Pre-Consultation - Proposed Regulatory Amendments to the Pest Control Products Regulations (Pest Control Devices)

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Executive Summary

Health Canada’s Pest Management Regulatory Agency (PMRA) is reviewing the current regulatory framework for pest control devices under the Pest Control Products Regulations, to reduce unnecessary regulatory burden while continuing to protect health and the environment.

The term “pest control device” refers to a wide range of equipment that functions to control pests through:

- physical means (for example, rodent traps);
- energy (for example, ultra violet (UV) radiation);
- the generation of a chemical pesticide (for example, chlorine generators); or
- some other means that differs significantly from conventional pesticides.

In Canada, some of these devices are subject to the Pest Control Products Act, and require registration. Some devices are considered to have minimum impact on human health or the environment, while others may pose greater risks and may require a higher degree of regulatory oversight.

This proposal aims to modernize Health Canada’s regulatory oversight for pest control devices in Canada by:

- requiring all pest control devices to be regulated under the authority of the Pest Control Products Act, with some exceptions;
- exempting from registration certain devices that operate strictly by mechanical or physical means, with no conditions; and
- replacing Schedule 1 in the Pest Control Product Regulations with a category of products exempt from registration, with conditions.

1.0 Background and Issues

The Minister of Health’s primary mandate under the Pest Control Products Act is to prevent unacceptable risks to individuals and the environment from the use of pest control products. To meet this objective, the Pest Control Products Act requires the Minister of Health to conduct pre-market assessments of pest control products to determine if the risks to human health or the environment are acceptable and the products have value.

Pest control products include the following: agricultural chemicals such as herbicides, biologicals, insecticides and fungicides; industrial chemicals such as wood preservatives; consumer products such as personal insect repellents and swimming pool disinfectants; and pest control devices.

The current regulatory framework for pest control devices requires registration of the devices listed in Schedule 1 (Table 1). The Pest Control Products Act does not apply to devices that do not appear in Schedule 1 (any pest control device that is not listed in Schedule 1 is exempt entirely from the Pest Control Products Act). Two specific categories of devices (Table 2) are
exempt from registration if they meet certain labelling and certification conditions established in Schedule 2. In the latter case, the devices do not require registration as long as the conditions in Schedule 2 are met and are still subject to regulation under the *Pest Control Products Act*, which means they are subject to routine monitoring and enforcement activities.

Current Regulations

**Table 1: Devices subject to registration under the *Pest Control Products Act* Pest Control Products Regulations - Schedule 1**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item 1</td>
<td>Garment bags, cabinets or chests that are manufactured, represented or sold as a means to protect clothing or fabrics from pests.</td>
</tr>
<tr>
<td>Item 2</td>
<td>Devices that are manufactured, represented or sold as a means to attract or destroy flying insects, or to attract and destroy them.</td>
</tr>
<tr>
<td>Item 3</td>
<td>Devices that are manufactured, represented or sold as a means to repel pests by causing them physical discomfort by means of sound, touch or electromagnetic radiation.</td>
</tr>
<tr>
<td>Item 4</td>
<td>Devices for attachment to garden watering hoses that are manufactured, represented or sold as a means to dispense or apply a pest control product.</td>
</tr>
<tr>
<td>Item 5</td>
<td>Devices that are manufactured, represented or sold as a means to provide the automatic or unattended application of a pest control product.</td>
</tr>
<tr>
<td>Item 6</td>
<td>Devices that are sold for use with chemical products that contain cyanide as a means to control animal pests.</td>
</tr>
</tbody>
</table>

Current Regulations

**Table 2: Devices exempted from registration with conditions Pest Control Products Regulations Section Items 5 and 6 of Schedule 2 (excerpt)**

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Devices to attract and destroy flying insects indoors by means other than the use of an active ingredient that is a chemical.</td>
</tr>
<tr>
<td>Devices to attract and destroy flying insects outdoors by means other than the use of an active ingredient that is a chemical.</td>
</tr>
</tbody>
</table>

Health Canada reviews devices, on a case-by-case basis when inquiries are received from manufacturers/retailers of devices to determine whether the device falls under one of the categories of devices listed in Schedule 1, and during compliance inspections in the marketplace. Decisions on the regulatory status of devices are often made based on historical interpretation, previous regulatory decisions, and awareness of risks.

