (5) and (6) and shall make the decision that he or she considers appropriate, having regard to the matters the Committee is required to consider under the applicable subsection and the Committee's recommendation. O. Reg. 118/01, s. 1.

(9) The Committee shall maintain a written record called the "Compendium of Scheduled Pesticides" that sets out, for every scheduled pesticide,

(a) the name of the pesticide;

(b) the pesticide's registration number under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada);

(c) the name and address of the registrant, including, if the pesticide is registered under the *Pest Control Products Act* (Canada), the name and address of the Canadian agent; and

(d) the schedule to which the pesticide has been classified. O. Reg. 118/01, s. 1.

(10) If the name or other identifying information of a pesticide in the Compendium of Scheduled Pesticides does not correspond to the name or other identifying information of the pesticide for the same registration number under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada), as the case may be, the pesticide shall be deemed to be the pesticide named under that Act for the registration number that appears in the Compendium of Scheduled Pesticides. O. Reg. 118/01, s. 1.

(11) The Committee shall maintain written records of all amendments to the Compendium of Scheduled Pesticides. O. Reg. 118/01, s. 1.

(12) The Committee shall make the Compendium of Scheduled Pesticides and the records of amendments to it available for inspection by the public at the office of the Committee during ordinary business hours, and on the Internet, through the web site of the Ministry of the Environment at www.ene.gov.on.ca, or, alternatively at www.opac.gov.on.ca. O. Reg. 118/01, s. 1.

(13) The Committee shall make available for distribution to the public, on request, printed copies of the Compendium of Scheduled Pesticides and the records of amendments to it. O. Reg. 118/01, s. 1.

22. (1) Subject to subsection (3), no person shall use any pesticide in an extermination unless it is, (a) classified under this Regulation and registered and assigned a registration number under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada); or

(b) an imported pesticide that has been determined under the regulations made under the *Pest Control Products Act* (Canada) to be equivalent to a pesticide registered under the *Pest Control Products Act* (Canada). O. Reg. 412/94, s. 1; O. Reg. 405/98, s. 17.

(2) Subject to subsection (3), no person shall use a pesticide in an extermination except in accordance with the label for that pesticide and this Regulation. O. Reg. 27/91, s. 10.

(3) A person is exempt from subsections (1) and (2) and from subsections 5 (1) and 7 (1) of the Act for an extermination using a pesticide for the purpose of research or a test,

(a) by a research centre, university or other institution of learning, a professional researcher from industry or the Government of Ontario, the Government of Canada or a person under the supervision or authority of a professional researcher from industry or the Government of Ontario or the Government of Canada, on the premises of such centre or institution, or on experimental premises obtained for this purpose; or

(b) where approval of the extermination has been obtained from the Director at least seven days before the extermination is performed. R.R.O. 1990, Reg. 914, s. 22 (3).

(4) Where an extermination is performed under subsection (3) on a food, feed or tobacco crop, the crop, if any, remaining at the conclusion of the research or test shall be destroyed by the person responsible for the extermination unless an alternative method for the disposal of the crop is approved by the Director. R.R.O. 1990, Reg. 914, s. 22 (4).

(5) Revoked: O. Reg. 412/94, s. 1.

(6) Revoked: O. Reg. 412/94, s. 1.

(7) Revoked: O. Reg. 412/94, s. 1.

23. A water treatment chemical is exempted from the Act and this Regulation if its use is authorized under the *Ontario Water Resources Act* by an approval or a permit to take water for the purpose of discouraging or eliminating the attachment of molluscs to works under that Act. R.R.O. 1990, Reg. 914, s. 23.

24. No person shall purchase, acquire, store or use a pesticide unless the person is the holder of a vendor's licence, operator's licence or exterminator's licence authorizing the holder to sell or use the pesticide or a pesticide reformulated from it or is exempt from requiring a vendor's licence, operator's licence or exterminator's licence to sell or use such pesticide or a pesticide reformulated from it. O. Reg. 27/91, s. 11.

25. (1) No person shall use water from a well or from a lake, river or other surface water in performing an extermination unless the equipment used in taking the water or in the extermination is equipped with an effective device to prevent back-flow. O. Reg. 27/91, s. 11.

(2) No person shall wash any equipment used to perform an extermination in or near a well or in or near a lake, river or other surface water in such a manner that any pesticide may be directly or indirectly discharged into a well or into a lake, river or other surface water. O. Reg. 27/91, s. 11.

Containers

26. (1) No person shall have possession of a pesticide other than in the container in which it was originally offered for sale. R.R.O. 1990, Reg. 914, s. 26 (1); O. Reg. 405/98, s. 18 (1).

(2) Subsection (1) does not apply to a person,

(a) who is performing an extermination in accordance with the Act and this Regulation; or

(b) who places the pesticide into a secondary container of a type and composition that is customarily used or approved by the pesticide's manufacturer for that pesticide and that bears a label stating,

(i) the trade name or common name and the concentration of each active ingredient in the pesticide, and

(ii) the pesticide's registration number under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada). R.R.O. 1990, Reg. 914, s. 26 (2); O. Reg. 405/98, s. 18 (2).

27. (1) When a plastic, glass or metal container that has been used to hold a Schedule 1, 2, 3, 5 or 6 pesticide becomes empty, the person responsible for the pesticide shall ensure that the container is promptly triple-rinsed or jet-rinsed using clean water, if appropriate, or another solvent that is appropriate. O. Reg. 405/98, s. 19.

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

(a) the container is returned to the vendor for refilling, if the container is clearly marked to

indicate that it can be refilled with the same pesticide and, before being returned, the container is stored in the manner that would be required if it were full;

(b) the container's label indicates that the container should not be rinsed;

(c) the container was used to hold a Schedule 3 or 6 pesticide and has a label marked "domestic";

(d) the container is an aerosol can;

(e) the container does not have an opening that can be readily opened and is large enough to permit subsection (1) to be complied with; or

(f) the Director consents in writing. O. Reg. 405/98, s. 19.

(3) The person responsible shall ensure that a container that has been rinsed under subsection (1),

(a) is taken for recycling to a pesticide container depot within the meaning of Regulation 347 of the Revised Regulations of Ontario, 1990 made under the *Environmental Protection Act*;

(b) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act; or

(c) is recycled or disposed of in another manner approved by the Director as affording a satisfactory level of protection for human health and the environment. O. Reg. 405/98, s. 19.

(4) The person responsible shall ensure that a container that is exempt from subsection (1) under clause (2) (b), (c), (d), (e) or (f),

(a) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act; or

(b) is recycled or disposed of in another manner approved by the Director as affording a satisfactory level of protection for human health and the environment. O. Reg. 405/98, s. 19.

(5) The person responsible shall ensure that any water or other solvent used for rinsing under subsection (1) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act, unless it is emptied into the spray tank and used in the extermination. O. Reg. 405/98, s. 19.

(6) For the purpose of subsection (1), a container shall be deemed to be empty if it contains less than 2.5 centimetres of material at the bottom of the container. O. Reg. 405/98, s. 19.

(7) When a paper or cardboard container that has been used to hold a Schedule 1, 2, 3, 5 or 6 pesticide becomes empty, the person responsible for the pesticide shall ensure that,

(a) the container is disposed of by burning, subject to any applicable municipal by-law, in a manner that keeps persons and animals out of any resulting smoke and that directs any resulting smoke away from buildings, roads and outdoor areas frequented by the public;

(b) the container is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act; or

(c) the container is recycled or disposed of in another manner approved by the Director as affording a satisfactory level of protection for human health and the environment. O. Reg. 405/98, s. 19.

28. (1) If the original container of a Schedule 1, 2, 3 or 5 pesticide is damaged or broken, the person responsible for the pesticide shall ensure that,

(a) under the direction of the person who registered the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada),

(i) any spillage is cleaned up to the satisfaction of the Director, and

(ii) any area, carrier or commodity that came in contact with the pesticide is decontaminated to the satisfaction of the Director;

(b) any pesticide that is to be kept is stored in a container that is equivalent to the one that was damaged or broken and that bears a label stating,

(i) the trade name or common name, and the concentration of, each active ingredient in the pesticide, and

(ii) the pesticide's registration number under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada);

(c) the container that was damaged or broken is dealt with under section 27 as if it were an empty container;

(d) any pesticide that is not going to be kept is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act, or in another manner approved by the Director as affording a satisfactory level of protection for human health and the environment; and

(e) any water or other solvent used for cleaning up or decontaminating under clause (a) is disposed of in accordance with Part V of the *Environmental Protection Act* and Regulation 347 of the Revised Regulations of Ontario, 1990 made under that Act, or in another manner approved

by the Director as affording a satisfactory level of protection for human health and the environment. O. Reg. 405/98, s. 20.

(2) Subsection (1) does not apply if the container that was damaged or broken was used to hold a Schedule 3 pesticide and had a label marked "domestic". O. Reg. 405/98, s. 20.

Fires, Accidents, Thefts

29. (1) The person responsible for a pesticide shall forthwith notify the Director in the event of a fire or other occurrence that may result in the pesticide being released into the environment out of the normal course of events, if the release,

(a) would be likely to cause impairment of the quality of the environment for any use that can be made of it;

(b) would be likely to cause injury or damage to property or to plant or animal life;

(c) would be likely to cause harm or material discomfort to any person;

(d) would be likely to adversely affect the health of any person;

(e) would be likely to impair the safety of any person; or

(f) would be likely to render directly or indirectly any property or plant or animal life unfit for use by humans. O. Reg. 405/98, s. 21.

(2) The person responsible for a pesticide shall forthwith notify the Director whenever any pesticide is stolen or otherwise passes out of the person's possession or control other than in the normal course of affairs. R.R.O. 1990, Reg. 914, s. 29 (2).

Structural Exterminations

30. A land extermination that uses a fumigant gas or a mixture of methyl bromide and chloropicrin shall be deemed to be a structural extermination for the purposes of the Act and this Regulation. O. Reg. 405/98, s. 22.

Structural Exterminators' Licences

30.1 (1) The following classes of structural exterminators' licences are prescribed:

1. Fumigation - General.

2. Fumigation - Soil.

3. Fumigation - Commodity.

4. Fumigation - Vault.

5. Structural.

6. Termite.

7. Greenhouse/Interior Plant. O. Reg. 405/98, s. 22.

(2) Every structural exterminator's licence shall specify the class of licence for which it has been issued. O. Reg. 405/98, s. 22.

(3) A Fumigation - General licence is authority for the use of a fumigant gas or chloropicrin in a structural extermination. O. Reg. 405/98, s. 22.

(4) A Fumigation - Soil licence is authority for the use of a fumigant gas, chloropicrin or a mixture of methyl bromide and chloropicrin in a structural extermination of soil, greenhouse soil beds or nursery soil, if the extermination is conducted under a covering that suppresses the release of gas. O. Reg. 405/98, s. 22; O. Reg. 228/00, s. 7.

(5) A Fumigation - Commodity licence is authority for the use of aluminum phosphide, magnesium phosphide and phosphine in a structural extermination of material in a silo, bin, vehicle or other form of close containment, and includes authority for the use of insecticides that are Schedule 2, 3, 4 or 6 pesticides for pests associated with the material. O. Reg. 405/98, s. 22.

(6) A Fumigation - Vault licence is authority for the use of methyl bromide, ethylene oxide or carbon dioxide in a structural extermination carried on in a vault that meets the criteria set out in subsection 39 (1). O. Reg. 405/98, s. 22.

(7) A Structural licence is authority for the use of pesticides in a structural extermination, but does not include authority for the use of herbicides, fumigant gases, chloropicrin or termiticides and does not include authority for the use of pesticides to control pests of plants growing inside greenhouses and other buildings or structures. O. Reg. 405/98, s. 22.

(8) A Termite licence is authority for the use of insecticides in a structural extermination to prevent or control termites, but does not include authority for the use of a fumigant gas. O. Reg. 405/98, s. 22.

(9) A Greenhouse/Interior Plant licence is authority for the use of pesticides in an extermination to control pests of plants growing inside greenhouses and other buildings or structures, and includes authority for the use of pesticides in areas immediately surrounding the greenhouses, buildings or other structures but does not include authority for the use of a fumigant gas. O. Reg. 405/98, s. 22.

31. Revoked: O. Reg. 405/98, s. 23.

Structural Extermination Permits

32. (1) A Schedule 1, 2, 3 or 5 pesticide used in a structural extermination is prescribed for the purpose of subsection 7 (1) of the Act. O. Reg. 405/98, s. 24.

