

Reconsideration of Decisions

Presentation to the
Pest Management Advisory Council

June 3, 2003
By Geraldine Graham



New Pest Control Products Act

Major registration decisions

- ◆ Public consultation on proposed decision
 - ◆ consultation statement includes summaries of evaluations of risks and value, rationale for decision
- ◆ Registration decision
 - ◆ decision statement includes summary of comments, rationale for decision
 - ◆ detailed evaluation reports and test data now available (except for negative decision re new product or use)
 - ◆ any person may file a notice of objection within 60 days to request reconsideration

Reconsideration Process

- ◆ Notice of objection
- ◆ Decision to establish review panel or not
- ◆ Public notice if review panel established
- ◆ Reasons to requestor if no review panel
- ◆ Terms of reference, procedure
- ◆ Review panel to permit representations from public
- ◆ Hearings open to public, unless confidential information being considered
- ◆ Information submitted to panel placed in Register
- ◆ Registration decision confirmed, reversed or varied

Principles

- ◆ Review panels should be established when:
 - ◆ the notice of objection discloses credible concerns about the adequacy of a risk or value assessment
 - ◆ significant questions are raised on which the advice of expert scientists would be useful
- ◆ Terms of reference / rules of procedure should:
 - ◆ ensure the process remains a science review
 - ◆ facilitate participation by interested parties
 - ◆ avoid technical rules of evidence or procedure

Proposed Regulation

Review Panel List

- ◆ Persons recommended by advisory council
- ◆ Must be knowledgeable in an area of science relevant to evaluation of risks and value of pesticides
- ◆ Must not have been employed in the public service in preceding year

Decision to Establish Review Panel

- ◆ Must not be made by official who made registration decision



Proposed Regulation

Review Panels

- ◆ One or more persons from List with relevant scientific knowledge
 - ◆ must not be selected by official who made registration decision
- ◆ Chairperson to be designated
- ◆ Must be no conflict of interest

Proposed Regulation

Remuneration and Expenses

- ◆ Per diem honorarium
- ◆ Travel and living expenses

Support and Advisory Services

- ◆ Administrative support staff
- ◆ Science advisors
- ◆ Legal counsel

Proposed Regulation

Requests to Make Representations

- ◆ Public notice of establishing panel to include:
 - ◆ terms of reference
 - ◆ how to apply to make representations
- ◆ Application to indicate:
 - ◆ area on which representation to be made
 - ◆ form in which representation to be made
 - ◆ substance of challenge of registration decision

Proposed Regulation

Review Panel Procedure

- ◆ Proceedings conducted informally, expeditiously, fairly
- ◆ May be based on documentary submissions only, provided all participants consent
- ◆ Representations may be by teleconference or video conference

Proposed Regulation

Admissibility of Evidence

- ◆ Relevant information may be accepted regardless of admissibility in court of law
- ◆ Participants must request access to confidential test data or confidential business information in writing and undertake to not disclose
 - ◆ breach of undertaking would be an offence

Proposed Regulation

Review Panel Report

- ◆ Panel to attempt to reach unanimity
- ◆ Report to document differences, with reasons
- ◆ Decision to confirm, reverse or vary must not be made by official who made registration decision

Next Steps

- ◆ Publish Discussion Document - mid June
- ◆ Analyse comments on Discussion Document
- ◆ Prepare drafting instructions for regulation
- ◆ *Canada Gazette*, Part I – fall 2003
- ◆ *Canada Gazette*, Part II – spring 2004