In the absence of clear regulatory guidance, it is possible that many manufacturers are unaware that their devices are subject to the *Pest Control Products Act*. Manufacturers are encouraged to seek ‘subject to registration’ decisions if they are unsure if the device they market requires registration or not.

In addition, the current approach to regulating devices has inadvertently resulted in regulatory uncertainty for new technologies or novel devices that do not clearly fall under one of the categories in Schedule 1. This is of concern as these devices will not have undergone a regulatory assessment for characterising potential risks to human health and the environment.
2.0 Measures under Consideration

During the review of current regulatory issues associated with pest control devices, Health Canada examined the following:

- The devices currently registered under the *Pest Control Products Act*
- Subject to registration requests
- Pre-submission consultations Health Canada has received
- Information gathered by Health Canada regional officers and through web-based searches for technologies available to consumers
- The health and environmental risks associated with each device to determine the feasibility of exempting some devices from registration

Exemption from registration allows a reduction in administrative burden for both industry and government, while providing an appropriate amount of oversight for products being sold and marketed in Canada. It does, however, place greater responsibility on industry to ensure that products marketed meet certain conditions that would be established in the regulations. Manufacturers that comply with all these conditions would be exempt from registering the devices under the *Pest Control Products Act*. Devices that are exempt from registration continue to be regulated under the *Pest Control Products Act* and are subject to routine monitoring and enforcement activities.

Health Canada is proposing to:

- require that all pest control devices be regulated under the authority of the *Pest Control Products Act*, with some exceptions;
- exempt from registration, certain devices that operate strictly by mechanical or physical means with no conditions; and
- replace Schedule 1 in the Pest Control Product Regulations with a schedule that lists devices exempt from registration with certain conditions

**Advertising Claims**

Manufacturers of devices must ensure that any claims made about the operation, effectiveness or performance characteristics of a device are accurate. It is a contravention of subsection 6(7) of the *Pest Control Products Act* to package, label 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. Manufacturers of devices are encouraged to ensure any advertising claims are in accordance with Health Canada’s Guidelines for the Advertising of Pest Control Products (DIR2016-01).

**Unacceptable Risks**

The risks to people and the environment from the devices proposed to be exempt from registration are expected to be low. If Health Canada becomes aware of incidents involving human health, the environment, value of a product or misleading claims by manufacturers,
Health Canada may require manufacturers to submit information to determine the continued acceptability of the product on the Canadian market or to register under the *Pest Control Products Act*.

### 2.1 Devices proposed to be exempt from the *Pest Control Products Act*

- Pesticide application equipment, such as:
  - Agricultural sprayers including air blast, backpacks, boom sprayers, aerial application equipment, etc.
  - Devices that operate as mixing chambers to apply pesticides, including garden hose attachments
  - Automatic misting or dispensing devices for pesticides
  - Pre-mix chambers or containers, including floating spa dispensers for swimming pool and hot tub products
  - Burners or diffusers, including sulphur burners used in greenhouses or “Lampe Berger” type lamps for air sanitizing
  - Bait stations that are sold without bait – see REV2010-17, Re-evaluation Note Risk Mitigation Measures for Eight Rodenticides
- Equipment for mechanical control of weeds, such as tillage equipment, mowers, etc.

### 2.2 Devices that must be registered under the *Pest Control Products Act*

In general, devices that operate by producing or generating a substance or germicidal ultraviolet light (for example, ozone, ultra violet C (UVC), hydroxyl radicals, chlorine) would remain subject to registration under the *Pest Control Products Act*. However, the proposal would exempt from registration a number of these devices where it has been determined that the device is not expected to pose unacceptable risks to human health or the environment based on many years of registration experience with these products.

