

Health Canada Pesticide Compliance Program: Activity report

2021-2022



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Également disponible en français sous le titre :

Programme de la conformité des pesticides de Santé Canada : rapport des activités 2021-2022

To obtain additional information, please contact:

Health Canada

Address Locator 0900C2

Ottawa, ON K1A 0K9

Tel.: 613-957-2991

Toll free: 1-866-225-0709

Fax: 613-941-5366

TTY: 1-800-465-7735

E-mail: hc.publications-publications.sc@hc-sc.gc.ca

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Publication date: **March 2023**

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Cat.: H111-7E-PDF

ISBN: 2816-9883

Pub.: 220803

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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 the people of Canada 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 registration conditions established by Health Canada.

The PCP is administered by Health Canada's Regulatory Operations and Enforcement Branch (ROEB) and has approximately 40 inspectors located across the country to deliver on its mandate, and it 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 registrants, manufacturers, importers, retailers, and users. The PCP organizes its operational delivery along four key sectors: Registrants, Import, 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, key stakeholders, and the people of Canada 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, collecting samples for analysis, and verifying available records. Compliance verification activities may be planned or reactive (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* (AAAMP Act) with warning or monetary penalty (the amount for businesses varies from \$1300 to \$10,000 per violation depending on the severity), and partners with the Canada Border Services Agency (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, compliance history, considerations such as observations from the field, information from Health Canada’s Pest Management Regulatory Agency (PMRA) and provincial and 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.

Compliance verification activities that support these regulatory changes focus each year on different pesticides and regulated party types from the various sectors. In 2021-2022, compliance verification priorities were targeted to sectors and activities affected by label changes and use cancellations recently implemented as a result of re-evaluation decisions (see **Table 1**).

Table 1: 2021-2022 prioritized active ingredients for compliance verification

Sector	Targeted Active Ingredient for Compliance Verification
Registrants	Ferbam (RVD2018-37), Metiram (RVD2018-20), Thiram (RVD2018-38) and Ziram (RVD2018-39)
Marketplace	Captan (RVD2018-12), Chlorothalonil (RVD2018-11), Iprodione (RVD2018-16), Metiram (RVD2018-20), Sodium Bromide (RVD2017-10), Thiram(RVD2018-38) and Ziram (RVD2018-39)
Agricultural Users	Bifenthrin (RD2017-19), Carbaryl (RVD2016-02), Chlorothalonil (RVD2018-11), Iprodione (RVD2018-16) and Cypermethrin (RVD2018- 22)
Non-Agricultural Users	Aluminum/Magnesium Phosphide and Phosphine Gas (RVD2015-03), Aminopyridine (Avitrol) (RVD2016-06), beta-Cyfluthrin (RD2017-01), Carbaryl (RVD2016-02), Chlorpyrifos (REV2021-04), Cyfluthrin (RVD2018-35), Diazinon (REV2017-13), Permethrin (REV2019-11)

The PCP works collaboratively with international, federal, provincial and territorial, and municipal partners in a number of areas. This can include conducting joint inspections, delivering compliance promotion activities, participating in intergovernmental working groups, supporting provincial/territorial certification and/or licensing activities, and sharing compliance and enforcement information on emerging pesticide issues and best practices. The dissemination of important regulatory information can also occur through industry association networks.

2021-2022 Results summary

While public health measures implemented in response to the COVID-19 pandemic continued to impact how certain PCP operations were delivered in 2021-2022, the Program was able to resume on-site inspections and more on-site compliance promotion activities.

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

- 509 responses to inquiries from regulated parties and the Canadian public. Inquiries mainly related to the importation of pesticide products, clarification of pesticide labels or confirmation of the registration status of pesticides.
- 65 compliance promotion activities conducted including presentations to associations, exhibit booths at trade shows and distribution of compliance promotion materials to regulated parties.
- 883 inspections conducted:
 - 542 planned inspections (including 25 inspections targeted specifically to previously non-compliant regulated parties) and 341 reactive compliance verification activities.
 - Out of these 883 inspections, a total of 541 (61%) identified at least one contravention to the PCPA and its Regulations which resulted in a non-compliant rating.
 - Of the compliance verification activities targeted to previously non-compliant regulated parties, 55% resulted in the identification of repeat or new contraventions.
- 2132 recommendations to CBSA in response to referrals of incoming shipments. Ninety- eight percent (2089) of these resulted in a recommendation for refusal of pesticide entry into Canada.

The most common contravention identified in 2021-2022 was the importation of unregistered pesticide products. Other contraventions observed across all sectors of regulated parties included the possession and distribution of unregistered pesticides, the use of pesticides inconsistent with the label directions, and the advertising of pesticides in a way that is contrary to the PCPA and its Regulations.