(2) A Schedule 4 or 6 pesticide used in a structural extermination is prescribed for the purpose of subsection 7 (1) of the Act if the extermination is performed by a person who does not hold a structural exterminator's licence, unless the person is not required to hold a structural exterminator's licence for that extermination. O. Reg. 405/98, s. 24.

32.1 If the permit so provides, the holder of a permit issued under subsection 7 (1) of the Act in respect of a structural extermination is exempt from subsection 5 (1) of the Act for the extermination specified in the permit. O. Reg. 405/98, s. 25.

33. (1) The holder of any class of structural exterminator's licence is exempt from subsection 7 (1) of the Act with respect to the use of a Schedule 2, 3 or 5 pesticide in a structural extermination authorized by the licence. O. Reg. 405/98, s. 26.

(2) Any person exempt from the licensing requirement of subsection 5 (1) of the Act for a structural extermination by means of a Schedule 2 or 3 pesticide is also exempt from subsection 7 (1) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 33 (2).

General Requirements for Structural Exterminations by Fumigation using Fumigant Gas or Chloropicrin

34. (1) A person who is required under sections 35 to 43 to have adequate respiratory protection during a fumigation or airing out shall have adequate respiratory protection on his or her person and shall employ such protection at such times or in such circumstances as the pesticide label requires. O. Reg. 405/98, s. 27.

(2) If a fumigation has taken place and tests are required to be performed under sections 35 to 43 to determine whether airing out is completed, the tests shall be performed using appropriate gas monitoring equipment or systems that have the ability to detect and measure the gas produced by the pesticide used, with the accuracy appropriate to the concentrations referred to in subsection (3). O. Reg. 405/98, s. 27.

(3) If a fumigation has taken place, the airing out is not completed until, throughout the building, vault, vehicle or structure in which the extermination was performed, the concentration of the gas produced by the pesticide used is at or below,

- (a) the concentration specified on the pesticide's label; and
- (b) the concentration specified in Column 2 or 3 of the following Table for the pesticide, whichever is appropriate for the measuring device being used:

TABLE

| Column 1 | Column 2 | Column 3 |
|---------------------------|------------------------------------|-------------------------------|
| Gas Produced by Pesticide | Concentration (mg/m ³) | Concentration (ppm by volume) |
| Phosphine gas | 0.40 | 0.30 |
| Carbon dioxide | 9000 | 5000 |
| Chloropicrin | 0.67 | 0.10 |
| Hydrocyanic acid gas | 5.00 | 4.40 |
| Ethylene oxide | 1.80 | 1.00 |
| Methyl bromide | 12.00 | 3.00 |

O. Reg. 405/98, s. 27.

Structural Exterminations - General Space Fumigations using Fumigant Gas or Chloropicrin

35. (1) Sections 36, 37 and 38 apply to structural exterminations in which fumigant gas or chloropicrin is used in a general space fumigation of a building or a portion of a building. O. Reg. 405/98, s. 27.

(2) Every applicant for a permit for a structural extermination mentioned in subsection (1) shall hold a Fumigation-General structural exterminator's licence. O. Reg. 405/98, s. 27.

36. (1) At least 24 hours before but not more than seven days before performing an extermination mentioned in section 35, the exterminator shall deliver a notice in writing,

(a) to the owner or a representative of the owner of the building where the extermination is to be performed, and, where the building contains one or more dwelling units, to every occupant 16 years of age or over of every dwelling unit;

(b) to the owner or a person apparently in charge of,

(i) every building physically attached to the building where the extermination is to be performed,

(ii) every building on the same parcel of land as the building where the extermination is to be performed, and

(iii) every building so located that the extermination constitutes an actual or potential hazard to the occupants; and

(c) to the medical officer of health, the police force and the fire department responsible for the area in which the extermination is to be performed. O. Reg. 405/98, s. 27.

(2) Every notice under subsection (1) shall set out,

(a) the address where the extermination is to be performed;

(b) the name of the exterminator and the exterminator's emergency phone number;

(c) the pesticide being used;

(d) the date when it is proposed to perform the extermination;

(e) that occupants are to vacate and remain out of the building where the extermination is to be performed, and every building physically attached to that building, during the periods of extermination and airing out; and

(f) such other information as the Director may require. O. Reg. 405/98, s. 27.

(3) The exterminator shall ensure that the building where the extermination is to be performed, and every building physically attached to that building, is unoccupied during the periods of extermination and airing out. O. Reg. 405/98, s. 27.

(4) Within seven days after the extermination has been completed, the exterminator shall notify the Director of the completion and of any unexpected or adverse consequences. O. Reg. 405/98, s. 27.

37. (1) Before an extermination mentioned in section 35 is performed, the exterminator shall, (a) seal all openings in the building or the portion of the building in which the extermination is to be performed, including drains, ducts, vents and cracks, in a manner that suppresses the release of gas;

(b) remove from the building or the portion of the building in which the extermination is to be performed all substances that are not compatible with the pesticide being used;

(c) lock all doors and entrances to the building in which the extermination is to be performed, and all doors and entrances to every building physically attached to that building; and

(d) post a warning placard at all entrances to the building in which the extermination is to be performed, and at all entrances to every building physically attached to the building, and ensure that each warning placard is sufficiently illuminated at all times to allow it to be read. O. Reg. 405/98, s. 27; O. Reg. 228/00, s. 8.

(2) During the extermination and until the airing out is completed, the exterminator shall ensure that,

(a) the required warning placards remain posted;

(b) no person enters or remains in the building where the extermination is being or has been performed, or any building physically attached to that building, except a licensed exterminator authorized to use the fumigant that is being used;

(c) a person mentioned in clause (2) (b) who enters the building where the extermination is being performed, or any building physically attached to that building, employs adequate respiratory protection and is accompanied by at least one other person mentioned in clause (2) (b) who also employs adequate respiratory protection;

(d) adult guards are posted in a manner sufficient to prevent any unauthorized person from entering the building where the extermination is being performed, any building physically attached to that building or any area surrounding the buildings in which unauthorized persons might come to harm. O. Reg. 405/98, s. 27.

38. After completion of an extermination mentioned in section 35, the exterminator shall,

(a) circulate fresh air to every air space in the building where the extermination was performed, and to every air space in every building physically attached to that building, so that fresh air is circulated to all such spaces for whatever period of time is necessary to complete the airing out; and

(b) perform tests in every room of the building in which the extermination was performed, and in every room of every building physically attached to that building, to determine whether airing out is completed. O. Reg. 405/98, s. 27.

Structural Exterminations - Fumigations of Vaults

39. (1) The person responsible for a vault shall not cause or permit an extermination to be performed in which fumigant gas or chloropicrin is used in the fumigation of the vault if the person is aware that the vault is not gas-tight. O. Reg. 405/98, s. 27.

(2) The person responsible for a vault shall not cause or permit an extermination to be performed in which fumigant gas or chloropicrin is used in the fumigation of the vault unless the vault has

been confirmed to be gas-tight by the report of a professional engineer issued within the previous five years or, if any work has been done on the vault during the previous five years that could affect whether the vault is gas-tight, by the report of a professional engineer issued since the work was done. O. Reg. 405/98, s. 27.

(3) The person responsible for a vault shall promptly submit to the Director a copy of every report of a professional engineer that is prepared in respect of the vault for the purpose of determining whether the vault is gas-tight. O. Reg. 405/98, s. 27.

(4) The holder of a Fumigation - General structural exterminator's licence is exempt from subsection 7 (1) of the Act for an extermination by means of a fumigant gas or chloropicrin in a vault that meets the criteria set out in subsection (7). O. Reg. 405/98, s. 27.

(5) The holder of a Fumigation - Commodity structural exterminator's licence is exempt from subsection 7 (1) of the Act for an extermination by means of phosphine in a vault that meets the criteria set out in subsection (7). O. Reg. 405/98, s. 27.

(6) The holder of a Fumigation - Vault structural exterminator's licence is exempt from subsection 7 (1) of the Act for an extermination by means of a fumigant gas authorized by the licence in a vault that meets the criteria set out in subsection (7). O. Reg. 405/98, s. 27.

(7) The criteria referred to in subsections (4), (5), (6) and (8) are met if,

(a) the vault has been confirmed to be gas-tight by the report of a professional engineer issued within the previous five years or, if any work has been done on the vault during the previous five years that could affect whether the vault is gas-tight, by the report of a professional engineer issued since the work was done;

(b) the vault is free of any obvious damage that would suggest that the vault is not gas-tight; and

(c) the vault is equipped with,

(i) a sheet metal lining having soldered joints and covering the walls and ceilings, or any other lining that is equivalent in the opinion of the Director,

(ii) a floor that is made of material impervious to fumigants,

(iii) a gasket that is non-reactive to the pesticide being used,

(iv) an exhaust fan controlled by a switch from outside the vault capable of giving 10 changes of air per hour and discharging exhaust gases into the outside atmosphere at a point removed from any door, windows or openings, and

(v) provision to introduce gas from outside the vault. O. Reg. 405/98, s. 27.

(8) The following conditions apply to an extermination in which fumigant gas or chloropicrin is used in the fumigation of a vault:

1. Unless a permit provides otherwise, the exterminator shall inspect the vault and shall not proceed with the extermination unless he or she is satisfied that the vault meets the criteria set out in subsection (7).

2. Before a gas is generated or introduced, the exterminator shall search the vault to ensure that it contains no person.

3. The exterminator shall have adequate respiratory protection during the extermination and airing out.

4. The exterminator shall lock the door of the vault by means of a padlock before the generation or introduction of gas begins, shall keep it locked until the airing out begins, and shall keep the keys in his or her possession.

5. If, during the course of the extermination, the exterminator determines that the vault is not gas-tight, he or she shall take reasonable steps to temporarily seal the leaks and, within 24 hours

after the airing out is completed, shall give written notice of the presence of the leaks to the person responsible for the vault and to the Director.

6. Other than the exterminator, no person shall enter the vault until the airing out is completed.

7. The exterminator shall post a warning placard on the vault entrance.

8. The exterminator shall be present during the airing out period.

9. The exterminator shall perform tests at representative locations in the vault in which the extermination was performed to determine whether airing out is completed. O. Reg. 405/98, s. 27.

Structural Exterminations - Indoor Fumigations under Coverings or inside Sealed Containers

40. (1) The following conditions apply to an extermination in which a fumigant gas, chloropicrin or a mixture of methyl bromide and chloropicrin is used inside a building, if the gas is enclosed inside a sealed container or under a covering that suppresses the release of gas:

1. The exterminator shall satisfy himself or herself that the building is located far enough away from any other building, structure or area where humans may be exposed to prevent adverse effects.

2. The exterminator shall ensure that no person enters or remains in the building during the extermination or airing out, except a licensed exterminator authorized to use the fumigant that is being used.

3. The exterminator and at least one other licensed exterminator authorized to use the relevant fumigant shall be present during the introduction of the fumigant and the airing out period.

4. All persons present during the introduction of the fumigant and the airing out period shall have adequate respiratory protection.

5. The exterminator shall lock the doors of the building by means of a padlock immediately after the introduction of the fumigant, shall keep the doors locked until the airing out begins, and shall keep the keys in his or her possession.

6. The exterminator shall post a warning placard on the covering or sealed container and all entrances to the building.

7. The exterminator shall ensure that the required warning placards remain posted during the extermination and until the airing out is completed.

8. The exterminator shall perform tests in every room of the building in which the extermination was performed to determine whether airing out is completed. O. Reg. 405/98, s. 27.

(2) The holder of a Fumigation - General, Fumigation - Commodity or Fumigation - Soil structural exterminator's licence is exempt from subsection 7 (1) of the Act for an extermination in which a fumigant gas, chloropicrin or a mixture of methyl bromide and chloropicrin is authorized by the licence and is used inside a building, if the gas is enclosed inside a sealed container or under a covering that suppresses the release of gas. O. Reg. 405/98, s. 27.