### 2.3 Devices proposed to be exempt from registration under the *Pest Control Products Act* with no conditions

The proposal would exempt from registration devices that control pests strictly through mechanical or physical means (in other words, there is no release of, or contact with, a pesticide). Examples of these pest control devices would include but are not limited to:

- Water filters and air filters (except those containing substances that are pesticides)
- Black light traps, fly traps
- Indoor sticky ribbons and paper for arthropod control
- Indoor glue/sticky traps for rodent control
- Devices that operate to entrap vertebrate animals (for example, rat and mousetraps, fish traps, live animal traps)
- Devices that operate through temperature (hot/cold) as a means to control pests (for example, steam cleaners, heat tents for bed bug control)
• Devices that operate as physical barriers and there is no release or contact with pesticide (for example, wooden fencing, metal screens, netting to protect crops from birds, wax materials and other non-biocidal coatings that provide a physical barrier)
• Sound cannons, mole thumpers, foils and rotating devices, scarecrows, etc., for which claims are made to repel birds and mammals
• Products that are claimed to control burrowing animals via product-caused subterranean explosions
• Light/laser devices intended to repel birds and mammals
• Insect traps sold with only food-grade or owner-supplied food attractants

2.4 Devices proposed to be exempt from registration under the Pest Control Products Act, with conditions

• Traps using semiochemicals for the purpose of monitoring arthropod populations
• Traps that attract flying insects through the use of a chemical, through UV light or through production of CO2
• Ultrasonic repellents
• Swimming pool and spa chlorine generators
• Swimming pool and spa copper ion generators
• Germicidal UVC light-emitting devices where the lamps are shielded to prevent exposure to people during operation of the device
• Outdoor glue sticky traps for controlling arthropods
• Electronic rodent traps

Labelling Conditions

All devices that are proposed to be exempt from registration in Section 2.4 must meet the following labelling conditions, additional conditions are proposed under the applicable categories:

<table>
<thead>
<tr>
<th>No</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Under the heading “DIRECTIONS FOR USE”, the directions for the use of the pest control product, including application rates, timing and frequency of application, and any limitations on its use.</td>
</tr>
<tr>
<td>2</td>
<td>The intended use of the device.</td>
</tr>
<tr>
<td>3</td>
<td>The name, postal address, telephone number and email address of the distributor.</td>
</tr>
<tr>
<td>4</td>
<td>Information that identifies any risks to health or the environment associated with the handling, storage, display, distribution and disposal of the pest control product or anything in connection with which the pest control product is to be used, and instructions on procedures to reduce those risks.</td>
</tr>
<tr>
<td>5</td>
<td>Instructions in first aid, under the heading “FIRST AID INSTRUCTIONS”, that set out the practical measures to be taken in the event of poisoning, intoxication or injury caused by the pest control product.</td>
</tr>
</tbody>
</table>
2.4.1 Conditions that would apply to traps using semiochemicals for the purpose of monitoring arthropod populations

Traps using semiochemicals for the purpose of monitoring arthropod populations are expected to have minimum impact on human health or the environment. Products that qualify for exemption from registration with the additional conditions as follows:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The use of the device is limited to monitoring purposes only, and the traps must be labelled accordingly.</td>
</tr>
</tbody>
</table>

2.4.2 Conditions that would apply to traps that attract flying insects through the use of a chemical, through UV light or through production of CO₂

Note that, as per Section 2.2 of this document, if a device is sold with or contains a replaceable chemical attractant, the attractant must be registered.

These devices would be exempt from registration provided the following conditions that apply to devices that use electricity to generate a chemical/UV light/CO₂ are met:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The device is certified by a recognized standards organization (for example, Canadian Standards Association (CSA), Underwriter Laboratories (UL), Intertek (ETL)).</td>
</tr>
<tr>
<td>2</td>
<td>The label has the logo of the applicable standards organization.</td>
</tr>
<tr>
<td>3</td>
<td>The traps are for outdoor use only and must be labeled accordingly.</td>
</tr>
</tbody>
</table>

2.4.3 Conditions that would apply to ultrasonic repellents

Ultrasonic repellents are electronic devices that generate specific ultrasound frequencies and sound pressures through the air in order to repel pests.

