



Preliminary Consultation on Proposed Sales Reporting Regulation

The new *Pest Control Products Act* (PCPA) was given Royal Assent on December 12, 2002. One of its new requirements is for registrants, as a condition of registration, to report information on sales of each of their products. This document presents the proposed content of a regulation that would specify in detail the information to be reported.

Please submit your comments within 30 days of the date of this publication to the Publications Coordinator, PMRA. There will also be an opportunity to comment on the proposed regulations when they are pre-published in the Canada Gazette Part I.

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Introduction

Canada has recognized that, in order to regulate pest control products appropriately and efficiently, there is a need for comprehensive information about the extent to which pest control products are used. Such information would contribute to the ability of Health Canada's Pest Management Regulatory Agency (PMRA), and that of the provinces/territories, to set priorities and to assess and mitigate health and environmental risks during new product evaluation and re-evaluation and special review of older pesticides. This information is essential to follow trends of pesticide use over time and to track the effectiveness of risk reduction efforts. This need was reinforced by the 1999 Report of the Commissioner of Environment and Sustainable Development and by the Standing Committee on Environment and Sustainable Development of the House of Commons, in its report of May 2000, *Pesticides: Making the Right Choice for the Protection of Health and the Environment*.

Background

The National Pesticide Sales Database Working Group, a working group of the Federal/Provincial/Territorial Committee on Pest Management and Pesticides (FPT Committee), was initiated in 1997 with the goal of developing an approach to collecting annual sales data (in kilograms) for all pesticide products from all registrants by province/territory. The Working Group includes representation from the PMRA, provinces and territories, pesticide and agriculture industries and environmental and consumer organizations.

Registrants belonging to the national pesticide industry associations voluntarily contributed sales data for the years 1999 and 2000, thereby enabling the PMRA to test components of the National Pesticide Sales Database including an electronic data entry system, the database structure and reporting functions.

Internationally, the importance of sales data reporting has been recognized by the Working Group on Pesticides of the Organisation for Economic Co-operation and Development (OECD). Member countries agree that data on pesticide sales and use is fundamental for targeting and tracking risk reduction programs and developing pesticide risk indicators, but also recognize that the collection of use data is expensive. Most OECD countries collect sales data as a reasonable surrogate for use information.

The new PCPA

Once in force, the new PCPA will require all registrants, as a condition of registration, to record, retain and report to the Minister information on sales of their products in the form and manner directed by the Minister and in accordance with regulations. The PMRA is proposing that reporting be done electronically through the Internet. The definition of confidential business information in the new PCPA includes the monetary value of sales, but does not include information on the quantities sold. The provisions of the new PCPA pertaining to the reporting of sales information are found in Appendix I.

Proposed regulation

The proposed regulation would require every registrant of a pest control product to submit an Annual Report to the PMRA detailing sales information by province and territory for each product during the previous calendar year. The sales information would be required for all end-use products, technical grade active ingredients and manufacturing concentrates.

The collection of product sales information will allow the PMRA to determine the quantities of active ingredient available for sale to users in each province and territory. In addition, the provincial and territorial representatives on the FPT Committee have clearly stated that they require sales information for their jurisdictions. While most of these jurisdictions currently collect some sales information, they have indicated that, should sales information be obtained through this initiative, they would no longer do so and could instead focus on other complementary activities such as the collection of use information. The combination of sales information obtained from the registrants and use information garnered by the provinces and territories is seen as complementary and should result in a clearer picture of pesticide use.

Starting in 2005, the Annual Report for the previous calendar year would be required to be submitted to the PMRA by the first day of June each year. The pesticide industry has indicated that, in general, they would be ready to submit sales information for the previous year by April of each year. The deadline of June 1 will allow ample time for the submission process to be completed.

However, for 2004, the Annual Report for the calendar year 2003 would be required to be submitted to the PMRA by October 1, 2004. It is anticipated that this regulation will come into force in the spring of 2004. The deadline for submission of 2003 sales information has been moved to October 2004 in order to provide registrants with a reasonable opportunity to prepare their information for submission following the entry of this regulation into force. Registrants will not be required to retroactively accumulate 2003 sales information but rather to submit any information that is available to them at that time.

A description of the proposed content of the Annual Report follows.

Applicable to all products

1. The Annual Report would include the name, mailing address and telephone number of the registrant and, where the registrant does not make the report, of the person who makes the report on the registrant's behalf. It would also include the date of the report and the period covered by the report and the name and registration number of the pest control product.
2. The Annual Report would contain a report on the quantity of sales of each end-use product (including devices), technical grade active ingredient and manufacturing concentrate and includes products that have emergency or temporary registrations. Devices are being included because information on their sales may help to provide an indication of any shift away from the use of chemicals to other means of pest control.

3. The quantity of each pest control product sold would be reported in the unit of measurement identified in the declaration of net quantity on the product label as per Section 27(2)(g) of the current Pest Control Products Regulations. The acceptable units of measurement would be kilograms, litres or other appropriate units of measurement. The PMRA will use information from each product to determine the quantity in kilograms of each active ingredient in that product.
4. Products that are discontinued or cancelled would be included in relation to sales during the year up to the date of discontinuation or cancellation.
5. Registrants would be required to provide available information on the sales of one or more pest control products within one week of a request from the Minister in an emergency situation.
6. The person submitting the Annual Report or an emergency report would be required to attach an attestation that the report is true and complete to the best of the person's knowledge and is provided in good faith.

