

# Health Canada Pesticides Compliance Program: Activity report 2020-2021



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## Introduction

### Program description

Health Canada's Pesticide Compliance Program (PCP) is responsible for promoting, verifying and enforcing compliance with the *Pest Control Products Act* (PCPA) and its Regulations. The primary objective of this legislation is to prevent unacceptable risks to the health and safety of Canadians and their environment from the use of pest control products, more commonly known as pesticides. More specifically, the PCP aims to prevent unauthorized pesticides from being available on the Canadian market and to see that authorized pesticides are imported, manufactured, distributed and used in accordance with the label conditions established by Health Canada.

The PCP is administered by Health Canada's Regulatory Operations and Enforcement Branch (ROEB). The PCP has approximately 40 inspectors located across the country to deliver its work. The PCP is supported by Health Canada's Pesticides Laboratory in Ottawa.

The PCP provides oversight of all parties regulated by the PCPA and its Regulations, including pesticide registrants, manufacturers, importers, retailers, and users. The PCP's operational delivery is organized along four key sectors: Registrants, Importation, Marketplace, and Users.

The program conducts compliance promotion, compliance verification and enforcement activities:

- **Compliance promotion** activities include presentations, exhibits at trade shows, written articles, and the development and distribution of publications such as fact sheets and information packages. These activities increase Health Canada's reach and provide important information to regulated parties to foster compliance with the PCPA and its Regulations.
- **Compliance verification** is a process to assess compliance with the PCPA and its Regulations. It involves activities that include, but are not limited to, conducting inspections focussed on labelling and use changes resulting from pesticide Re-evaluation and Special Review decisions, collecting samples for analysis, and verifying available records. Compliance verification activities may be planned or conducted in response to complaints received. The PCP also verifies the admissibility into Canada of pesticides suspected to be in contravention of the PCPA and its Regulations.
- When required, **enforcement action** is taken against regulated parties to address identified non-compliance with the PCPA and its Regulations. Any contravention of the PCPA and its Regulations is considered a non-compliance. The PCP uses a range of enforcement tools including warning letters, compliance orders and seizure. Where appropriate, the program can also make recommendations to the Public Prosecution Service of Canada for prosecution. The PCP also issues notices of violation (NOV) under the *Agriculture and Agri-Food Administrative Monetary Penalties Act* with warning or monetary penalty, and partners with CBSA to refuse entry of unauthorized pesticides into Canada. The choice of enforcement actions reflects the severity of the risks posed by the identified contraventions. In some cases, multiple enforcement actions may be considered.

The delivery of compliance activities is prioritized based on a number of criteria including, but not limited to, potential risks to human health and the environment and compliance history, which are assessed based on considerations such as observations from the field, information from Health Canada's Pest Management Regulatory Agency (PMRA) and provincial/territorial regulators, complaints received, and data analysis. Regulatory changes including the decisions made by PMRA through the Re-evaluation and Special Review processes are also used to identify priority areas for compliance verification as these processes can result in the cancellation of products or significant label changes that include new risk mitigation measures.

The PCP works collaboratively with international, federal, provincial/territorial, and municipal partners on a number of priority areas. These include conducting joint inspections, delivering compliance promotion activities, participating in intergovernmental working groups, supporting provincial/territorial certification and/or licensing activities, and communicating on topics such as responsible pest control and emerging issues. The dissemination of important regulatory information can also occur through industry association networks.

Compliance verification activities that support these regulatory changes focus on different pesticides and different regulated parties from the various regulated sectors (registrants, importers, retailers, etc.) throughout the supply chain. In 2020-2021, compliance verification priorities were targeted to sectors and activities affected by label changes recently implemented as a result of Re-evaluation decisions for carbaryl ([RVD2016-02](#)), captan ([RVD2018-12](#)), boron ([RVD2016-01](#)), sodium bromide ([RVD2017-10](#)) and chlorothalonil ([RVD2018-11](#)).

## 2020–2021 Results summary

As a result of the public health measures implemented in response to the COVID-19 pandemic, the PCP adapted its compliance and enforcement approach to use remote and/or virtual tools to conduct compliance promotion and compliance verification activities where possible. While some planned on-site compliance verifications were suspended or deferred for periods of time due to the pandemic, the PCP maintained the capacity to deliver on-site activities where required. For example, it continued to monitor mail centres and conducted onsite compliance work in response to complaints that were considered higher risk.

