

**Agriculture and Agri-Food Administrative Monetary Penalties Regulations Respecting the Pest Control Products Act and Regulations (SOR (Statutory Orders and Regulations)/2001-132)**

Regulations are current to 2022-09-22 and on 2022-01-01.

# **Agriculture and Agri-Food Administrative Monetary Penalties Regulations Respecting the Pest Control Products Act and Regulations**

## **SOR (Statutory Orders and Regulations)/2001-132**

### **AGRICULTURE AND AGRI-FOOD ADMINISTRATIVE MONETARY PENALTIES ACT**

Registration 2001-04-04

Agriculture and Agri-Food Administrative Monetary Penalties Regulations Respecting the Pest Control Products Act and Regulations

The Minister of Health, pursuant to subsection 4(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*<sup>a</sup> and the *Order Transferring from the Minister of Agriculture and Agri-Food to the Minister of Health the powers, duties and functions under the Agriculture and Agri-Food Administrative Monetary Penalties Act in relation to the Pest Control Products Act*<sup>b</sup>, hereby makes the annexed *Agriculture and Agri-Food Administrative Monetary Penalties Regulations Respecting the Pest Control Products Act and Regulations*.

<sup>a</sup>S.C. 1995, c. 40

<sup>b</sup>SI/2000-94

March 29, 2001

Allan Rock  
Minister of Health

## **Interpretation**

**1** The following definitions apply in these Regulations.

**Act** means the *Agriculture and Agri-Food Administrative Monetary Penalties Act*. (*Loi*)

**minor harm** means actual or potential harm, the effects of which can be reversed at a cost not exceeding \$1,000. (*tort mineur*)

**serious harm** means actual or potential harm which does not constitute minor harm. (*tort grave*)

# Violations

**2** The contravention of any of the following provisions is a violation that may be proceeded with in accordance with the Act:

- (a) a provision of the *Pest Control Products Act* that is set out in column 1 of Part 1 of Schedule 1;
- (b) a provision of the *Pest Control Products Regulations* that is set out in column 1 of Part 2 of Schedule 1;
- (c) a provision of the *Pest Control Products Sales Information Reporting Regulations* that is set out in column 1 of Part 3 of Schedule 1; and
- (d) a provision of the *Pest Control Products Incident Reporting Regulations* that is set out in column 1 of Part 4 of Schedule 1.

SOR/2010-191, s. 2; SOR/2019-161, s. 1(E).

## Short-form Descriptions

**3** As established by the Minister under paragraph 6(b) of the Act, the short-form description to be used in notices of violation in respect of each violation of a provision that is set out in column 1 of Schedule 1 is set out in column 2.

## Classification

**4** The classification of a violation as a minor violation, serious violation or very serious violation of a provision set out in column 1 of Schedule 1 is as set out in column 3.

## Penalties

**5 (1)** The amount of the penalty in respect of a violation committed by an individual otherwise than in the course of a business and that is not committed to obtain a financial benefit is

- (a) \$500, for a minor violation;
- (b) \$800, for a serious violation; and
- (c) \$1,300, for a very serious violation.

**(2)** The amount of the penalty in respect of a minor violation committed by a person in the course of a business or in order to obtain a financial benefit is \$1,300.

**(3)** The amount of the penalty in respect of a violation committed by a person in the course of a business or in order to obtain a financial benefit is \$6,000 for a serious violation and \$10,000 for a very serious violation, with adjustments, if any, determined in accordance with column 2

of Schedule 2 for each total gravity value as established in accordance with section 6 and set out in column 1 of that Schedule.

SOR/2010-191, s. 3(E); SOR/2018-243, s. 1.

**6** The total gravity value in respect of each serious violation or very serious violation referred to in subsection 5(3) shall be established by

**(a)** considering the following criteria:

**(i)** the history of the person who committed the violation in respect of prior violations or offences as described in column 2 of Part 1 of Schedule 3,

**(ii)** the degree of intent or negligence on the part of the person who committed the violation as described in column 2 of Part 2 of Schedule 3, and

**(iii)** the harm that was or could be done by the violation as described in column 2 of Part 3 of Schedule 3;

**(b)** ascribing, for each of the criteria referred to in subparagraphs (a)(i) to (iii), the applicable gravity value that is set out in column 1 of Parts 1 to 3 of Schedule 3; and

**(c)** adding the gravity values obtained under paragraph (b).

SOR/2010-191, s. 4(F).

## Compliance Agreements

**7 (1)** Subject to subsection (2), if the Minister enters into a compliance agreement under subsection 10(1) of the Act and the terms and conditions of the agreement include monetary expenditures to be made by a person, the amount of the penalty shall be reduced by one dollar for every two dollars spent by the person, with a maximum reduction to nil.