Structural Exterminations - Fumigations in Vehicles or Specified Structures

41. (1) This section applies to an extermination in which a fumigant gas or chloropicrin is used in a vehicle or in any of the following structures:

1. A shipping container.

2. A silo or other grain storage container.

3. A bin.

4. A hopper.

5. A farm structure. O. Reg. 405/98, s. 27.

(2) The following conditions apply to an extermination mentioned in subsection (1):

1. Before introduction of the fumigant, the exterminator shall satisfy himself or herself that,

- i. the vehicle or structure is capable of being sealed during the extermination,
 - ii. the vehicle or structure is not contained within a larger vehicle or structure, and
 - iii. the vehicle or structure is located far enough away from any other building, structure or area where humans may be exposed to prevent adverse effects.
2. Before introduction of the fumigant, the exterminator shall remove from the vehicle or structure all substances that are not compatible with the pesticide being used.
 3. Before introduction of the fumigant, the exterminator shall search the vehicle or structure to ensure that it contains no person.
 4. The exterminator shall ensure that no person enters or remains in the vehicle or structure during the extermination and airing out, except a licensed exterminator authorized to use the fumigant that is being used.
 5. The exterminator and at least one other licensed exterminator authorized to use the relevant fumigant shall be present during the introduction of the fumigant and the airing out period.
 6. All persons present during the introduction of the fumigant and the airing out period shall have adequate respiratory protection.
 7. The exterminator shall seal the vehicle or structure and shall lock all the doors of the vehicle or structure by means of padlocks before a fumigant gas is introduced from the outside, or immediately after the introduction of a fumigant in any other case, shall keep the vehicle or structure sealed and the doors locked until the airing out begins, and shall keep the keys in his or her possession.
 8. The exterminator shall post a warning placard on all entrances to the vehicle or structure.
 9. The exterminator shall ensure that the required warning placards remain posted during the extermination and until the airing out is completed.
 10. The exterminator shall perform tests in the vehicle or structure to determine whether airing out is completed.
 11. During an extermination using methyl bromide in a vehicle or structure that is movable, a person shall not move the vehicle or structure until the airing out is completed, except in an emergency and with the permission of the holder of a Fumigation - General structural exterminator's licence.
 12. The fumigation of ships and of mobile units carried by ships must also comply with the *Canada Shipping Act* and Ship Fumigation Regulations. O. Reg. 405/98, s. 27; O. Reg. 228/00, s. 9.
- (3) If an extermination is performed in which phosphine is used in a truck, trailer or rail car that is in motion while the phosphine is active,
- (a) subsection (2) does not require the truck, trailer or rail car to be accompanied by an exterminator while it is in motion; and
 - (b) instead of keeping the keys in his or her possession under paragraph 7 of subsection (2), the exterminator shall ensure that the keys are not accessible to anyone other than people who are assisting in the extermination or involved in operating the truck, trailer or rail car. O. Reg. 405/98, s. 27.
- (4) The holder of a Fumigation - General or Fumigation - Commodity structural exterminator's licence is exempt from subsection 7 (1) of the Act for an extermination mentioned in subsection (1) that uses a fumigant gas or chloropicrin and is authorized by the licence. O. Reg. 405/98, s. 27.

Structural Exterminations - Fumigations of Rodent Burrows

42. The holder of a Fumigation - General structural exterminator's licence is exempt from subsection 7 (1) of the Act for an extermination of rodents in which a fumigant gas or chloropicrin is used in burrows in the ground, if,

- (a) the burrows do not open into a building;
- (b) any rat burrow entrances are greater than 3 metres from a building;
- (c) any groundhog burrow entrances are greater than 10 metres from a building; and
- (d) the exterminator and every other person present has adequate respiratory protection. O. Reg. 405/98, s. 27.

Structural Exterminations - Outdoor Fumigations of Soil

43. (1) The following conditions apply to an extermination of soil in which a fumigant gas, chloropicrin or a mixture of methyl bromide and chloropicrin is used, if the soil is not inside a building and the gas is enclosed under a covering that suppresses the release of gas:

- 1. The exterminator shall satisfy himself or herself that the soil is located far enough away from any building, structure or area where humans may be exposed to prevent adverse effects.
- 2. The exterminator and every other person present during the extermination shall have adequate respiratory protection. O. Reg. 405/98, s. 27; O. Reg. 228/00, s. 10 (1).

(2) The holder of a Fumigation - General or Fumigation - Soil structural exterminator's licence is exempt from subsection 7 (1) of the Act for an extermination of soil in which a fumigant gas, chloropicrin or a mixture of methyl bromide and chloropicrin is used and is authorized by the licence, if the soil is not inside a building and the gas is enclosed under a covering that suppresses the release of gas. O. Reg. 405/98, s. 27; O. Reg. 228/00, s. 10 (2).

44. Revoked: O. Reg. 405/98, s. 27.

45. Revoked: O. Reg. 405/98, s. 27.

46. Revoked: O. Reg. 162/94, s. 1.

Structural Exterminations - Strychnine and Zinc Phosphide

47. If a pesticide containing strychnine or zinc phosphide is used in a structural extermination, the exterminator shall,

- (a) place the pesticide so that it is inaccessible to humans and to animals that are not targeted by the extermination;
- (b) use the pesticide so that it is unlikely to come into contact with food or drink intended for consumption by humans or animals;
- (c) make a record, during the extermination, of the number and location of the sites where the pesticide is placed; and
- (d) remove the pesticide from every site when the extermination is completed. O. Reg. 405/98, s. 28.

Structural Exterminations - Schedules 1, 2 and 5 Pesticides used as a Suspension in Air

48. (1) A person shall not use a Schedule 1, 2 or 5 pesticide as a suspension in air in a structural extermination unless the person holds a structural exterminator's licence (Fumigation - Commodity), structural exterminator's licence (Structural) or structural exterminator's licence (Greenhouse/Interior Plant) that authorizes use of the pesticide. O. Reg. 405/98, s. 28.

(2) A person shall not use a Schedule 1 or 5 pesticide as a suspension in air in a structural extermination unless the person is accompanied by another person who holds a licence referred to in subsection (1) that authorizes use of the pesticide. O. Reg. 405/98, s. 28.

(3) A person shall not use a Schedule 2 pesticide as a suspension in air in a structural extermination unless the person is accompanied by,

(a) another person who holds a licence referred to in subsection (1) that authorizes use of the pesticide; or

(b) a technician or trainee. O. Reg. 405/98, s. 28.

49. If a structural extermination is performed by means of a Schedule 1, 2 or 5 pesticide as a suspension in air, the exterminator shall,

(a) before introduction of the pesticide,

(i) lock, from the outside, all doors leading into the building, except for the door that the exterminator will use for access,

(ii) post a warning placard on the outside of all doors leading into the building, and

(iii) ensure that the building is vacant; and

(b) after introduction of the pesticide,

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

(ii) ensure that no person enters the building until the building is free of the pesticide as a suspension in air. O. Reg. 405/98, s. 28.

50. Revoked: O. Reg. 405/98, s. 28.

51. Revoked: O. Reg. 405/98, s. 28.

52. Revoked: O. Reg. 405/98, s. 28.

53. Revoked: O. Reg. 405/98, s. 28.

54. Revoked: O. Reg. 405/98, s. 28.

55. Revoked: O. Reg. 405/98, s. 28.

Structural Extermination Licence Exemptions

56. A person is exempt from subsection 5 (1) of the Act for an extermination by means of a Schedule 3 pesticide if the person,

(a) is a householder and performs the extermination in the house which he or she occupies; or

(b) is a tenant of an apartment or flat which he or she has rented and performs the extermination in the apartment or flat occupied by him or her. R.R.O. 1990, Reg. 914, s. 56.

57. (1) Where a person performs an extermination by means of a Schedule 4 or 6 pesticide on premises owned or occupied by him or her or by a person of whom he or she is the full-time employee, the person is exempt from subsection 5 (1) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 57 (1).

(2) Subsection (1) applies in respect of an extermination of a tenanted apartment only if the person who performs the extermination is the tenant. R.R.O. 1990, Reg. 914, s. 57 (2); O. Reg. 228/00, s. 11.

58. Revoked: O. Reg. 405/98, s. 29.

59. An inspector under the *Bees Act* who is engaged in destroying bees by extermination under the authority of that Act by means of a fumigant gas and who holds a permit for the extermination issued by the Director is exempt from subsection 5 (1) of the Act. O. Reg. 405/98, s. 30.

60. Revoked: O. Reg. 405/98, s. 30.

61. (1) Where a person is the holder of a permit for a structural extermination by means of a Schedule 2 or 3 pesticide, he or she is exempt from subsection 5 (1) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 61.

(2) Revoked: O. Reg. 405/98, s. 31.

Prohibited Pesticides

62. (1) No person shall use, handle, store, sell, transport or dispose of a pesticide that contains aldrin, chlordane, chlordecone, dichlorodiphenyltrichloroethane (DDT), dieldrin or endrin. O. Reg. 162/94, s. 3.

(2) Despite subsection (1), a pesticide described in that subsection may be managed and disposed of as a hazardous waste in accordance with the *Environmental Protection Act* and the regulations under that Act. O. Reg. 162/94, s. 3.

Land Exterminators' Licences

63. (1) The following classes of land exterminators' licences are prescribed:

1. Landscape.

2. Forestry.

3. Industrial Vegetation.

4. Agriculture.

5. Aerial. O. Reg. 405/98, s. 32.

(2) Every land exterminator's licence shall specify the class of licence for which it has been issued. O. Reg. 405/98, s. 32.

(3) A Landscape licence is authority for the use of pesticides in a land extermination for the maintenance of turf or ornamental plantings on residential, recreational, commercial or public land or for the maintenance of ornamental plants intended for sale, but does not include authority for the use of a fumigant gas. O. Reg. 405/98, s. 32.

(4) For the purpose of subsection (3), maintenance on a property of turf, ornamental plantings or ornamental plants intended for sale includes,

(a) maintenance of the outside of buildings or structures on the property by means of structural exterminations;

(b) maintenance of treed areas on the property that do not exceed one hectare in size; and

(c) maintenance of rights of way or other easements that benefit the property, as long as the rights of way or other easements can be reached from the property without crossing a public road. O. Reg. 405/98, s. 32.

(5) A Forestry licence is authority for the use of pesticides in a land extermination for forest management or the growing and maintenance of trees, but does not include authority for the use of a fumigant gas. O. Reg. 405/98, s. 32.

(6) An Industrial Vegetation licence is authority for the use of herbicides in a land extermination to control vegetation on rights of way, roadsides, utility easements or other areas that give access to works or equipment, or in sewers, and includes authority for the use of insecticides and fungicides on inground wooden poles, but does not include authority for the use of a fumigant gas. O. Reg. 405/98, s. 32.

(7) An Agriculture licence is authority for the use of pesticides in a land extermination for the production of livestock, poultry or agricultural crops, including Christmas trees and sod, and includes authority for the use of pesticides in an extermination on animals in a farm structure and authority for the use of aluminum phosphide, magnesium phosphide or phosphine to control groundhogs, but does not include authority for any other use of fumigant gases or for any other use of pesticides inside greenhouses or other structures. O. Reg. 405/98, s. 32.

(8) An Aerial licence is authority for the use of pesticides applied by airborne machines in a land extermination or water extermination. O. Reg. 405/98, s. 32.

Land Extermination Notification Requirements

definitions

64. In sections 65 to 79,

"application area" means land on which a land extermination is performed or intended to be performed;

"public area sign" means a sign that meets the requirements for a public area sign set out in subsection 74 (1) and in sections 75 and 76;

"residential area sign" means a sign that meets the requirements for a residential area sign set out in subsection 74 (2) and in sections 75 and 76. O. Reg. 500/92, s. 1.

public areas

65. (1) No person shall perform a land extermination by means of a Schedule 1, 2, 3, 4, 5 or 6 pesticide without giving public notice in accordance with sections 66, 67, 68 and 71 to 76. O. Reg. 500/92, s. 1.

(2) No holder of an exterminator's licence shall perform a land extermination by means of a Schedule 1, 2, 3, 4, 5 or 6 pesticide without advising in writing the owner, occupier or person having the charge, management or control of the application area who caused the extermination to be performed of the requirements of section 72. O. Reg. 500/92, s. 1.

(3) Subsections (1) and (2) do not apply in respect of land exterminations on,

(a) land with natural features that exclude the public;

(b) land in respect of which substantial measures, such as fencing, have been taken to exclude the public;

(c) land used for agricultural or forestry production;

(d) a controlled-access highway or controlled access road within the meaning of the *Public Transportation and Highway Improvement Act*, other than rest areas, picnic areas and other areas where the public is invited to stop; or

(e) a lot or parcel of land on which there are no commercial or industrial buildings, and on which there is at least one and there are no more than four dwelling units. O. Reg. 500/92, s. 1.

