Dear Senators,

We are writing to express our concern about amendments to the Pest Control Products Act (PCPA) included in Bill C-97, the Budget Implementation Act, 2019, No.1 (sections 217-219), and to recommend changes to these provisions.

The main purpose of the PCPA is to prevent unacceptable risks to individuals and the environment from pesticide use. Upholding the integrity of Canada’s regime for regulating pesticides is essential to protect the environment and human health, and to maintain public confidence.

The amendments to the PCPA included in Bill C-97 revise the requirements for “special review” under section 17 of the act (see attached overview of special reviews and the proposed amendments). This effort to streamline pesticide assessment processes must not — and need not — undercut the environmental and public health purposes of the act, nor interfere with sound decision-making.

We are concerned the proposed provisions, as drafted, could limit public participation and reduce transparency, while extending broad discretion to the Health Minister to decide not to initiate special reviews in response to potential health and environmental risks and international developments. The combined effect of these measures erodes existing accountability mechanisms, and could potentially lead to unacceptable health or environmental risks.

We request that the committee amend sections 217 and 218 of Bill C-97 to address these issues. Specifically:
1) With respect to the proposed subsections 17(7) of the PCPA, the amendments should specify that a decision pursuant to this subsection not to initiate a special review must be made before publication of the consultation statement required under subsection 28 of the PCPA.

2) With respect to the proposed sections 17(7), 17.1(1) and 17.1(2) of the PCPA, specify a legislative requirement that the minister make public decisions pursuant to this section not to initiate a special review that would otherwise be prompted under section 17(2), along with the minister’s reasons for the decision.

Recommendation 1: Ensure consultation requirements continue to apply

Section 28 of the act requires the minister to consult before making a final decision about the registration of a pest control product on completion of a re-evaluation or special reviews. Consultation provides an important opportunity for public participation and strengthens decision-making. The proposed section 17(7), as drafted, omits any reference to timing in relation to the required consultation. Thus, the change enables the minister to decide not to initiate a special review either before or after the consultation required under section 28 in relation to the original re-evaluation or special review.

This provision should be redrafted to specify that a decision pursuant to this subsection not to initiate a special review must be made before publication of the consultation statement required under subsection 28 of the PCPA. This revision is necessary to maintain the existing legislative guarantee of consultation on the aspect of concern that would otherwise have prompted a special review and related consideration.

Recommendation 2: Make public decisions not to initiate a special review that would otherwise be prompted under section 17(2)

Section 17(2) of the PCPA mandates a special review if an OECD member country prohibits all uses of a pesticide for health or environmental reasons. The proposed section 17.1(2) would introduce an exception, allowing the health minister discretion to determine whether additional information is available that warrants a special review under section 17(2) of the act. With no clear criteria set out for making such a determination, and no notice or consultation requirements, this provision lacks transparency and could prevent appropriate consideration of environmental and health information that another jurisdiction relied on in deciding to prohibit all uses of a pesticide.

This lack of transparency runs contrary to efforts to enhance confidence in Canada’s pesticide regulatory system. The proposed section 17.1(2), as well as sections 17(7) and 17.1(1), should be redrafted to require that the minister make public any decision not to initiate a special review that would otherwise be prompted when an OECD member country prohibits all uses of a pesticide.

The amendments we are recommending to the PCPA provisions in Bill C-97 are necessary to maintain transparency and accountability and to avoid further eroding public confidence in federal pesticide regulation.
Thank you for your consideration.

Sincerely,

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Enclosure: Overview of Special Reviews under the Pest Control Products Act

cc. The Honorable Bill Morneau, Minister of Finance  
The Honorable Ginette Petitpas Taylor, Minister of Health  
Mr. Simon Kennedy, Deputy Minister, Health Canada  
Dr. Richard Aucoin, Executive Director, Pest Management Regulatory Agency
Special reviews under the *Pest Control Products Act*

Special reviews build public confidence in Canada’s oversight of pesticides and improve environmental outcomes by providing a mechanism for targeted re-assessment when there are concerns about harm to human health or the environment.

Bill C-97, the *Budget Implementation Act, 2019, No.1*, includes provisions that revise the requirements for special review under *Pest Control Products Act* (PCPA). As described in the bill summary, Subdivision J of Division 9 of Part 4 amends the PCPA to, among other things, allow the minister of health to:

- expand the scope of a re-evaluation of, or a special review in relation to, a pesticide rather than initiating a new special review; and
- decide not to initiate a special review if the aspect of a pesticide that would otherwise prompt such a review is being, or has been, addressed in a re-evaluation or another special review.

The existing special review provisions in section 17 of the PCPA enable — and, in some situations, require — targeted and timely re-assessment of pesticides if the health minister has reasonable grounds to believe that the health or environmental risks are unacceptable, or when another country prohibits all uses of a pesticide active ingredient.

While the act requires periodic re-evaluation of every pesticide on a 15-year cycle, special reviews enable Health Canada to respond specifically to emerging risk information and international regulatory developments outside the routine re-evaluation cycle. Special reviews improve the responsiveness of Canada’s regulatory system to emerging science and concerns, and are therefore an essential component of Canada’s regulatory regime for ensuring that pesticides do not pose unacceptable risks to human health and the environment.

For example, in 2015 Health Canada’s Pest Management Regulatory Agency initiated a special review of the pesticide Naled under section 17(2) of the PCPA after the European Union prohibited all uses. Naled is an organophosphate insecticide used on a very wide range of agricultural (food and feed) crops, outdoor ornamentals, greenhouse food crops and ornamentals, in/around structural sites, woodlands, and livestock pastures. The special review initiated under section 17(2) focused on risks to occupationally exposed workers and aquatic organisms, which were the basis for the prohibition in the EU. A separate special review examining other issues was also initiated under section 17(1) of the PCPA. As a result of these special reviews, Health Canada concluded that risks to health and the environment are not acceptable and has proposed to cancel the registration of all Naled products and uses in Canada. The PMRA would anticipate initiating the next cyclical re-evaluation of Naled in 2022/23, and re-evaluations typically take more than four years to complete. The special review requirements of Section 17(2) of the PCPA mandated a targeted re-assessment of

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Naled and more timely regulatory action in response to a prohibition in another OECD member country, addressing unacceptable risks that may otherwise have been overlooked for another half decade.

The proposed amendments to the PCPA included in Bill C-97 provide the minister discretion to decide not to initiate a special review that would otherwise be prompted if the aspect of concern is considered through a different process. As drafted, the new provisions do not require the minister to make public or provide reasons for a decision not to initiate a special review, and would allow the act’s consultation requirements to be circumvented. These issues must be addressed to avoid undercutting existing legislative guarantees of consultation, transparency and accountability in relation to decisions related to an aspect of concern under section 17 of the PCPA.