A total of 2508 enforcement actions addressing single or multiple violations were issued to non-compliant parties:

- 2477 warning letters, including 2089 warning letters issued to importers of unauthorized pesticides referred by the CBSA to the PCP.
- 13 compliance orders.
- Two voluntary recalls of non-compliant pesticides.
- 12 notices of violation (NOV) with penalty and four NOVs with warning under the *AAAMP Act*, for a total value of \$94,300 in penalties.

Key activities and results by sectors

Registrant sector

Sector introduction | There are over 700 registrants in Canada. Registrants are responsible for pesticide registration with the PMRA and ensuring that the pesticides 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 that include, but are not limited to, no history of inspection, compliance history, sales volume and the manufacturing or distribution of pesticides containing active ingredients that have undergone recent re-evaluations. In 2021-2022, registrants with pesticides containing active ingredients ferbam, metiram, thiram, and ziram were targeted for inspection.

A total of 120 off-site inspections were conducted in this sector. Of these inspections, 56 were planned (including four targeted to previous non-compliant registrants) and 64 were reactive. Out of the 64 reactive inspections, 33 related to the implementation of the *Interim Order (IO) to regulate certain ultraviolet radiation-emitting devices and ozone-generating devices under the PCPA*.

At least one instance of non-compliance was observed in 68 (57%) of the inspections conducted. The most common contraventions related to manufacturing and/or distribution of pesticides 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 68 warning letters and one compliance order were issued to the non-compliant parties. Inspections of registrants that had registered pesticides containing ferbam, metiram, thiram, and/or ziram, did not identify any non-compliance with re-evaluation decisions. One registrant targeted for previous non-compliance was again found non-compliant.

Registrant inspection findings and the criteria used to support the assessment and overall compliance rating 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 pesticides into Canada.

Verification of commercial trade data

Commercial importation data from the CBSA and other sources 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 and the importation of products known to be unauthorized.

Of the six inspections conducted on targeted commercial importers in 2021-2022, five found at least one instance of importing an unauthorized pesticide. Five warning letters were issued to non-compliant commercial importers.

The PCP supported the implementation of Health Canada's *Interim Order (IO) to regulate certain ultraviolet radiation-emitting devices and ozone-generating devices under the PCPA* by improving the targeting of unauthorized devices to prevent their entry into Canada. PCP worked with CBSA and other relevant border partners to identify the specific import shipment code of devices used in the home for sanitizing, sterilizing and disinfecting, which allowed the targeting of potentially unauthorized device shipments.

Inspections at border points

The PCP collaborates with CBSA to identify, examine and intercept non-compliant shipments. This includes a regular presence at each of Canada's three mail centres and other border points. In 2021-2022, the PCP received 2132 referrals of pesticide shipments from CBSA, 2089 of which were refused entry into Canada following confirmation that they were not registered or authorized for use in Canada (unlawful under the PCPA 6(1)). Of the refused shipments, 82% were insecticides including lawn care and structural pesticides, pet flea and tick control products, and personal insect repellents, 10% were herbicides, 2% were fungicides, 1% were devices and 3% were varied pesticides. Those pesticides originated from various countries; however, the majority of them were registered in the United States and purchased online.

As a result of the PCP's collaboration with the CBSA, a total of 3113 units of unauthorized pest control devices and more than 2805 kg of unauthorized pesticides were prevented from entering Canada in 2021-2022. In addition to the entry refusal of unauthorized pesticides, 2089 warning letters were issued to importers who attempted to bring unauthorized pesticides into Canada. One compliance order was also issued to an importer for non-compliance under the PCPA and its Regulations.

Marketplace sector

Sector introduction

There are thousands of retailers and distributors across Canada that sell pesticides to Canadians through physical establishments, 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 of physical establishments

The PCP conducted planned marketplace inspections in 2021-2022 focussing on independent retailers, agricultural vendors, and pool and spa retailers including those selling pesticides containing chlorothalonil, captan, iprodione, metiram, sodium bromide, thiram, and ziram.

These are active ingredients recently re-evaluated by the PMRA and subject to label changes, including new risk mitigation measures for some uses and cancellation of other uses. The PCP verified that pesticide products being offered for sale had the amended labels as required by the re-evaluation decisions.

A total of 238 planned inspections were conducted and 133 (56%) identified at least one instance of non-compliance with the PCPA and its Regulations. Among planned inspections of retailers, 86 had a focus on the re-evaluation actives noted above. Of these, five (6%) identified non-compliance related to storage, distribution, and/or possession of unregistered pesticides containing either chlorothalonil, captan, iprodione or sodium bromide. Five warning letters were issued to non-compliant retailers.