(4) Subsection (2) does not apply where the person performing the land extermination is,

(a) an owner of the application area;

(b) an occupier of the application area;

(c) a person having the charge, management or control of the application area; or

(d) a full-time employee of a person described in clauses (a) to (c). O. Reg. 500/92, s. 1.

66. (1) Public area signs giving public notice of a land extermination shall be posted conspicuously at all ordinary points of access, if any, to the application area. O. Reg. 500/92, s. 1.

(2) Where there are no ordinary points of access to the application area, and there is a larger area of land that includes the application area and that is under the same ownership, management, charge or control as the application area, public area signs shall be posted conspicuously at all ordinary points of access, if any, to that larger area. O. Reg. 500/92, s. 1.

67. (1) Public area signs giving public notice of a land extermination shall be posted conspicuously at least every 100 metres along the perimeter of the application area. O. Reg. 500/92, s. 1.

(2) Subsection (1) does not apply in respect of any part of the perimeter along which there is a barrier that can reasonably be expected to prevent people from entering the application area. O. Reg. 500/92, s. 1.

(3) At least one public area sign giving public notice of a land extermination shall be posted conspicuously along the perimeter of the application area. O. Reg. 500/92, s. 1.

(4) For the purposes of this section, a sign is posted along the perimeter if it is posted within ten metres of the perimeter. O. Reg. 500/92, s. 1.

68. (1) Public notice of a land extermination may be given by one or more means described in subsection (2), and not as required by sections 66 and 67 if,

- (a) complying with the requirements of sections 66 and 67 would require the posting of more than twenty public area signs;
- (b) the application area is in a rural area and is on a public thoroughfare;
- (c) the application area is in a rural area and is on land against which a public utility or other public work has a right of way if the land extermination is to be performed over the right of way to benefit that work or access to it; or
- (d) public access to the application area is sufficiently limited to justify doing so. O. Reg. 500/92, s. 1.

(2) Public notice of a land extermination described in subsection (1) may be given, with the written approval of the Director, by the following means:

1. Publication in a newspaper of general circulation in the vicinity of the proposed land extermination at least one week prior to the proposed extermination.

2. The posting of signs or distribution of written notices in a manner that, in the Director's opinion, provides adequate notice to all persons who may be affected by the extermination.

3. Such other means that, in the Director's opinion, provides adequate notice to all persons who may be affected by the extermination. O. Reg. 500/92, s. 1.

(3) For the purposes of subsection (1), an application area is in a rural area if,

(a) the application area is not within the geographic limits of a city, town, village or borough; or

(b) there are fewer than twenty dwelling units within one kilometre of any given location in the application area. O. Reg. 500/92, s. 1.

(4) For the purposes of clause (1) (b), a public thoroughfare includes a public highway and any land over which the public has a general right of access but does not include a rest area, picnic area or other area on a highway where the public is invited to stop. O. Reg. 500/92, s. 1.

(5) The Director may abridge the time period for advance notice set out in paragraph 1 of subsection (2) if he or she is satisfied that a land extermination is urgently required and that to do so would not deprive any person who may be affected by the extermination of adequate notice.

O. Reg. 500/92, s. 1.

residential areas

69. (1) No holder of a land exterminator's licence shall perform a land extermination, other than a land extermination for the purposes of agricultural or forestry production, by means of a Schedule 1, 2, 3, 4, 5 or 6 pesticide on an application area any part of which is within 100 metres of a dwelling unit, other than a dwelling unit within the application area, without,

(a) giving public notice in accordance with sections 70 and 71 to 76; and

(b) advising, in writing, the owner, occupier or person having the charge, management or control of the application area who caused the extermination to be performed of the requirements of section 72. O. Reg. 500/92, s. 1.

(2) Subsection (1) does not apply in respect of a land extermination to which subsection 65 (1) applies. O. Reg. 500/92, s. 1.

(3) Clause (1) (b) does not apply where the person performing the land extermination is,

(a) an owner of the application area;

(b) an occupier of the application area;

(c) a person having the charge, management or control of the application area; or

(d) a full-time employee of a person described in clauses (a) to (c). O. Reg. 500/92, s. 1.

(4) A holder of a land exterminator's licence may elect to treat separate land exterminations being performed together as one extermination that is subject to section 65, if there is adequate notice to all persons who may be affected by the exterminations. O. Reg. 500/92, s. 1.

70. (1) Residential area signs giving public notice of a land extermination shall be posted conspicuously at least every 100 metres along these parts of the perimeter of the application area that are, at all points,

(a) within 100 metres of a dwelling unit, other than a dwelling unit within the application area; and

(b) adjacent to a highway or other area to which the public is ordinarily admitted. O. Reg. 500/92, s. 1.

(2) At least one residential area sign giving public notice of a land extermination shall be posted conspicuously along the perimeter of the application area. O. Reg. 500/92, s. 1.

(3) For the purposes of this section, a sign is posted along the perimeter if it is posted within ten metres of the perimeter. O. Reg. 500/92, s. 1.

posting and contents of notice

71. (1) Residential area signs shall be posted immediately before the land extermination begins. O. Reg. 500/92, s. 1.

(2) Except as provided in subsections (3) and (6), public area signs shall be posted immediately before the land extermination begins. O. Reg. 500/92, s. 1.

(3) Subject to subsections (4) and (5), public area signs shall be posted at least twenty-four hours before the land extermination begins on any part of an application area that includes or is included in,

(a) an outdoor area associated with a daycare facility, nursery school, primary school, high school, private school or post-secondary institution;

(b) a lot or parcel of land on which there are more than four dwelling units;

(c) a park;

(d) a cemetery;

(e) a golf course; or

(f) a campground. O. Reg. 500/92, s. 1.

(4) If public notice is given by one or more means set out in paragraphs 1 to 4 of subsection (6), public area signs may be posted immediately before the land extermination begins, and not as required by subsection (3), on any part of an application area that includes or is included in,

(a) a park in a rural area, as rural area is described in subsection 68 (3);

(b) a cemetery;

(c) a golf course in a rural area, as rural area is described in subsection 68 (3); or

(d) a golf course to which access by unauthorized persons is controlled by means of gates, fences or other barriers. O. Reg. 500/92, s. 1.

(5) If public notice is given by one or more means set out in paragraphs 1 to 4 of subsection (6) and by one or more means set out in paragraph 5 of subsection (6), public area signs may be posted immediately before the land extermination begins, and not as required by subsection (3), on any part of a land extermination that includes or is included in a campground. O. Reg. 500/92, s. 1.

(6) Public notice of a land extermination described in subsections (4) and (5) may be given by the following means:

1. The posting of public area signs, at least twenty-four hours before the land extermination begins, at all ordinary points of access to the application area or larger area, as required by section 66.
 2. The posting of public area signs, at least twenty-four hours before the land extermination begins, at all locations where visitors normally come into contact with the owner or operator of the application area or that person's employees.
 3. The distribution of written notices, during the period twenty-four hours before the land extermination begins, at all locations where visitors normally come into contact with the owner or operator of the application area or that person's employees.
 4. Such other means that, in the Director's opinion, is equivalent to the means set out in paragraph 1, 2 or 3 in that it provides adequate notice to all persons who may be affected by the extermination, and that is approved in writing by the Director.
 5. Posting signs, distributing notices, making public announcements or other such means, during the period twenty-four hours before the land extermination begins, to attempt to give notice of the extermination to persons who entered the campground before that period. O. Reg. 500/92, s. 1.
- (7) The Director may abridge the time period for advance notice set out in subsections (3) and (6) if he or she is satisfied that a land extermination is urgently required and that to do so would not deprive any person who may be affected by the extermination of adequate notice. O. Reg. 500/92, s. 1.
72. (1) No person shall remove a sign before forty-eight hours have elapsed following the completion of a land extermination. O. Reg. 500/92, s. 1.
- (2) Each person who performs a land extermination shall ensure that each sign is removed not less than three and not more than ten days after the day on which the extermination was completed, or by a later day agreed to by the Director in writing but not exceeding thirty days after the extermination if, in the Director's opinion, the signs cannot be removed earlier without undue expense to the person who performed the extermination. O. Reg. 500/92, s. 1.
73. Signs shall not be posted on trees, fences or buildings or on signboards together with other signs. O. Reg. 500/92, s. 2.
74. (1) Public area signs shall be rectangular and at least fifty-one centimetres high and thirty-eight centimetres wide. O. Reg. 500/92, s. 3.
- (2) Residential area signs shall be rectangular and at least twenty-eight centimetres high and twenty-two centimetres wide. O. Reg. 500/92, s. 3.
75. Signs shall be made of rain resistant material and shall be sturdy enough that they can be reused. O. Reg. 500/92, s. 3.
76. (1) The front of each sign shall bear,
- (a) the words "WARNING" at the top in capital letters;
 - (b) below those words a pictogram showing a single, black silhouette of an adult person on a white background within a red circle crossed by an oblique red bar;
 - (c) below the pictogram the words "PESTICIDE USE" in capital letters;
 - (d) below those words the words "FOR INFORMATION CONTACT" in capital letters and the telephone number of a representative of the person performing the land extermination who can provide more information about it;
 - (e) below the telephone number, the words "CALL COLLECT" in capital letters, if long distance rates apply to the telephone number from telephones located near the application area; and

- (f) below those words or below the telephone number, as the case may be, the words "DATE POSTED" in capital letters and the date the sign is posted, and the words "DATE SPRAYED" and the date the land extermination begins. O. Reg. 500/92, s. 3.
- (2) In addition to the requirements of subsection (1), the front of a sign may bear only words and markings that do not detract from the required information, occupying not more than the bottom five centimetres of a public area sign and not more than the bottom 2.5 centimetres of a residential area sign, that identify the employer of the person performing the land extermination or the owner or occupier of the application area. O. Reg. 500/92, s. 3.
- (3) For the purpose of clause (1) (f), the date the sign is posted shall be on the sign when it is posted and the date the land extermination begins shall be added to the sign not later than immediately before the extermination begins. O. Reg. 500/92, s. 3.
- (4) Despite clause (1) (f), a sign required to be posted immediately before the land extermination begins may omit the words "DATE POSTED" and the date the sign is posted. O. Reg. 500/92, s. 3.
- (5) The back of each sign shall bear,
- (a) the word "PESTICIDE" at the top in capital letters followed by the name of the pesticide used or intended for use on the application area;
- (b) below those words the words "REGISTRATION NUMBER" in capital letters followed by the number assigned to the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada); and
- (c) below those words the words "TO CONTROL" in capital letters followed by the name of the pest to be controlled. O. Reg. 500/92, s. 3; O. Reg. 405/98, s. 33.
- (6) In addition to the requirements of subsection (5), the back of a sign may bear only,
- (a) words and markings that do not detract from the required information, occupying not more than the bottom five centimetres of a public area sign and not more than the bottom 2.5 centimetres of a residential area sign, that identify the employer of the person performing the land extermination or the owner or occupier of the application area; and
- (b) additional words and markings that are approved in writing by the Director. O. Reg. 500/92, s. 3.
- (7) The words "WARNING" and "PESTICIDE USE" on the front of each sign shall be printed in red letters and shall be at least five centimetres high on public area signs and at least 2.5 centimetres high on residential area signs. O. Reg. 500/92, s. 3.
- (8) All other letters and numbers required by subsections (1) and (5) shall be printed in black and shall be at least 1.5 centimetres high on public area signs and at least one centimetre high on residential area signs. O. Reg. 500/92, s. 3.
- (9) The outer edge of the red circle on the pictogram shall be at least 21.5 centimetres in diameter on each public area sign and at least 12.5 centimetres in diameter on each residential area sign and the width of the circle shall be approximately one-tenth the size of that diameter. O. Reg. 500/92, s. 3.
- (10) If the telephone number used on a sign is a number to which long distance rates apply from telephones located near the application area, all collect calls must be accepted. O. Reg. 500/92, s. 3.
77. A person intending to perform a land extermination may post a sign other than a sign that meets the requirements of sections 73, 74 and 76 if the person satisfies the Director that in the circumstances public notice would be better provided by the sign the person proposes to post. O. Reg. 500/92, s. 3.