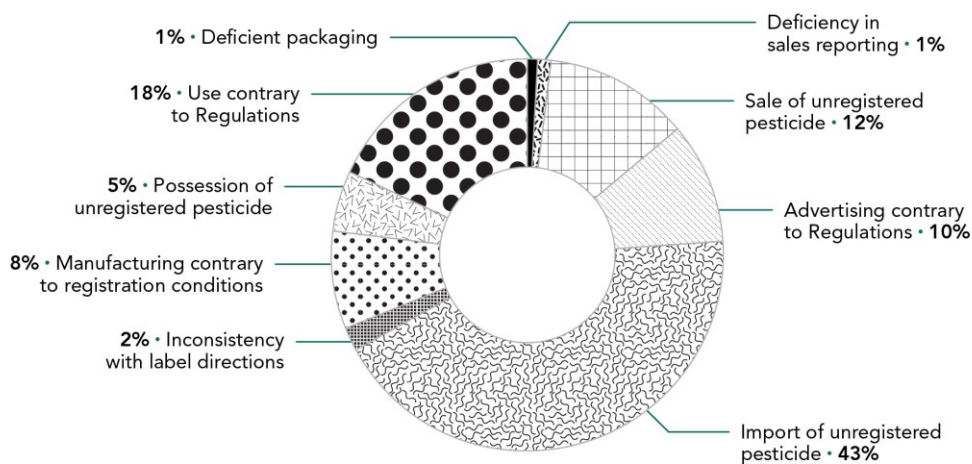
Overall, the following summarizes the results of compliance activities for 2020-2021:

- 142 compliance promotion activities were conducted including mail-outs and virtual events.
- 1241 inspections were conducted. This included:
  - 637 planned and reactive compliance verification activities (including 28 inspections targeted specifically to previously non-compliant regulated parties).
  - Out of the 637, a total of 339 inspections identified at least one contravention to the PCPA and its Regulations which resulted in NC ratings; and
  - 604 recommendations to CBSA in response to referrals of incoming shipments. Of these, a total of 500 recommendations for refusal of entry were provided to CBSA.

- Of the compliance verification activities targeted to previously non-compliant regulated parties, 93% resulted in no observed contravention.

The most common contravention identified in 2020-2021 was the importation of unregistered pesticide products. The majority of unregistered products imported into Canada where an enforcement action was taken were US Environment Protection Agency-registered products, predominantly insecticides. Other contraventions identified across PCP sectors included the use of pest control products inconsistent with the label directions, the sale of unregistered pest control products and the advertising of pest control products in a way that is contrary to the PCPA and its Regulations (see Figure 1).

**Figure 1. Contraventions under the PCPA and its Regulations by type (as percentage of total contraventions resulting from 1241 inspections for 2020-2021)**



- A total of 1372 enforcement actions addressing single or multiple violations were taken (Figure 2), including:
  - 821 warning letters.
  - 17 compliance orders.
  - 500 refusals of entry for importations.
  - 12 seizures of non-compliant pest control products.
- 13 notices of violation (NOV) with penalty and 9 NOVs with warning under the *Agriculture and Agri-Food Administrative Monetary Penalties Act*. The total value of penalties issued in 2020-2021 was \$100,000

**Figure 2. Enforcement actions taken in 2020-2021**



## Compliance and enforcement key activities and results by sectors

### Registrant sector

**Sector introduction** | There are over 700 registrants in Canada. Registrants are responsible for product registration with the PMRA and ensuring that the products available in the Canadian marketplace meet the requirements of the PCPA and its Regulations and the conditions of registration.

#### *Registrant inspections*

Registrants were targeted for inspection using selection criteria including, but not limited to, no history of inspection, compliance history, and sales volume.

A total of 209 remote/virtual inspections were conducted in this sector. At least one instance of non-compliance was observed in 80 (38%) of the inspections conducted. The most common contraventions were related to manufacturing contrary to conditions of registration (PCPA 6(2)), deficiencies in packaging and/or labelling (PCPA 6(3)), deficiencies in sales reporting (PCPA 8(5)), and advertising in a false, misleading or erroneous manner (PCPA 6(7)). A total of 93 warning letters and 2 compliance orders were issued for observed non-compliances.