Online marketplace

Since 2015, PCP has observed a rise in the number of complaints related to unregistered pesticides sold through e-commerce, particularly during the Covid-19 pandemic. This is consistent with the expansion of pesticides offered for sale to the people of Canada through online platforms, and the rapid adoption of the virtual marketplace by consumers, largely as a result of the diversification of e-commerce distribution models which now also include third party re-sell platforms in addition to retailer web sites. With online pesticide distribution projected to continue to grow, the PCP added the online marketplace as an area of focus for proactive compliance monitoring moving forward.

During 2021-2022, the Program conducted 110 planned online marketplace inspections of pesticide postings on two online platforms; of these, 108 (98%) identified at least one instance of non-compliance with the PCPA and its Regulations. As these inspections specifically targeted the sale of pesticides already identified as unregistered, the high level of non-compliance was expected.

Quickly observing the limitations of a product-based inspection approach, the PCP shifted to direct engagement with individual third-party online platforms with a view to leveraging their internal systems and policies for preventing or removing the posting of unregistered pesticides. In parallel with enforcement actions taken against Canadian regulated parties to address the advertising of unregistered pesticides through these platforms, the PCP provided platforms with compliance promotion material about pesticide regulation in Canada (including the *Interim Order Regulating UV and Ozone Devices*) and identified specific examples of unregistered pesticides found on their respective websites.

PCP worked directly with the top 10 on-line platforms in Canada (representing more than 95% of online pesticides available to Canadians), which resulted in their implementation of keyword or geographic-based filters to help prevent unregistered pesticides from being advertised and distributed to Canadians. One platform alone reported to have removed more than 345,000 listings of unregistered pesticides as of the end of 2021-2022. The PCP will continue to provide platforms with keywords as needed to enable these businesses to contribute to the ongoing prevention of advertising of unauthorized pesticides.

A special focus on certain ultraviolet radiation-emitting devices and ozone-generating devices

On 7 June 2021, the Minister of Health signed the *Interim Order (IO) to regulate certain ultraviolet radiation-emitting devices and ozone-generating devices under the PCPA*.

Under the *IO*, devices that claim to reduce or kill viruses must be registered or authorized under the *PCPA* and its Regulations to ensure they meet Canadian health and environmental standards prior to entering the Canadian market. Devices impacted by the *IO* are widely marketed for use in various settings, claiming to control or kill bacteria and viruses including SARS-CoV-2 (the coronavirus that causes COVID-19 disease)

on many surfaces, objects such as cell phones, toys, in water, and in the air.

In support of Health Canada's efforts in addressing this issue, the PCP added these devices as a particular area of focus for its 2021-2022 marketplace activities.

- To increase industry's awareness of the new requirements, four targeted bilateral sessions were held with key industry and retail associations. In addition, the PCP distributed approximately 100 promotional compliance packages to manufacturers of UV and ozone devices, 65 letters to importers and more than 300 packages to institutional users of UV and ozone devices. Packages were also shared with relevant provincial authorities (e.g., Ministries of Health, Ministries of Education, etc.). A new factsheet on [Buying Pest Control Products Online](#) was released on Health Canada's web site to inform Canadians how to recognize and purchase registered pesticides, including UV and ozone-emitting devices.
- To address the proliferation of the higher risk UV and ozone devices requiring registration and distributed online, the PCP requested the main online platforms (e.g., Amazon, Walmart, eBay, BestBuy, Staples, and Ali Group) to prevent or remove postings contravening the PCPA and its Regulations. These actions resulted in platforms collectively blocking or removing tens of thousands of UV and ozone device postings from their platforms, making them unavailable to Canadians. In addition, 55 warning letters were issued to Canadian distributors of UV and ozone devices identified through these platforms.
- The PCP also conducted 75 proactive and complaint-driven marketplace inspections focused on UV devices posing the highest risk to human health. Seventy-one (95%) inspections found unauthorized UV devices being sold on the Canadian market, resulting in the issuance of 71 warning letters to non-compliant retailers of UV devices.

Overall, in 2021-2022, 423 inspections were conducted in the marketplace; of these 301 (71%) identified at least one instance of non-compliance. The most common violation was the possession and distribution of unregistered pesticides (PCPA 6(1)). A total of 164 warning letters and 3 compliance orders were issued under the PCPA and its Regulations. One notice of violation with a penalty (\$10,000) was also issued under the AAAMP Act.