Additional conditions:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The device is certified by a recognized standards organization (for example, CSA, UL, ETL).</td>
</tr>
<tr>
<td>2</td>
<td>The label has the logo of the applicable standards organization.</td>
</tr>
<tr>
<td>3</td>
<td>The device must not generate ultrasound at sound pressures &gt; 110 dB in the frequency range of 25–65 kHz.</td>
</tr>
<tr>
<td>4</td>
<td>Label must indicate the sound pressure and frequency range of the device.</td>
</tr>
<tr>
<td>5</td>
<td>Label must have the statement: Keep pets and children at least 2 m away from the device when operating.</td>
</tr>
<tr>
<td>6</td>
<td>The device must include safety features (for example, interlocks, automatic shut-offs) to prevent exposure to “unsafe” sound pressure levels during installation, clean-ups, and repairs OR the device must have a label statement directing users to shut-off device during installation, clean-ups, and repairs.</td>
</tr>
</tbody>
</table>
2.4.4 Conditions that would apply to swimming pool and spa chlorine generators

Swimming pool or spa chlorinating generators are devices that are manufactured, represented or sold as a means to control bacteria, algae, and viruses in pool or spa water by generating free available chlorine (in other words, hypochlorous acid) from the electrolysis of salt (sodium chloride) added to the water.

These devices would be exempt from registration provided the following additional label and use conditions are met:

<table>
<thead>
<tr>
<th></th>
<th>The device is certified by a recognized standards organization (for example, CSA, UL, ETL).</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>The device is certified by the National Sanitation Foundation (NSF International) to NSF/ANSI 50 – <em>Equipment for Swimming Pools, Spas, Hot tubs and other recreational water facilities</em>, as amended from time to time.</td>
</tr>
<tr>
<td>3</td>
<td>All of the following information appears on the label of the device:</td>
</tr>
<tr>
<td></td>
<td>i) the logo of the applicable standards organization</td>
</tr>
<tr>
<td></td>
<td>ii) the logo of NSF</td>
</tr>
<tr>
<td></td>
<td>iii) information to users on appropriate levels for pool or spa parameters:</td>
</tr>
<tr>
<td></td>
<td>a) Free available chlorine: pool: 1–3 ppm; spa: 3–5 ppm</td>
</tr>
<tr>
<td></td>
<td>b) pH: 7.2–7.8</td>
</tr>
<tr>
<td></td>
<td>c) Total alkalinity: 80–120 ppm</td>
</tr>
<tr>
<td></td>
<td>d) Calcium hardness: pool: 200–300 ppm; spa: 150–200 ppm</td>
</tr>
<tr>
<td></td>
<td>e) Salt (sodium chloride): specific level required for normal operation of the pool or spa device</td>
</tr>
<tr>
<td></td>
<td>f) Cyanuric acid (stabilizer, used in outdoor pools only) 30–100 ppm</td>
</tr>
<tr>
<td></td>
<td>iv) the statement, “The life expectancy of the electrode is (# of hours) hours under normal use conditions”</td>
</tr>
<tr>
<td></td>
<td>v) the statement, “When replacing the electrode, only use replacement electrodes having a label that clearly states that it is a replacement electrode for the chlorine generating device [Name of the device and model]”</td>
</tr>
<tr>
<td></td>
<td>vi) the statement to the PRECAUTIONS section, “Do not use this device with bromide products.”</td>
</tr>
</tbody>
</table>

2.4.5 Conditions that would apply to swimming pool or spa copper ion generators

Swimming pool or spa copper ion generators are devices that are manufactured, represented or sold as a means to control algae in pool or spa water by releasing copper ions (Cu⁺, Cu²⁺) from copper metal electrodes using a low voltage.
These devices would be exempt from registration provided the following additional label or use conditions are met:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The device is certified by a recognized standards organization (for example, CSA, ETL, UL).</td>
</tr>
</tbody>
</table>
| 2 | All of the following information appears on the label of the device:  
   i) the logo of the applicable standards organization  
   ii) information to users on appropriate levels for pool or spa parameters:  
      a) maintain 0.2–1.0 ppm of copper ions in swimming pool or spa water  
   iii) the statement, “Must be used with a primary pool/spa sanitizer”  
   iv) the statement, “Refer to the Directions for use of your primary pool or spa sanitizer for appropriate water parameters”  
   v) the statement, “The life expectancy of the electrode is (# of hours) hours under normal use conditions”  
   vi) the statement, “When replacing the electrode, only use replacement electrodes having a label that clearly states that it is a replacement electrode for the copper ions releasing device [Name of the device and model]” |