Registrant inspection findings and the compliance rating criteria used to support the classification and interpretation of compliance results are available to the public on Health Canada's [website](#).

## Import sector

### Sector introduction

About 85% of pesticides used in Canada are foreign-made and imported into the country, resulting in approximately 2,500 commercial pesticide import transactions per month. Direct importation of pesticides by consumers for personal use is also increasing significantly, resulting in thousands of personal import transactions per month. The PCP conducts a range of compliance and enforcement activities within this sector to target non-compliant shipments, and prevent the entry of unauthorized products into Canada.

### *Verification of commercial trade data*

PCP has been receiving commercial importation data from the CBSA and other sources that are used to identify trends and gather information about suspected non-compliant commercial importations. Commercial importers are targeted for inspection based on factors including, but not limited to, the importer's compliance history, importation of products known to be non-compliant, or importation of new products into Canada.

Of the 18 inspections conducted with targeted commercial importers, 15 (83%) were found to have at least one instance of importing an unauthorized pesticide. Non-compliant importers were issued warning letters and one was also issued a compliance order. Many of the non-compliant importations were products registered in the United States and available online, that have not been approved by Health Canada.

### *Inspections at border points*

The PCP collaborates with CBSA to identify, examine and intercept non-compliant shipments. This includes periodic presence at mail centres and other border points. In 2020-2021, the PCP received 604 referrals from CBSA for suspected non-compliant importations, 500 of which were confirmed to be non-compliant and refused entry into Canada. In total, 350 units of unauthorized pest control devices and more than 530 kg of unauthorized pesticides were prevented from entering Canada. The majority of these refusals were unauthorized personal use products including lawn care and structural pesticides, pet flea and tick control products, and personal insect repellents.

Overall, 628 inspections were conducted in the importation sector in 2020-2021, including 6 as a result of complaints, and 539 (86%) identified non-compliant activities. The most common contravention was the importation of unregistered pest control products (PCPA 6(1)). A total of 517 warning letters and one compliance order were issued to the importers for non-compliant importations.

### ***Compliance promotion: Training for CBSA border services officers***

In conjunction with other Health Canada enforcement programs, 13 online training events and presentations were delivered to CBSA Border Services Officers to increase their awareness of products regulated by Health Canada. These presentations provide CBSA tools to support the identification and referral of suspected non-compliant regulated products – including pesticides.



## Marketplace sector

### Sector introduction

There are thousands of retailers and distributors across Canada that sell pesticides to Canadians through storefronts, online presence, or a combination of both. The PCP verifies that only pesticides compliant with the PCPA and its Regulations are offered for sale in Canada.

### Marketplace inspections

Marketplace inspections in 2020-2021 were conducted virtually/remotely, with planned work focused on hardware retailers. These retailers were selected for inspection as they typically sell speciality products that are regulated under the PCPA and its Regulations (e.g., swimming pool and spa products), as well as more common household-type products that are domestic-class pesticides. Inspections focused on products containing boron and sodium bromide, two active ingredients recently re-evaluated by the PMRA and subject to label changes, new risk mitigation measures for some uses and cancellation of other uses. The PCP verified that products being offered for sale included the amended labels as required by the Re-evaluation decisions. A total of 67 inspections were conducted with hardware retailers and nine (13%) identified at least one instance of non-compliance with the PCPA and its Regulations.

Overall, 216 inspections were conducted in the Marketplace sector; 120 (56%) of these identified at least one instance of non-compliance. The most common violation was the possession and distribution of unregistered products (PCPA 6(1)). A total of 117 warning letters and 3 compliance orders were issued.

## User sector

### Sector introduction

This sector consists of both agricultural and non-agricultural users. There are over 250,000 farm users and approximately 6,000 non-agricultural users (e.g. licensed applicators) in Canada. The agricultural user subsector is composed of growers of food and non-food crops (e.g., specialty and large field crops, greenhouses, floriculture, berries, tree fruit, animal husbandry, forestry, aquaculture, outdoor nurseries, and agriculture aerial application). The non-agricultural user subsector includes landscape and structural pest management professionals (PMPs), vegetation management applicators, arborists, golf course applicators and industrial users. The large volume and diversity of this sector makes it an important focus for compliance promotion and compliance verification activities.