78. (1) Any written notice authorized under section 68 or 71, other than the posting of a sign, shall set out,

- (a) the date the land extermination is to take place;
- (b) a description of the application area;
- (c) the pesticide used or intended for use on the application area;
- (d) the registration number assigned to the pesticide under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada);
- (e) the name of the pest to be controlled; and
- (f) the telephone number of a representative of the person performing the land extermination who can provide more information about it. O. Reg. 500/92, s. 3; O. Reg. 405/98, s. 34.

(2) If the telephone number used in the notice is a number to which long distance rates apply from telephones located near the application area, the notice shall state that collect calls will be accepted and all collect calls must be accepted. O. Reg. 500/92, s. 3.

79. If a trainee or technician uses pesticides application equipment under the supervision of a holder of an exterminator's licence, the holder of the licence,

- (a) shall ensure that the notices required by subsections 65 (1) and (2) and 69 (1) are given; and
- (b) shall not permit the trainee or technician to use the equipment unless those notices have been given. O. Reg. 500/92, s. 3; O. Reg. 228/00, s. 12.

80. Revoked: O. Reg. 500/92, s. 3.

Land Extermination Permits

81. (1) A Schedule 1, 2, 3 or 5 pesticide used in a land extermination is prescribed for the purpose of subsection 7 (1) of the Act. O. Reg. 405/98, s. 35.

(2) A Schedule 4 or 6 pesticide used in a land extermination is prescribed for the purpose of subsection 7 (1) of the Act if the extermination is performed by a person who does not hold a land exterminator's licence, unless the person is not required to hold a land exterminator's licence for that extermination. O. Reg. 405/98, s. 35.

81.1 If the permit so provides, the holder of a permit issued under subsection 7 (1) of the Act in respect of a land extermination is exempt from subsection 5 (1) of the Act for the extermination specified in the permit. O. Reg. 405/98, s. 36.

82. (1) Subject to subsections (3) and (4) and section 88, a holder of any class of land exterminator's licence authorized to use a Schedule 2, 3, 4, 5 or 6 pesticide in an extermination is exempt from subsection 7 (1) of the Act for that extermination. O. Reg. 405/98, s. 37; O. Reg. 228/00, s. 13 (1).

(2) Subject to subsections (3) and (4) and section 88, any person exempt from subsection 5 (1) of the Act for a land extermination by use of a Schedule 2, 3, 4, 5 or 6 pesticide is also exempt from subsection 7 (1) of the Act for that extermination. O. Reg. 405/98, s. 37; O. Reg. 228/00, s. 13 (2).

(3) The exemptions in subsections (1) and (2) do not apply to a land extermination by means of a pesticide containing picloram or 4-aminopyridine. O. Reg. 405/98, s. 37.

(4) The exemptions in subsections (1) and (2) do not apply to an extermination to control groundhogs in burrows in the ground using aluminum phosphide, magnesium phosphide or phosphine if any of the burrows open into a building or any of the burrow entrances are less than 10 metres from a building. O. Reg. 405/98, s. 37.

83. Revoked: O. Reg. 405/98, s. 38.

84. Revoked: O. Reg. 405/98, s. 38.

85. Revoked: O. Reg. 405/98, s. 38.

86. Revoked: O. Reg. 405/98, s. 38.

87. Revoked: O. Reg. 405/98, s. 38.

Airborne Machines

88. The exemptions in subsections 82 (1) and (2) do not apply to the following uses of pesticides:

1. The use from an airborne machine of a Schedule 1 or 5 pesticide.
2. The use from an airborne machine of a Schedule 2 pesticide containing 2,4-D, 2,4-DB, mecoprop, MCPA, MCPB, dichlorprop, dicamba, picloram, paraquat or trichlopyr.
3. The use from an airborne machine of a pesticide in connection with the management of Crown forests pursuant to the *Crown Forest Sustainability Act, 1994*. O. Reg. 405/98, s. 39.

89. (1) An exterminator's licence does not authorize the use of a pesticide applied by an airborne machine unless it is a land exterminator's licence (Aerial). O. Reg. 405/98, s. 39.

(2) If an extermination is performed from an airborne machine, the pilot of the machine must be the holder of a land exterminator's licence (Aerial). O. Reg. 405/98, s. 39.

90. Where a land or water extermination with an airborne machine is performed using a Schedule 1, 2 or 5 pesticide,

- (a) the pesticide shall not be in a dust formulation; and
- (b) the pilot of the machine shall not assist in the loading of the machine with the pesticide or otherwise expose himself or herself to contact with it. R.R.O. 1990, Reg. 914, s. 90.

91. (1) Every person who operates an airborne machine in performing land or water exterminations shall,

- (a) make a record of each land and water extermination performed by the person, in the form or format approved by the Director, and keep the record for a period of two years after the extermination is completed;
- (b) if the land or water extermination was performed for an operator, provide a copy of the record mentioned in clause (a) to the operator after the extermination is completed, and the operator shall keep a copy of the record for two years; and
- (c) on the request of the Director, promptly submit a copy of a record mentioned in clause (a) to the Director. O. Reg. 405/98, s. 40.

(2) A pilot or operator, as the case may be, shall produce the records mentioned in subsection (1) to a provincial officer when requested and, unless provided with a copy of the records, the provincial officer may remove the records, or any portion thereof, in order to make copies.

R.R.O. 1990, Reg. 914, s. 91 (2).

Land Extermination Exemptions

92. Where a person performs a land extermination for domestic purposes on land occupied by the person by means of a Schedule 3 pesticide, the person is exempt from subsection 5 (1) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 92.

92.1 A person who performs a land extermination for personal protection by means of an animal repellent that is a Schedule 2, 3, 4, 5 or 6 pesticide is exempt from subsection 5 (1) of the Act and subsection 65 (1) of this Regulation in respect of the extermination. O. Reg. 405/98, s. 41.

93. (1) Where a person performs a land extermination by means of a Schedule 4 or 6 pesticide on premises owned or occupied by the person or by a person of whom he or she is the full-time employee, the person is exempt from subsection 5 (1) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 93 (1).

(2) Where a person performs a land extermination by means of a Schedule 3 pesticide on premises to which the public is not admitted and which are owned or occupied by the person or

by a person of whom he or she is the full-time employee, the person is exempt from subsection 5 (1) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 93 (2).

94. (1) A certified agriculturist is an agriculturist who is certified within the last 60 months,
(a) to have successfully completed a course for certified agriculturists that has been approved by the Director with respect to the handling and use of pesticides on farm land; or
(b) to possess experience that in the Director's opinion makes it unnecessary for the agriculturist to take the course described in clause (a). O. Reg. 129/98, s. 1.

(2) An assistant agriculturist is an agriculturist who, within the last 60 months, has completed a course for assistant agriculturists that has been approved by the Director with respect to the handling and use of pesticides on farm land. O. Reg. 129/98, s. 1.

(2.1) Certified agriculturists and assistant agriculturists shall be at least 16 years of age. O. Reg. 228/00, s. 14 (1).

(2.2) When handling or using pesticides on farm land, a certified agriculturist or assistant agriculturist shall have readily available a copy of a document confirming that he or she complies with subsection (1) or (2), as the case may be. O. Reg. 228/00, s. 14 (1).

(3) A certified agriculturist who is the holder of a permit for a land extermination by means of a Schedule 1 pesticide on the farm land on which the agriculturist is engaged in agricultural or forestry production is exempt from subsection 5 (1) of the Act for that extermination. O. Reg. 129/98, s. 1.

(4) An agriculturist who performs a land extermination by means of a Schedule 3, 4 or 6 pesticide on the farm land on which he or she is engaged in agricultural or forestry production is exempt from subsection 5 (1) of the Act for that extermination. O. Reg. 129/98, s. 1.

(5) A certified agriculturist who performs a land extermination by means of a Schedule 2 or 5 pesticide on the farm land on which he or she is engaged in agricultural or forestry production is exempt from subsection 5 (1) of the Act for that extermination. O. Reg. 129/98, s. 1.

(6) Revoked: O. Reg. 228/00, s. 14 (2).

(7) Subject to subsections (8) and (9), an assistant agriculturist who performs a land extermination by means of a Schedule 2 or 5 pesticide on the farm land on which he or she is engaged with a certified agriculturist in agricultural or forestry production is exempt from subsection 5 (1) of the Act for that extermination. O. Reg. 129/98, s. 1; O. Reg. 228/00, s. 14 (3).

(8) An assistant agriculturist shall not,

(a) purchase a Schedule 2 or 5 pesticide;

(b) recommend or select a Schedule 2 or 5 pesticide for use on the farm land;

(c) select the application rate of a Schedule 2 or 5 pesticide for use on the farm land;

(d) calibrate application equipment for an extermination using a Schedule 2 or 5 pesticide;

(e) select the appropriate means of storage of a Schedule 2 or 5 pesticide;

(f) select the appropriate means of disposal or reclamation of an empty container that has held a Schedule 2 or 5 pesticide; or

(g) transport or dispose of a Schedule 2 or 5 pesticide that has become waste. O. Reg. 129/98, s. 1; O. Reg. 228/00, s. 14 (4).

(9) An assistant agriculturist shall not mix, load or apply a Schedule 2 or 5 pesticide unless he or she is supervised by a certified agriculturist. O. Reg. 228/00, s. 14 (5).

(9.1) The certified agriculturist who supervises the assistant agriculturist shall,

(a) be present at the site where the mixing, loading or application takes place; or

(b) be on call as described in subsection (9.2). O. Reg. 228/00, s. 14 (5).

(9.2) A certified agriculturist who is on call for the purposes of clause (9.1) (b) shall,

(a) in the case of a Schedule 5 pesticide, provide the assistant agriculturist with written instructions for the proper mixing, loading and application of the pesticide and ensure that the instructions are readily available at the site; and

(b) in the case of a Schedule 2 or 5 pesticide,

(i) be available for immediate response through an effective communication system, and

(ii) be able to attend at the site to respond to an emergency situation within a period of time that is reasonable in the circumstances. O. Reg. 228/00, s. 14 (5).

(10) Every certified agriculturist shall ensure that the use, storage, transportation and disposal of pesticides on the farm land on which the certified agriculturist is engaged in agricultural or forestry production is carried out in accordance with the Act and this Regulation. O. Reg. 129/98, s. 1.

(11) A certified agriculturist shall not supervise, at any one time, more than three assistant agriculturists for the purpose of subsection (9). O. Reg. 228/00, s. 14 (6).

95. (1) A certified agriculturist is exempt from subsections 5 (1) and (2) of the Act in respect of a land extermination if all of the following criteria are satisfied:

1. The extermination is performed on farm land that is not owned by the certified agriculturist.

2. The extermination is performed by means of a Schedule 2, 3, 4, 5 or 6 pesticide.

3. The extermination is performed by the operation at any given time of only one piece of application equipment and that equipment is normally used on the certified agriculturist's own farm land.

4. No money is paid for the extermination. O. Reg. 405/98, s. 42.

(2) Subsection (1) does not apply to a person who performs an extermination by means of an airborne machine. R.R.O. 1990, Reg. 914, s. 95 (2).

(3) Revoked: O. Reg. 119/91, s. 3 (2).

96. Revoked: O. Reg. 406/98, s. 43.

97. Revoked: O. Reg. 406/98, s. 43.

98. (1) Where an area weed inspector under the *Weed Control Act*, in accordance with his or her duties under that Act, performs a land extermination by means of a Schedule 2, 3, 4 or 6 pesticide that is a herbicide and uses a compressed-air hand sprayer or equipment no larger than that commonly called a knapsack sprayer, he or she is exempt from subsection 5 (1) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 98 (1).

(2) A municipality which performs a land extermination for another municipality by means of a Schedule 2, 3, 4 or 6 pesticide is exempt from subsection 5 (2) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 98 (2).

99. (1) Where an exterminator is licensed as a structural exterminator (Structural) and performs an extermination on animals on farm land, the exterminator is exempt from being licensed as a land exterminator for that extermination. R.R.O. 1990, Reg. 914, s. 99 (1); O. Reg. 405/98, s. 44 (1).

(2) An exterminator who is licensed as a structural exterminator (Structural) is exempt from being licensed as a land exterminator for a land extermination for mammalian, avian or insect pests,

(a) on or near a waste disposal site defined under the *Environmental Protection Act*; or

(b) near the building or vehicle where the structural extermination for the mammalian, avian or an insect pest is being performed. R.R.O. 1990, Reg. 914, s. 99 (2); O. Reg. 405/98, s. 44 (2).