### 2.4.6 Conditions that would apply to germicidal UVC light-emitting devices where the lamps are shielded to prevent exposure to people during operation of the device

These devices would be exempt from registration provided the following additional label or use conditions are met:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The device is certified by a recognized standards organization (for example, CSA, ETL, UL).</td>
</tr>
<tr>
<td>2</td>
<td>The label has the logo of the applicable standards organization.</td>
</tr>
<tr>
<td>3</td>
<td>The label can only claim supplemental sanitizer effect (for example, supplemental sanitization to reduce need for chemicals, to be used in combination with chlorine or salt water systems).</td>
</tr>
<tr>
<td>4</td>
<td>UVC lamp is shielded or enclosed in device with interlocks or sensors to prevent UVC emissions during normal clean-ups and repairs.</td>
</tr>
<tr>
<td>5</td>
<td>UVC lamp is shielded or enclosed to prevent exposure during operation.</td>
</tr>
</tbody>
</table>
| 6 | Label or operating manual has the following precautionary statements on UVC emitter human health risks from UVC:  
   - This appliance contains an UVC emitter.  
   - Unintended use of the appliance or damage to the housing may result in the escape of UVC radiation.  
   - UVC radiation may cause eye and skin irritation.  
   - Avoid exposing eyes and skin to UVC radiation. |

### 2.4.7 Conditions that would apply to outdoor glue sticky traps for controlling arthropods

Traps must be designed in such a way to prevent entrapment of non-target mammals or birds.
2.4.8 **Conditions that would apply to electronic rodent traps**

These devices would be exempt from registration provided the following additional label or use conditions are met:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The device is certified by a recognized standards organization (for example, CSA, ETL, UL).</td>
</tr>
<tr>
<td>2</td>
<td>The label has the logo of the applicable standards organization</td>
</tr>
<tr>
<td>3</td>
<td>The label contains the statement “keep out of reach of children and pets”</td>
</tr>
<tr>
<td>4</td>
<td>The label and manual contains safety information to prevent incidental shocks from</td>
</tr>
<tr>
<td></td>
<td>touching the metal plates when the device is powered</td>
</tr>
</tbody>
</table>

2.4.9 **Conditions that would apply to water sprinklers intended to repel birds and mammals**

These devices would be exempt from registration provided the following conditions are met:

Devices operate with pressures under 690 kPa (100 psi).

3.0 **Outstanding Questions**

Health Canada is seeking your input with respect to the following:

3.1 **Ozone generators for water treatment**

**Context:** Ozone-generating devices have been marketed and sold in Canada for a number of water treatment uses such as pools and spas, greenhouses, etc. These devices function to oxidize organic matter in the water, but do not have pesticide or sanitizer claims.

**Concern:** As inhalation of ozone can result in adverse health effects there is concern about the potential of these ozone-generating devices to off-gas ozone into the air.

**Questions:**

1. How is potential ozone off-gassing addressed in the ozone-generating devices currently found on the market?
2. Are there built-in technologies to monitor off-gassing and to destroy any ozone that escapes from the water (for example, activated charcoal destruct component)?
3. If ozone-generating devices were permitted to have supplemental sanitizing/pesticide claims, how would the amount of dissolved ozone in the water be measured?
4. Could the methods currently used to measure free available chlorine be used (for example, Oxydation reduction potential (ORP) reader, diethyl-p-phenylenediamine method (DPD), test strips)?
5. What would be the rates for dissolved ozone in treated waters?
6. As ozone is an oxidizing biocide, would it make sense to include it in terms of free available chlorine equivalents?
4.0 Next Steps

Health Canada will consider all comments received before finalizing the proposal in preparation for formal consultation in the *Canada Gazette*, Part I. Please provide your comments and include the following information: your full name and organization, telephone number, and complete mailing address or email address.

Written comments on this proposal will be accepted up to 90 days from the date of publication. Please forward all comments to PMRA Publications. Contact information can be found on the cover page of this document.