User sector

Sector introduction

This sector consists of both agricultural and non-agricultural users. There are over 190,000 farm users and approximately 37,000 non-agricultural users (e.g., licensed applicators and industrial users) 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 2021-2022, commercial agricultural applicators, growers of brassica, root, fruiting and leafy vegetables, stone fruit (e.g., cherries), small fruits and berries (i.e., grapes, blueberries, raspberries, strawberries, and cranberries) and sweet corn were selected for inspections as use directions for these food crops have changed significantly as a result of the re-evaluation decision on carbaryl. Also Group 4 herbicide users were inspected jointly as part of agricultural and non-agricultural subsectors. Group 4 herbicides are pesticides that disrupt plant cell growth in the newly forming stems and leaves. During the inspections, plant tissue samples were collected and subjected to a screening for bifenthrin, chlorothalonil, iprodione and cypermethrin, all active ingredients for which use directions have changed recently because of re-evaluation decisions.

In total, 151 growers were inspected across Canada. Of these inspections, 120 were planned, including four inspections targeting previously non-compliant growers, and 31 were related to drift complaints. There were no observed contraventions in relation to the carbaryl re-evaluation decision among all growers inspected, nor was there any unauthorized presence of bifenthrin, chlorothalonil, iprodione and cypermethrin detected in the 93 plant tissue samples collected. Overall, 75 (50%) of inspections in this sector were found to have at least one instance of non-compliance. Commonly observed violations included the use of pesticides inconsistent with the label directions such as rate, application method, and failure to respect restricted entry intervals (REI) (PCPA 6(5)(b)), and possession/storage and use of pesticides with expired registrations (PCPA 6 (1)). Other violations noted included inadequate use of personal protective equipment (PPE) (PCPA 6(5)(a)) and storage of pesticides with illegible labels (PCPA 6(3)). Three out of four growers targeted for re-inspections were found non-compliant.

Overall, 72 warning letters were issued to non-compliant growers. In addition, three notices of violation with penalty ranging from \$1300 to \$10,000 were issued to growers under the *AAAMP Act*.

Non-agricultural users

Non-agricultural users are typically Pest Management Professionals (PMP) certified and/or licensed by provinces or territories to apply pesticides in a variety of non-agricultural settings (e.g., homes and businesses, golf courses) to control a vast array of indoor and outdoor pests.

PMPs continued to be a focus for planned activities for fiscal year 2021-2022 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 pesticides available to PMPs have been subject to re-evaluation decisions resulting in amendments to residential application uses. Such amendments often increase the risk of non-compliance. During the inspections of non-agricultural users, the compliance with re-evaluation decisions was considered for the following re-evaluated active ingredients: aluminum/magnesium phosphide and phosphine gas, aminopyridine (avitrol), beta-cyfluthrin, carbaryl, chlorpyrifos, cyfluthrin, diazinon, and permethrin. 246 samples of pesticide mixtures or wipes were also collected for laboratory analysis.

A total of 128 planned inspections of PMPs (structural, landscape, mosquito control, wood or log treatment for log home building, and fumigation), including 10 re-inspections of previously non-compliant parties were conducted. Sixty-nine (54%) of these inspections identified at least one instance of non-compliance. Five (5) out the ten (10) PMPs targeted for re-inspection were found non-compliant. The most common contraventions noted were the use of registered pest control products inconsistent with

the label directions (PCPA 6(5)(b)), particularly related to the targeting of pests not included on the label, unapproved application method or equipment, lack of appropriate PPE, and the possession of and use of unregistered products (PCPA 6(1)).

Overall, 185 inspections (including those resulting from complaints) were conducted on non-agricultural users in 2021-2022. A continued high rate of non-compliance was observed, with 95 (51%) inspections identifying at least one instance of non-compliance. This resulted in the issuance of 87 warning letters and eight (8) compliance orders under the *PCPA* and its Regulations. An additional eight (8) notices of violation with penalty ranging from \$10,000 to \$13,000 and four (4) notices of violation with warning were issued to non-agricultural users under the *AAAMP Act*.

PCP continued to work towards increasing compliance within this sub-sector, and undertook compliance promotion activities focused on new risk mitigation measures on labels following the re-evaluation of specific pest control products. Fact sheets promoting the changes from the re-evaluations of aminopyridine (avitrol), beta-cyfluthrin, carbaryl, cyfluthrin, diazinon, and permethrin were distributed to the industry.

Looking ahead

In fiscal year 2022-2023, 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:

- Compliance verification 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-evaluation and special review decisions. Regulated parties selected for compliance verifications will continue to include some previously found to be non-compliant with the PCPA and its Regulations.
- Modernization of the PCP through the implementation of a prioritization approach and tool for managing incoming complaints.
- Facilitation of access to compliance and enforcement information and materials through the dedicated pesticide compliance and enforcement space on Health Canada's website.
- Continued 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.
- Strengthened 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 regulated parties and high-risk pesticides.