100. Revoked: O. Reg. 405/98, s. 45.

101. Revoked: O. Reg. 405/98, s. 45.

Water Exterminations

102. (1) The following classes of water exterminators' licences are prescribed:

1. Aquatic Vegetation.
2. Mosquito/Biting Flies.
3. Fish/Mollusc. O. Reg. 405/98, s. 46; O. Reg. 482/98, s. 1 (1).

(2) Every water exterminator's licence shall specify the class of licence for which it has been issued. O. Reg. 405/98, s. 46.

(3) An Aquatic Vegetation licence is authority for the use of herbicides in a water extermination. O. Reg. 405/98, s. 46.

(4) A Mosquito/Biting Flies licence is authority for the use of insecticides in a water extermination and for the use of insecticides in a land extermination of the adult stage of mosquitoes or other biting flies. O. Reg. 482/98, s. 1 (2).

(5) A Fish/Mollusc licence is authority for the use of pesticides in a water extermination related to fish, sea lamprey or molluscs. O. Reg. 405/98, s. 46.

Water Extermination Permit Requirements

103. If the permit so provides, the holder of a permit issued under subsection 7 (2) of the Act in respect of a water extermination is exempt from subsection 5 (1) of the Act for the extermination specified in the permit. O. Reg. 405/98, s. 46; O. Reg. 229/03, s. 2.

Water Extermination Licence and Permit Exemptions

104. (1) Where a person performs a water extermination within the boundaries of premises owned or occupied by the person or by a person of whom he or she is a full-time employee,

(a) the person is exempt from subsection 5 (1) of the Act for that extermination; and
(b) if such water is located wholly within the boundaries of such premises and does not discharge water by any means directly or indirectly, other than by percolation, into a well, lake, river, pond, spring, stream, reservoir or other water or watercourse that is located wholly or partly outside the boundaries of the premises, then the person is exempt from subsection 7 (2) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 104 (1).

(2) A municipality that performs a water extermination for another municipality by means of a Schedule 2, 3, 4 or 6 pesticide is exempt from subsection 5 (2) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 104 (2).

105. Where a person performs a water extermination for the control of plants that emerge from or float on the surface of the water in a drainage ditch, which at the time of the extermination contains no moving water, and the person uses a Schedule 2, 3, 4 or 6 pesticide that is labelled for that use, the person is exempt from subsection 7 (2) of the Act for that extermination. R.R.O. 1990, Reg. 914, s. 105.

Vehicle Identification

105.1 During a calendar year, an operator shall not permit a vehicle to be used to transport or apply a pesticide in connection with an extermination unless an identification marker for the calendar year has been obtained from the Director and is affixed to the rear of the vehicle in such manner as to be visible and legible at all times. O. Reg. 405/98, s. 47.

Vendors' Licences

106. The following classes of vendors' licences are prescribed:

1. General vendor's licence.
2. Limited vendor's licence. O. Reg. 405/98, s. 48.

107. (1) An applicant for the issuance or renewal of any class of vendor's licence must be at least 18 years of age, unless the applicant is a corporation or partnership. O. Reg. 405/98, s. 48.

(2) If the applicant is a corporation or partnership, it shall designate on its application the partner, director or officer who is the official representative of the corporation or partnership, who shall be at least 18 years of age and shall sign the application and whose duty it is to ensure compliance with the Act and the regulations. O. Reg. 405/98, s. 48.

(3) The applicant shall submit with the application,

(a) the name and address of the sales outlet to be covered by the licence; and

(b) in the case of an application for a general vendor's licence, the name and address of at least one outlet representative for the outlet and proof that the outlet representative has complied with clause 109 (1) (b). O. Reg. 405/98, s. 48.

(4) An applicant for any class of vendor's licence whose application is in the process of being considered and every general vendor or limited vendor shall notify the Director, in writing, of any change in the information submitted under this section within 10 days after the effective date of the change. O. Reg. 405/98, s. 48.

108. Every holder of a vendor's licence shall display the licence or a legible copy of the licence in a prominent place at the sales outlet covered by the licence. O. Reg. 405/98, s. 48.

108.1 Revoked: O. Reg. 405/98, s. 48.

109. (1) The holder of a general vendor's licence shall ensure that the sales outlet covered by the licence has an outlet representative who,

(a) works full-time at the sales outlet;

(a.1) is at least 16 years of age;

(b) within the previous 60 months, has successfully completed a course approved by the Director for persons involved in selling pesticides, or who otherwise satisfies the Director that he or she is qualified to sell pesticides;

(c) is the licensee or an employee of the licensee, if the licensee is not a partnership or corporation;

(d) is a partner or an employee of the partnership, if the licensee is a partnership; and

(e) is an officer, director or employee of the corporation, if the licensee is a corporation. O. Reg. 405/98, s. 48; O. Reg. 228/00, s. 15.

(2) The outlet representative shall ensure that all operations of the outlet are carried out in accordance with the Act and the regulations. O. Reg. 405/98, s. 48.

(3) A person shall not sell or offer to sell a pesticide at a sales outlet if the sales outlet does not have an outlet representative who meets the criteria required by subsection (1). O. Reg. 405/98, s. 48.

(4) Subsection (3) does not apply to a sale of a pesticide by a person who is exempted under section 116 or 117 from requiring a vendor's licence. O. Reg. 405/98, s. 48.

110. A general vendor or limited vendor shall not sell a pesticide for which the vendor requires a licence under section 6 of the Act except as provided by section 111 or 112. O. Reg. 405/98, s. 48.

111. (1) A general vendor may sell a Schedule 1 pesticide to,

(a) a general vendor;

(b) a licensed exterminator authorized to use that pesticide; or

(c) the holder of a permit for the purchase and use of that pesticide. O. Reg. 405/98, s. 48.

(2) A general vendor may sell a Schedule 2 pesticide to,

(a) a general vendor;

(b) a licensed structural or water exterminator authorized to use that pesticide;

- (c) a licensed land exterminator authorized to use that pesticide, unless the pesticide contains picloram or 4-aminopyridine;
 - (d) a certified agriculturist, unless the pesticide contains picloram or 4-aminopyridine;
 - (e) an area weed inspector designated under the *Weed Control Act*, unless the pesticide contains picloram; or
 - (f) the holder of a permit for the purchase and use of that pesticide. O. Reg. 405/98, s. 48; O. Reg. 228/00, s. 16.
- (3) A general vendor may sell a Schedule 3 pesticide to,
- (a) a general vendor or limited vendor;
 - (b) a licensed exterminator authorized to use that pesticide;
 - (c) a person exempt from subsection 5 (1) of the Act for an extermination by means of that pesticide; or
 - (d) the holder of a permit for the purchase and use of that pesticide. O. Reg. 405/98, s. 48.
- (4) A general vendor may sell a Schedule 4 pesticide to any person. O. Reg. 405/98, s. 48.
- (5) A general vendor may sell a Schedule 5 pesticide to,
- (a) a general vendor;
 - (b) a licensed exterminator authorized to use that pesticide;
 - (c) a certified agriculturist;
 - (d) an area weed inspector designated under the *Weed Control Act*; or
 - (e) the holder of a permit for the purchase and use of that pesticide. O. Reg. 405/98, s. 48.
- (6) A general vendor may sell a Schedule 6 pesticide to any person. O. Reg. 405/98, s. 48.
- 112.** (1) A limited vendor may sell a Schedule 3 pesticide to,
- (a) a general vendor or limited vendor;
 - (b) a licensed exterminator authorized to use that pesticide;
 - (c) a person exempt from subsection 5 (1) of the Act for an extermination by means of that pesticide; or
 - (d) the holder of a permit for the purchase and use of that pesticide. O. Reg. 405/98, s. 48.
- (2) A limited vendor may sell a Schedule 4 or 6 pesticide to any person. O. Reg. 405/98, s. 48.
- 113.** A general vendor or limited vendor shall not sell a pesticide to the holder of a permit for the purchase and use of that pesticide except in accordance with any applicable terms and conditions of the permit. O. Reg. 405/98, s. 48.
- 114.** Revoked: O. Reg. 405/98, s. 48.
- 115.** Revoked: O. Reg. 405/98, s. 48.
- 116.** Section 6 of the Act does not apply to a person who sells,
- (a) a Schedule 4 pesticide;
 - (b) a Schedule 3 or 6 pesticide that is a paint, stain, sealer or wood preservative provided that no food is prepared, sold or stored on the same premises;
 - (c) a Schedule 3 or 6 pesticide that is a disinfectant, cleanser or bactericide;
 - (d) Revoked: O. Reg. 499/92, s. 1.
 - (e) a Schedule 2 pesticide that is intended for use as a bactericide in cutting oil, marine or aviation fuels. R.R.O. 1990, Reg. 914, s. 116; O. Reg. 27/91, s. 22; O. Reg. 499/92, s. 1; O. Reg. 405/98, s. 49.
- 117.** (1) A licensed exterminator is exempt from section 6 of the Act with respect to any transfer of pesticides brought about by the application of pesticides in the course of the exterminator's business. O. Reg. 405/98, s. 50.

(2) An area weed inspector designated under the *Weed Control Act* is exempt from section 6 of the Act with respect to the sale or transfer, in the course of the inspector's duties, of a Schedule 2 or 3 pesticide that is a herbicide to a person who is authorized under the Act and this Regulation to use the pesticide. O. Reg. 405/98, s. 50.

Records

118. (1) Every holder of a vendor's licence shall keep a record of each sale of a Schedule 1, 2 or 5 pesticide setting out,

(a) the name and address of the purchaser;

(b) the type and class of licence or permit to use, if any, held by the purchaser and the licence or permit number; and

(c) a description of the pesticide sold, including the pesticide's name, the pesticide's registration number under the *Pest Control Products Act* (Canada) or the *Fertilizers Act* (Canada), the Schedule under which the pesticide is classified, the unit size and the quantity. O. Reg. 405/98, s. 51 (1).

(2) A record made under subsection (1) shall be kept by the holder of the vendor's licence for a period of two years or such longer period as the Director may require by written notice. R.R.O. 1990, Reg. 914, s. 118 (2); O. Reg. 405/98, s. 51 (2).

(3) Every vendor who receives a written request from the Director for any record kept under subsection (1) shall forward the record or a copy thereof to the Director within thirty days of receiving the request. R.R.O. 1990, Reg. 914, s. 118 (3).

(4) The vendor shall produce any record kept under subsection (1) to a provincial officer when requested and the provincial officer may remove such record, or any portion thereof, in order to make copies. R.R.O. 1990, Reg. 914, s. 118 (4).

(5) If the sale described in subsection (1) is to a certified agriculturist, the record kept under that subsection shall also set out,

(a) the number and expiry date of the certified agriculturist's certificate; and

(b) if the pesticide was given to an agent of the certified agriculturist at the vendor's premises, the name of the person to whom the pesticide was given. O. Reg. 405/98, s. 51 (3); O. Reg. 228/00, s. 17.

Storage

119. No person shall store a pesticide in such a manner that the pesticide is likely to come into contact with food or drink intended for human or animal consumption. O. Reg. 27/91, s. 23.

120. (1) No person shall leave a Schedule 1, 2, 3, 4, 5 or 6 pesticide, whether mixed or diluted for use or not unsupervised in a vehicle unless the vehicle is located in a place inaccessible to the public or the pesticide is locked in an enclosed part or compartment of the vehicle. O. Reg. 27/91, s. 23; O. Reg. 228/00, s. 18 (1).

(2) A person shall not leave a Schedule 1, 2, 3, 4, 5 or 6 pesticide, whether mixed or diluted for use or not unsupervised in a vehicle unless the vehicle displays, in clearly visible block letters,

(a) the words "Warning" and "Authorized Persons Only"; and

(b) the words "Chemical Storage" or "Pesticide Storage". O. Reg. 405/98, s. 52; O. Reg. 228/00, s. 18 (2).

(3) Subsection (2) does not apply to a person who is transporting the pesticide for domestic purposes. O. Reg. 405/98, s. 52.