**(2)** The amount set out in a notice of default served under subsection 10(4) of the Act shall be paid within 15 days after service of the notice in a manner prescribed in subsection 10(3) of these Regulations.

## Service of Documents

**8 (1)** Service of a document originating from the Minister or service of a notice of violation on an individual named in the document or notice may be made

**(a)** personally, by delivering a copy of it

**(i)** to the individual at any place, or

**(ii)** if the individual is not at the last known address or usual place of residence at the time of service, to someone who appears to be an adult member of the same household at that address or residence and the day on which the document is left with

the member of the household is deemed to be the day on which the document is served; or

**(b)** by sending a copy of it by registered mail, by courier or by electronic means, including electronic registered mail and fax, to the last known address or usual place of residence of the individual.

**(2)** Service of a notice of violation on a person other than an individual may be effected by

**(a)** sending a copy of it by registered mail, courier or fax to the head office or place of business of the person or to the person's agent;

**(b)** leaving a copy of it at the person's head office or place of business, with an officer or other individual who appears to be in control or management of the head office or place of business or with the person's agent; or

**(c)** sending a copy of it by electronic means other than by fax to any individual referred to in paragraph (b).

**(3)** If a document is sent by fax or other electronic means, a copy of it shall also be sent by registered mail.

SOR/2010-191, s. 5.

**9** A person who signs a certificate of service, in a form approved by the Minister, stating that the notice of violation was served on the person named in the certificate and the means by which service was effected is deemed to have served the document:

**(a)** where the document is sent by registered mail or courier, on the tenth day after the date indicated in the receipt issued by the postal or courier service;

**(b)** where the document is sent by fax or other electronic means, on the day it is sent.

## Payment

**10 (1)** For the purposes of subsection 9(1) of the Act and subject to subsection (2), any payment shall be paid within 30 days after the day on which the notice is served.

**(2)** A person named in a notice of violation that contains a penalty may pay an amount equal to one half of the penalty if the person pays the amount within 15 days after the day on which the notice is served.

**(3)** For the purposes of the Act and these Regulations, the payment of a penalty or an amount in default shall be made by means of a certified cheque or money order made payable to the Receiver General for Canada and may be made

**(a)** in person;

**(b)** by regular mail;

(c) by registered mail; or

(d) by courier.

**(4)** A payment made in accordance with subsection (3) is deemed to be made

(a) on the day on which it is made in person;

(b) on the date indicated in the postmark stamped on the envelope, if the amount is sent by regular mail; and

(c) on the date indicated in the receipt issued by the postal or courier service, if the payment is sent by registered mail or courier.

SOR/2010-191, s. 6.

## **Review and Compliance Agreements**

**11 (1)** If a person named in a notice of violation that contains a warning requests, under subsection 8(1) of the Act, a review of the facts of the violation by the Minister or the Tribunal, the request shall be made in writing within 30 days after the day on which the notice is served.

**(2)** If a person named in a notice of violation that contains a penalty requests, under subsection 9(2) of the Act, a review of the facts of the violation by the Minister or the Tribunal or, if the penalty is \$2,000 or more, to enter into a compliance agreement with the Minister, the request shall be made in writing within 30 days after the day on which the notice is served.

**(3)** For the purposes of subsection (2), a request to enter into a compliance agreement shall include a proposal outlining in detail the corrective action that will be taken to ensure future compliance.

**12** For the purposes of subsections 11(1) and 13(2) of the Act, any payment of the amount of the penalty and any request for a review by the Tribunal shall be made within 15 days after the day on which the notice of the Minister's decision is served and any such request shall be made in writing.

SOR/2010-191, s. 7.

**13** Section 12 also applies to any request for a review under subsection 12(2) of the Act.

SOR/2010-191, s. 7.

**14 (1)** A person may make a request referred to in section 11, 12 or 13 by delivering it by hand or by sending it by registered mail, by courier or by electronic means, including electronic registered mail and fax, to a recipient and place authorized by the Minister.

**(2)** If a person makes a request, the date of the request is

(a) the day on which the request is delivered to the authorized recipient, if the request is delivered by hand;

**(b)** the earlier of the day on which the request is received by the authorized recipient and the date indicated in the receipt issued by the postal or courier service, if the request is sent by registered mail or courier; or

**(c)** the date on which the fax or other electronic transmission is received.

**(3)** Where a request is sent by fax or by other electronic means, a copy of the request shall be sent by registered mail.

SOR/2010-191, s. 8.

## **Review by Tribunal**

**15** A review by the Tribunal shall be conducted orally if the person named in the notice of violation requests that the review be oral.

SOR/2010-191, s. 9.

## **Coming into Force**

**16** These Regulations come into force on the day on which they are registered.

**Date modified:**

2022-09-28