### Agricultural users

In response to public health restrictions related the COVID-19 pandemic, all planned on-farm inspections for 2020-21 were suspended or deferred.

In total, 47 virtual/remote inspections were conducted in 2020-21. Of these, there were 17 planned compliance verification activities of commercial agriculture aerial applicators; 21 (45%) inspections identified at least one instance of non-compliance.

The most common contraventions included the use of pest control products contrary to the approved labels (PCPA 6(5)(b)) and the use of pest control products inconsistent with the Regulations (PCPA 6(5)(a)). Overall, 18 warning letters and 3 compliance orders were issued.

### *Non-agricultural users*

Non-agricultural users are typically certified and/or licensed by provinces or territories to apply pest control products in a variety of non-agricultural settings (e.g.: homes and businesses, golf courses).

PMPs continued to be a focus for planned activities for fiscal year 2020-2021 due to the continued observance of high non-compliance rates among these users. As well, PCP typically receives a large volume of inquiries and complaints from homeowners about possible exposure to pesticides stemming from services delivered by PMPs. Many of the pest control products available to PMPs have been subject to Re-evaluation decisions resulting in amendments to residential application use. Such amendments often increase the risk of non-compliance.

In response to the public health restrictions related to the COVID-19 pandemic, the majority of planned on-site inspections were suspended or delayed. Some on-site activities resumed in the fall of 2020, and a total of 66 planned inspections were conducted, 48 (73%) of which identified at least one instance of non-compliance. The most common contraventions noted were the use of registered pest control products inconsistent with the label directions (PCPA 6(5)(b)) and the possession and use of unregistered products (PCPA 6(1)).

Overall, 141 inspections were conducted on non-agricultural users in 2020-2021. A continued high rate of non-compliance was observed, with 79 (56%) inspections identifying at least one instance of non-compliance. This resulted in the issuance of 78 warning letters and 7 compliance orders, under the PCPA and its Regulations. An additional 13 notices of violation with penalty and 9 notices of violation with warning were issued under the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

### ***Compliance promotion to pesticide users***

Compliance promotion with pesticide users aims to target emerging issues, as well as areas where frequent non-compliant actions are noted. For example, compliance promotion activities might focus on informing users of important changes to product use directions as a result of Re-evaluation decisions, the appropriate use of personal protective equipment and/or the accurate use of label restricted entry intervals and pre-harvest intervals.

In 2020-2021, the PCP focused compliance promotion activities on users most impacted by recent Re-evaluation decisions, conducting 142 compliance promotion activities, including mail outs and participation at virtual events.

## Looking ahead

In fiscal year 2021-2022, the PCP will continue delivering activities to promote, verify and enforce the *Pest Control Products Act* and its Regulations using a risk-based approach and responding to emerging issues. Expected areas of focus include:

- Support for the implementation of the [Interim Order](#) Respecting Ultraviolet Radiation-emitting Devices and Ozone-generating Devices, which took effect in June 2021. The PCP will conduct on-line marketplace verifications, verify UV/ozone devices produced by Canadian manufacturers, and collaborating with CBSA to reduce importations of unauthorized UV/ozone devices and with the PMRA to increase awareness on the new regulatory requirements for all products covered by the Interim Order.
- Continue to verify compliance with the PCPA and its Regulations throughout the regulated community based on risks to human health and the environment as well as with recent Re-evaluations and Special Review decisions. Regulated parties selected for compliance verifications will include some previously found to be non-compliant with the PCPA and its Regulations.
- Continue to respond to complaints and inquiries from Canadians related to high-risk situations and activities.
- Conduct compliance promotion activities with regulated sectors to raise awareness of Health Canada's regulatory requirements, including changes resulting from Re-evaluation or Special Review decisions.
- Continue web-posting of registrant inspection information and explore additional opportunities to increase transparency related to compliance and enforcement activities.
- Strengthen collaboration with regulatory partners, including other government departments and international regulators to share best practices and information with a view to improving the ability to identify and take action on non-compliant and high-risk products.