121. (1) A person who stores a Schedule 1, 2, 3, 4, 5 or 6 pesticide shall do so in accordance with the following rules:

1. The pesticide shall be stored in such a manner that the pesticide is not likely to impair the health or safety of any person.
2. The pesticide shall be stored in an area that is maintained in good repair and in a clean and orderly condition with sufficient precautions taken to prevent the pesticide from contaminating the natural environment or any other pesticide stored in the same area.
3. The pesticide shall be stored in an area that has a warning sign prominently displayed at the entrances to the area bearing, in clearly visible block letters,
 - i. the words "Warning" and "Authorized Persons Only", and
 - ii. the words "Chemical Storage" or "Pesticide Storage".
4. The pesticide shall be stored in an area near which there is prominently displayed a list of emergency telephone numbers, including those of the fire department, hospital and poison control centre. O. Reg. 405/98, s. 53.

(2) Subsection (1) does not apply to a person who is storing a pesticide for domestic purposes on land occupied by the person. O. Reg. 405/98, s. 53.

122. (1) No person shall store a Schedule 1, 2 or 5 pesticide unless,

- (a) the compartment, room or structure in which the pesticide is stored is ventilated to the outside atmosphere;
- (b) a placard is affixed and maintained on the outside of each door leading into the compartment, room or structure in which the pesticide is stored bearing, in clearly visible block letters,
 - (i) the words "Warning" and "Authorized Persons Only", and
 - (ii) the words "Chemical Storage" or "Pesticide Storage";
- (c) sufficient security measures are taken so that the express permission of the person responsible is required to enter the compartment, room or structure in which the pesticide is stored; and
- (d) if the pesticide is stored outdoors, sufficient security measures are taken so that the express permission of the person responsible for the pesticide is required to have access to the pesticide, and a placard is maintained near the pesticide bearing, in clearly visible block letters,
 - (i) the words "Warning" and "Authorized Persons Only", and
 - (ii) the words "Chemical Storage" or "Pesticide Storage". O. Reg. 27/91, s. 23; O. Reg. 405/98, s. 54; O. Reg. 228/00, s. 19.

(2) No vendor, operator, exterminator or agriculturist shall store a Schedule 1, 2 or 5 pesticide except in an area,

- (a) that has no floor drain that leads into or drains directly or indirectly into a storm sewer, sanitary sewer or watercourse; and
- (b) near which adequate respiratory protection and adequate protective clothing are kept readily available for emergency purposes. O. Reg. 27/91, s. 23.

123. (1) No vendor, operator, exterminator or agriculturist shall store a Schedule 1 or 5 pesticide except in an area that is used exclusively for the storage of pesticides. O. Reg. 27/91, s. 23.

(2) Revoked: O. Reg. 412/94, s. 2.

Fire Department Notification

124. (1) Every general vendor or limited vendor who stores a Schedule 1, 2, 3, 4, 5 or 6 pesticide for sale shall annually give a written notice in accordance with subsection (3) to the fire department responsible for the area in which the pesticide is stored. O. Reg. 405/98, s. 55.

(2) Every operator who stores a Schedule 1, 2 or 5 pesticide for use shall annually give a written notice in accordance with subsection (3) to the fire department responsible for the area in which the pesticide is stored. O. Reg. 405/98, s. 55.

(3) The notice shall be in the form or format approved by the Director, and shall identify the pesticide, describe its location and conditions of storage, and identify the person responsible for the pesticide. O. Reg. 405/98, s. 55.

(4) Subsections (1) and (2) do not apply to pesticide that is temporarily stored in a vehicle. O. Reg. 405/98, s. 55.

Display

125. A general vendor or limited vendor who sells a Schedule 1, 2, 3, 4, 5 or 6 pesticide shall,

(a) display a Schedule 1, 2 or 5 pesticide in such a manner that no person other than the licensee or the licensee's employees has ready access to the pesticide;

(b) display a Schedule 3 pesticide in such manner that such pesticide presents minimal hazard to children; and

(c) not display a Schedule 1, 2, 3, 4, 5 or 6 pesticide on a shelf or in a display case that is adjacent to a shelf or display case containing food or drink intended for human or animal consumption or any other commodity which if contaminated by the pesticide may cause injury or damage to property or to plant or animal life or to any person. R.R.O. 1990, Reg. 914, s. 125; O. Reg. 27/91, s. 24; O. Reg. 405/98, s. 56.

Transportation

126. No person shall transport or cause or permit the transportation of a pesticide by a vehicle operated on any highway or road unless the pesticide is secured in a manner sufficient to prevent the escape or discharge of the pesticide from the vehicle. R.R.O. 1990, Reg. 914, s. 126.

127. No person shall transport or cause or permit the transportation of any Schedule 1, 2, 3 or 5 pesticide together with commodities that are,

(a) food or drink intended for human or animal consumption;

(b) household furnishings; or

(c) toiletries, clothes, bedding or similar commodities,

by a vehicle operated on any highway or road unless the pesticide being transported is separated from such commodities in a manner sufficient to prevent their contamination or likely contamination by the pesticide. R.R.O. 1990, Reg. 914, s. 127.

128. Revoked: O. Reg. 412/94, s. 3.

Miscellaneous Exemptions

129. (1) A person is exempt from the Act and the regulations if the person uses, stores, displays, sells or transports a pesticide which is a machine, apparatus, equipment, article, instrument, contrivance or gadget which does not utilize any,

(a) Schedule 1, 2, 3, 4, 5 or 6 pesticide; or

(b) chemical or microbiological agent. R.R.O. 1990, Reg. 914, s. 129 (1).

(2) A person who uses, stores, displays, sells or transports a pesticide that is registered under the *Pest Control Products Act* (Canada) for use only in the extermination of microorganisms and that is not classified under this Regulation is exempt from the Act and regulations. R.R.O. 1990, Reg. 914, s. 129 (2).

(3) Subsections 5 (1) and (2) of the Act and section 20, subsection 65 (1), subsection 120 (2) and paragraphs 3 and 4 of subsection 121 (1) of this Regulation do not apply in respect of an extermination that uses a Schedule 4 or 6 pesticide that is,

(a) a tree wound dressing;

(b) a wood preservative;

(c) an insecticide bait that is enclosed by the manufacturer in a plastic or metal container that has been made in a way that prevents or minimizes access to the bait by humans and pets; or

- (d) a product that contains only a single active ingredient and that ingredient is,
 - (i) a soap,
 - (ii) a mineral oil, or
 - (iii) silicon dioxide, also called diatomaceous earth. O. Reg. 405/98, s. 58; O. Reg. 228/00, s. 20.
- (4) Subsections 5 (1) and (2) of the Act and subsection 65 (1) of this Regulation do not apply in respect of an extermination that uses a Schedule 3, 4 or 6 pesticide for injection into trees, stumps or wooden poles. O. Reg. 405/98, s. 58.
- (5) A person is exempt from the Act and this Regulation with respect to the storage, sale or transfer of a pesticide, if the pesticide is to be formulated into another pesticide, manufactured or incorporated into a product, or transported out of Ontario. O. Reg. 405/98, s. 58.
- 130.** A person who uses, stores or transports a pesticide for the treatment, control, mitigation or prevention of pests in or on people or animals is exempt from the requirements of the Act and the regulations thereunder for such use, storage or transportation if the person is,
 - (a) a member of a College as defined in the *Regulated Health Professions Act, 1991*;
 - (b) a medical officer of health or a member of the staff of a board of health under the *Health Protection and Promotion Act*; or
 - (c) a member of the College of Veterinarians of Ontario. R.R.O. 1990, Reg. 914, s. 130; O. Reg. 405/98, s. 59.
- 131.** Revoked: O. Reg. 110/99, s. 4.
- TABLES 1, 2 Revoked: O. Reg. 110/99, s. 5.
- SCHEDULES 1-6 Revoked: O. Reg. 110/99, s. 5.
- FORMS 1-10 Revoked: O. Reg. 405/98, s. 60.
- FORM 11 Revoked: O. Reg. 110/99, s. 6.

Weed Control Act

R.S.O. 1990, Chapter W.5

Notice of Currency:* This document is up to date.

*This notice is usually current to within two business days of accessing this document. For more current amendment information, see the [Table of Public Statutes \(Legislative History\)](#).
Amended by: 2002, c. 17, Sched. F, Table.

Definitions

1. In this Act,

"area weed inspector" means an area weed inspector appointed under section 6; ("inspecteur de secteur des mauvaises herbes")

"chief inspector" means the chief inspector appointed under section 2; ("inspecteur en chef")

"district weed inspector" means a district weed inspector appointed under section 2; ("inspecteur de district des mauvaises herbes")

"inspector" means an area weed inspector, district weed inspector or municipal weed inspector; ("inspecteur")

"local weed" means a plant designated under section 10 as a local weed; ("mauvaise herbe locale")

"Minister" means the Minister of Agriculture and Food; ("ministre")

"municipal weed inspector" means a municipal weed inspector appointed under section 8; ("inspecteur municipal des mauvaises herbes")

"noxious weed" means a plant that is deemed to be a noxious weed under subsection 10 (2) or designated as a noxious weed under clause 24 (a); ("mauvaise herbe nuisible")

"owner" means the person shown as the owner of land on the last revised assessment roll of the municipality in which the land is located; ("propriétaire")

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

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

"single-tier municipality" means a single-tier municipality that is not within a territorial district nor within an upper-tier municipality and does not include the City of Brantford; ("municipalité à palier unique")

"weed seed" means the seed of a noxious weed. ("graine de mauvaise herbe") R.S.O. 1990, c. W.5, s. 1; 2002, c. 17, Sched. F, Table.

Chief inspector, district weed inspector

2. The Minister may appoint a chief inspector and a district weed inspector for any district designated in the appointment. R.S.O. 1990, c. W.5, s. 2.

Duty to destroy noxious weeds

3. Every person in possession of land shall destroy all noxious weeds on it. R.S.O. 1990, c. W.5, s. 3.

Persons deemed in possession

4. For the purposes of this Act, the owner of land shall be deemed, unless the contrary is proved, to be the person in possession of it. R.S.O. 1990, c. W.5, s. 4.

Road authorities deemed in possession of roads

5. For the purposes of section 3, every road authority within the meaning of the *Public Transportation and Highway Improvement Act* shall be deemed to be the person in possession of the land under its jurisdiction. R.S.O. 1990, c. W.5, s. 5.

Appointment of inspectors

6. (1) The council of every upper-tier and single-tier municipality shall by by-law appoint one or more persons as area weed inspectors to enforce this Act in the area within the council's jurisdiction and fix their remuneration or other compensation. R.S.O. 1990, c. W.5, s. 6 (1); 2002, c. 17, Sched. F, Table.

Division into areas

(2) The council may divide the upper-tier or single-tier municipality into areas and appoint one or more area weed inspectors for each area. R.S.O. 1990, c. W.5, s. 6 (2); 2002, c. 17, Sched. F, Table.

Failure to appoint inspectors

(3) If a council fails to appoint an area weed inspector, the Minister may appoint the area weed inspector and fix his or her remuneration or other compensation. R.S.O. 1990, c. W.5, s. 6 (3).

Minister to notify council of appointment

(4) The Minister shall notify the council of the appointment in writing and the treasurer of the municipality shall pay the remuneration or other compensation so fixed to the area weed inspector. R.S.O. 1990, c. W.5, s. 6 (4).

Clerk to notify chief inspector of appointment

7. (1) The clerk of each upper-tier and single-tier municipality shall, before the 1st day of April in each year, give the chief inspector a written notice indicating the name and address of every area weed inspector and the area for which the appointment is made. R.S.O. 1990, c. W.5, s. 7 (1); 2002, c. 17, Sched. F, Table.

Idem

(2) If the council of an upper-tier or single-tier municipality passes a by-law appointing an area weed inspector on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law give the chief inspector a written notice indicating the name and address of every area weed inspector and the area for which the appointment is made. R.S.O. 1990, c. W.5, s. 7 (2); 2002, c. 17, Sched. F, Table.

Idem

(3) If an area weed inspector resigns or the council revokes the appointment, the clerk of the municipality shall within seven days of the resignation or revocation give the chief inspector written notice of it. R.S.O. 1990, c. W.5, s. 7 (3).

Appointment of municipal weed inspectors

8. (1) The council of any municipality not referred to in subsection 6 (1) may by by-law appoint one or more persons as municipal weed inspectors to enforce this Act in the area within the council's jurisdiction and fix their remuneration or other compensation.

Co-operation with area weed inspector

(2) Persons who are appointed as municipal weed inspectors shall carry out their duties in co-operation with the area weed inspector.