Applicable to end-use products

7. For each end-use product, a registrant would be required to report the net quantity of the pest control product sold or provided for sale in each province or territory. The net quantity sold or provided for sale in each province or territory would comprise:
 - the quantity sold by the registrant directly to users minus returns from those users;
 - the quantity sold by the registrant directly to vendors (i.e., made available for sale to users) minus returns from those vendors;
 - in the case of a distributor that sells to vendors and users in only one province or territory, the quantity sold by the registrant directly to such a distributor in the province or territory, minus returns from the distributors;
 - in the case of regional or national distributors, the quantity sold by distributors to vendors and users in each province/territory (i.e., made available for sale or sold to users) minus returns from those distributors, vendors and users; and
 - the quantity made available for sale to users in the form of products regulated under the *Fertilizers Act* or the *Feeds Act* or in the form of treated seeds.

The PMRA is proposing that registrants report the quantities of their direct sales plus the quantity of sales made by regional or national distributors to vendors or users in each province or territory in order to get as complete a picture as possible of the quantities of a product available for sale to users by province and territory. Also included would be the quantity of product made available for sale to users in the form of fertilizer-pesticide and feed-pesticide combination products. These

products are not registered under the PCPA but are regulated under other acts. Sales of some of these products are considerable. Therefore, to obtain a better estimate of the quantity of each active ingredient available for sale to users in each province and territory, the PMRA is proposing that registrants be required to submit information on these products.

Applicable to technical grade active ingredients and manufacturing concentrates products only

8. For each product that consists solely of a technical grade active ingredient or of a manufacturing concentrate, a registrant would be required to report:
- the quantity of the pest control product sold by the registrant from Canada to another country;
 - the quantity of the pest control product sold by the registrant in each province and territory, including the quantity of each pest control product sold directly by the registrant to manufacturers for production of products regulated under the *Fertilizers Act* or the *Feeds Act*;
 - the quantity of the pest control product made available for sale to users in each province and territory in the form of products regulated under the *Fertilizers Act* or the *Feeds Act*.

Information on sales of products that are technical grade active ingredients or manufacturing concentrates is being collected to assist the PMRA in assessing risks to workers and the environment.

Use of estimates

9. A registrant who does not have access to the actual information on sales by distributors to vendors or users, on sales of products regulated under the *Fertilizers Act* or the *Feeds Act* or on sales of treated seeds would, for the first two years that this regulation is in force, be permitted to provide an estimate of those quantities if a satisfactory explanation of how the estimate was derived is provided as well.

Estimates would be permitted for the first two years the regulation is in force in order to provide these registrants sufficient opportunity to make arrangements to obtain the necessary information.

Proposed policy on the disclosure of sales information

The new PCPA makes it clear that the only information concerning sales of pest control products that is protected from public disclosure is the “monetary value”. It is also clear, therefore, that information about the quantities of pesticides sold is not protected from disclosure. The PMRA is proposing to release annual reports of sales information that would indicate the quantity of each active ingredient available for sale to users in each province and territory.

Concerns have been raised with regard to active ingredients that are found in only one end-use product because release of information on the quantity available for sale of such an active ingredient could lead inadvertently to the disclosure of the monetary value of the product sales. This circumstance applies to approximately 2.5% of currently registered end-use products. To avoid this, the PMRA is proposing to release information on these active ingredients in a way that prevents such disclosure, such as by grouping these active ingredients by type.

Other reports could also be made available to the public, for example, total sales of domestic, commercial and restricted class products by province and territory.

Under the new PCPA, the Minister may share any information provided under the Act, including pesticide sales data at any level of detail, with other federal departments, the provinces and territories, international organizations, medical professionals, review panels and others for purposes of protecting human health or safety or the environment, provided that any confidentiality can be maintained.

Invitation to comment

The purpose of this document is to seek your comments and suggestions regarding the proposed regulation with respect to pesticide sales reporting. Your comments and suggestions would be greatly appreciated. As you review the document and prepare your comments and suggestions, please consider the following:

- Explain your views as clearly and as concisely as possible.
- Distinguish between what you support and what you object to in the proposal.
- Provide the rationale for your views.
- Offer ways to improve the proposal.
- Whenever possible, support your views and particularly concerns with facts, data, or specific examples.
- Describe any assumptions that you used.
- Provide copies of any technical information or data you used in your comments.
- If you have concerns regarding the potential burden or costs of implementing the proposal, please provide specific information about the nature of those burdens and costs, as well as an estimate of the costs, an explanation of how you arrived at the estimate, and any suggestions for how costs could be reduced or minimized.

Please submit your comments within 30 days of the date of this publication to the Publications Coordinator, PMRA.

Appendix I

The provisions of the new PCPA pertaining to the reporting of sales information are:

- **8. (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).
- **8. (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.
- **42. (1)** The Minister shall establish and maintain a Register of Pest Control Products ...
(2) The Register shall contain the following information:
 - (i)** information provided to the Minister pursuant to subsection 8(5);
 - (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 ...
- **43. (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:
 - (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.
- **67. (1)** The Governor in Council may make regulations:
 - (t)** respecting the keeping of records by registrants, manufacturers, importers, exporters, distributors and users of pest control products in relation to the products that they manufacture, store, import, export, distribute, use or dispose of and the requirements for making those records available to the Minister;
 - (u)** respecting the recording by registrants of information on sales of pest control products, the retention and reporting to the Minister of such information by registrants and former registrants and the use of such information by the Minister.