Joint jurisdiction

(3) Even though a municipal weed inspector has been appointed by a municipality, the area weed inspector may, when he or she considers it necessary, exercise his or her powers under this Act in the municipality. R.S.O. 1990, c. W.5, s. 8.

Clerk to notify chief inspector of appointment

9. (1) The clerk of each municipality not referred to in subsection 6 (1) shall, before the 1st day of April in each year, give the chief inspector a written notice indicating the name and address of every municipal weed inspector for the area within its jurisdiction and the area for which the appointment is made.

Idem

(2) If the council of any municipality not referred to in subsection 6 (1) passes a by-law appointing a municipal weed inspector on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law give the chief inspector a written notice indicating the name and address of every municipal weed inspector and the area for which the appointment is made.

Idem

(3) If a municipal weed inspector resigns or the council revokes the appointment, the clerk of the municipality shall within seven days of the resignation or revocation give the chief inspector written notice of it. R.S.O. 1990, c. W.5, s. 9.

Designation of weeds

10. (1) A council of an upper-tier or single-tier municipality that has appointed an area weed inspector or a council of a local municipality that has appointed a municipal weed inspector may by by-law designate as a local weed any plant that is not a noxious weed. 2002, c. 17, Sched. F, Table.

Effect of designation

(2) The by-law may apply in respect of the whole or any part of the municipality and, for the purposes of this Act, the plant that is designated shall be deemed to be a noxious weed within the area to which the by-law applies. R.S.O. 1990, c. W.5, s. 10 (2).

Approval of by-laws

(3) The by-law does not take effect until it is approved by the Minister. R.S.O. 1990, c. W.5, s. 10 (3).

Inspectors in territory without municipal organization

11. (1) Road commissioners appointed under the *Statute Labour Act* in territory without municipal organization shall have the powers of an inspector.

Expenses for enforcement collectable

(2) This Act applies in the case of territory without municipal organization in the same manner as in the case of a municipality, except that any sums payable by a person liable for expenses incurred or remuneration paid in enforcing this Act are collectable in the manner provided in the *Statute Labour Act* with respect to the enforcement of the payment of charges for statute labour or its commutation. R.S.O. 1990, c. W.5, s. 11.

Powers of inspectors

12. (1) For the purpose of searching for noxious weeds or weed seeds, an inspector may at any time between sunrise and sunset enter upon any land and buildings, except a dwelling house, in the area within his or her jurisdiction and inspect the land, buildings and any implements, machinery, vehicles and crops or other plants.

Identification to be provided

(2) An inspector shall, upon request, show proper identification to the owner or occupier of the land or building being inspected.

Application for warrant

(3) If an inspector is denied entry or access to buildings or land or is obstructed while carrying out an inspection, the inspector may apply to a justice of the peace for a warrant.

Issuing of warrant

(4) If a justice of the peace is satisfied on evidence upon oath that it is necessary for an inspector to enter any buildings or land for the purpose of this Act, the justice of the peace may issue a warrant authorizing an inspector to enter the buildings or land specified in the warrant, together with such police officers as the inspector calls upon to assist him or her.

Application without notice

(5) A justice of the peace may receive and consider an application for a warrant without notice to the owner or occupier of the buildings or land. R.S.O. 1990, c. W.5, s. 12.

Order for destruction of weeds

13. (1) An inspector who finds noxious weeds or weed seeds on land in the area within his or her jurisdiction may order the person in possession of the land to destroy the noxious weeds or weed seeds.

Time for destruction of weeds

(2) The order shall be in the prescribed form and shall specify a time of at least seven days, excluding Saturdays and holidays, from the date of the service of the order within which the noxious weeds or weed seeds shall be destroyed.

Service of order

(3) The order shall be served upon every person named in it,
(a) by personal service; or
(b) by mailing a copy of the order by prepaid first class mail, by registered mail or by certified mail to the last address for service provided by the person or, if no such address has been provided, to the person's address last noted on the tax assessment roll or, if none, to the person's last known address.

Effective date of service

(4) Service under clause (3) (b) is effective on the seventh day after the order is mailed.

Service on owner and person in possession

(5) If there is evidence that the person in possession of land is not its owner, the order shall be served on both the owner and the person in possession.

Appeal to chief inspector

(6) A person who is served with an order under subsection (5) may, within seven days after service, appeal the order or any requirement contained in it to the chief inspector, giving reasons for the appeal.

Written appeal

(7) The appeal and reasons shall be in writing.

Parties

(8) The appellant, the inspector who made the order and such other persons as the chief inspector may specify are parties to the appeal.

Examination of land

(9) The chief inspector may, in the presence of the parties or after affording them an opportunity to be present, view and examine land in relation to which the order appealed from is made and may base his or her decision upon the evidence adduced by the parties and on the view and examination.

Decision of chief inspector

(10) After hearing an appeal under this section, the chief inspector may confirm or revoke the order or may make a new order in its place.

Service of order

(11) The chief inspector's order shall be served in accordance with subsections (3), (4) and (5).

Appeal

(12) The chief inspector's order may be appealed to the Divisional Court within thirty days of its making under subsection (10). R.S.O. 1990, c. W.5, s. 13.

Obstruction of inspectors

14. No person shall hinder or obstruct an inspector in the course of his or her duties, refuse to furnish the inspector with information or furnish him or her with false information. R.S.O. 1990, c. W.5, s. 14.

Failure to comply with order

15. (1) If an order served under section 13 is not complied with, the inspector may cause the noxious weeds or weed seeds to be destroyed in the prescribed manner. R.S.O. 1990, c. W.5, s. 15 (1).

Expenses of inspectors

(2) Inspectors shall keep a record of the expenses incurred under subsection (1) with respect to each parcel of land. R.S.O. 1990, c. W.5, s. 15 (2).

Statement of expenses to be served on owner and person in possession of land

(3) The expenses shall be submitted to the clerk of the municipality who shall have a statement of the expenses and a notice requesting payment served on the person in possession of the land and on its owner. R.S.O. 1990, c. W.5, s. 15 (3).

Service of statement and notice

(4) The statement and notice shall be served in the same manner as an order under section 13. R.S.O. 1990, c. W.5, s. 15 (4).

Failure to pay

(5) If the person upon whom a statement and notice were served fails to pay the amount set out in the statement within fifteen days after the service of the notice, the clerk shall present the statement to the council of the municipality in which the land is located, and the council shall order the amount to be paid out of the general funds of the municipality. R.S.O. 1990, c. W.5, s. 15 (5).

Collection

(6) The amount paid by the municipality has priority lien status, as described in section 1 of the *Municipal Act, 2001*, and shall be added to the tax roll against the respective parcels concerned. 2002, c. 17, Sched. F, Table.

Destruction of weeds

16. (1) Despite section 13, the council of any local municipality may direct any of its municipal weed inspectors or, if there are none, the area weed inspectors to cause noxious weeds or weed seeds to be destroyed in the prescribed manner on all or part of any lot shown on a registered plan of subdivision and on lots not exceeding 10 acres that are not shown on such a plan. R.S.O. 1990, c. W.5, s. 16 (1); 2002, c. 17, Sched. F, Table.

Notice requirement

(2) Before noxious weeds or weed seeds are destroyed, the council shall publish notice of its intent to have the noxious weeds or weed seeds destroyed in a newspaper having general circulation in the municipality. R.S.O. 1990, c. W.5, s. 16 (2).

Report of inspector

(3) The inspector shall report to the clerk of the municipality the amount of the expenses incurred under this section with respect to each parcel of land. R.S.O. 1990, c. W.5, s. 16 (3).

Statement of expenses to be served on owner and person in possession of land

(4) The clerk of the municipality shall have a statement of the expenses and a notice requesting payment served on the person in possession of the land and on its owner. R.S.O. 1990, c. W.5, s. 16 (4).

Service of statement and notice

(5) The statement and notice shall be served in the same manner as an order under section 13. R.S.O. 1990, c. W.5, s. 16 (5).

Failure to pay

(6) If the person upon whom a statement and notice were served fails to pay the amount set out in the statement within fifteen days after the service of the notice, the clerk shall present the statement to the council of the municipality in which the land is located, and the council shall

order the amount to be paid out of the general funds of the municipality. R.S.O. 1990, c. W.5, s. 16 (6).

Collection

(7) The amount paid by the municipality has priority lien status, as described in section 1 of the *Municipal Act, 2001*, and shall be added to the tax roll against the respective parcels concerned. 2002, c. 17, Sched. F, Table.

Application for refund, etc.

17. A person may apply to the council for the cancellation, reduction or refund of an amount levied in the year with respect to orders for weed control and is entitled to make an appeal to the Assessment Review Board in the same manner as for taxes under section 357 of the *Municipal Act, 2001*. R.S.O. 1990, c. W.5, s. 17; 2002, c. 17, Sched. F, Table.

Notice requiring noxious weeds and weed seeds to be destroyed

18. (1) A district weed inspector who finds noxious weeds or weed seeds on any land owned by or under the control of a municipality within his or her district may deliver or send by prepaid first class mail to the clerk of the municipality a notice requiring the noxious weeds or weed seeds to be destroyed before a date specified in the notice.

Failure to comply with notice

(2) If the notice is not complied with, the district weed inspector may cause the noxious weeds or weed seeds to be destroyed in the prescribed manner.

Recovery of expenses

(3) The expenses incurred by the district weed inspector under subsection (2) shall be paid by the municipality concerned and are recoverable in any court of competent jurisdiction by the Minister in the name of Her Majesty as a debt owed to the Crown.

Certificate proof of authority

(4) In any court action, the certificate purporting to be signed by the Minister as to the amount of the expenses is conclusive proof of the amount without proof of the Minister's authority or signature. R.S.O. 1990, c. W.5, s. 18.

Prohibition

19. No person shall deposit or permit to be deposited any noxious weeds or weed seeds in any place where they might grow or spread. R.S.O. 1990, c. W.5, s. 19.

Agricultural machines

20. If the moving of a machine used for agricultural purposes is likely to cause noxious weeds or weed seeds to grow or spread, no person shall move the machine or cause it to be moved without first removing from it all seeds and other residue. R.S.O. 1990, c. W.5, s. 20.

Grain elevators, etc.

21. A person in charge of a grain elevator, seed-cleaning plant or other grain-cleaning or grain-grinding plant shall dispose of all refuse containing weed seeds in a manner that will prevent them from growing or spreading. R.S.O. 1990, c. W.5, s. 21.

Exception

22. Sections 3, 13, 16 and 18 do not apply to noxious weeds or weed seeds that are far enough away from any land used for agricultural or horticultural purposes that they do not interfere with that use. R.S.O. 1990, c. W.5, s. 22.

Offence

23. (1) A person who contravenes this Act or the regulations, or an order made under this Act, is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$500 and not more than \$2,000 and for each subsequent offence to a fine of not less than \$1,000 and not more than \$5,000.

Idem, particular circumstances

(2) Subsection (1) applies to a person who is in contravention of section 3 or of an order made under subsection 13 (1) even though an inspector has caused or may cause the noxious weeds and weed seeds to be destroyed. R.S.O. 1990, c. W.5, s. 23.

Regulations

24. (1) The Lieutenant Governor in Council may make regulations,

- (a) designating plants as noxious weeds;
- (b) prescribing the procedures for destroying noxious weeds and weed seeds;
- (c) prescribing the conditions under which noxious weeds and weed seeds may be destroyed under sections 15, 16 and 18;
- (d) respecting the transportation of farm produce, gravel or any other substance that is infested with noxious weeds or weed seeds;
- (e) prescribing measures that shall be taken to prevent the establishment of any noxious weed in any locality;
- (f) providing for the reimbursement of upper-tier municipalities, single-tier municipalities and municipalities in territorial districts by the Province of Ontario for any part of the money spent under this Act and prescribing limits on the amounts reimbursed;
- (g) prescribing measures that shall be taken to prevent the use of bird feed that is infested with weed seeds;
- (h) prescribing forms and providing for their use. R.S.O. 1990, c. W.5, s. 24 (1); 2002, c. 17, Sched. F, Table.

Idem

(2) A regulation may be general or specific in its application. R.S.O. 1990, c. W.5, s. 24 (2).

CROPLIFE CANADA
Appellant

CITY OF TORONTO
Respondent

Court File No: C41220

and

COURT OF APPEAL FOR ONTARIO
Proceedings Commenced at Toronto

FACTUM

**OF THE INTERVENERS TORONTO
ENVIRONMENTAL ALLIANCE, et al.**

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