



Citation: Oleksiy Krasnobryzhyy v. Canada (CBSA), 2012 CART 11

Date: 20120528  
Docket: CART/CRAC-1577

**Between:**

**Oleksiy Krasnobryzhyy, Applicant**

**- and -**

**Canada Border Services Agency, Respondent**

**Before: Chairperson Donald Buckingham**

In the matter of an application made by the applicant, pursuant to paragraph 9(2)(c) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, for a review of the facts of a violation of section 40 of the *Health of Animals Regulations*, alleged by the respondent.

**DECISION**

**[1] Following an oral hearing and a review of all oral and written submissions of the parties, the Canada Agricultural Review Tribunal (Tribunal), by order, determines that the applicant committed the violation and is liable for payment of the penalty in the amount of \$800.00 to the respondent within thirty (30) days after the day on which this decision is served.**

The hearing was held in Montreal, QC,  
on April 23, 2012.

## REASONS

### Alleged incident and issues

[2] The respondent, the Canada Border Services Agency (Agency), alleges that, on May 2, 2011, at P-E-Trudeau International Airport in Montreal, Quebec, the applicant, Mr. Oleksiy Krasnobryzhyy (Krasnobryzhyy), imported meat products into Canada contrary to section 40 of the *Health of Animals Regulations*, from Spain, a country from which it is unlawful to import meat products unless he met the requirements of Part IV – Importation of Animal By-Products, Animal Pathogens and Other Things – of the *Health of Animals Regulations*.

[3] Pertinent sections of Part IV of the *Health of Animals Regulations* are set out below:

**40.** *No person shall import into Canada an animal by-product, manure or a thing containing an animal by-product or manure except in accordance with this Part.*

**41.** (1) *A person may import into Canada an animal by-product, manure or a thing containing an animal by-product or manure, other than one described in section 45, 46, 47, 47.1, 49, 50, 51, 51.2 or 53, if*

*(a) the country of origin is the United States and the by-product, manure or thing is not derived from an animal of the subfamily Bovinae or Caprinae;*

*(b) the country of origin, or the part of that country, is designated under section 7 as being free of, or as posing a negligible risk for, any reportable disease, any disease referred to in Schedule VII and any serious epizootic disease to which the species from which the by-product, manure or thing was derived is susceptible and that can be transmitted by the by-product, manure or thing, and the person produces a certificate of origin signed by an official of the government of that country attesting to that origin; or*

*(c) the by-product, manure or thing has been collected, treated, prepared, processed, stored and handled in a manner that would prevent the introduction into Canada of any reportable disease, any disease referred to in Schedule VII and any serious epizootic disease to which the species from which the by-product, manure or thing was derived is susceptible and that can be transmitted by the by-product, manure or thing, and the person produces a certificate signed by an official of the government of the country of origin that*

*(i) attests that the by-product, manure or thing has been collected, treated, prepared, processed, stored and handled in that manner, and*

*(ii) shows the details of how it was collected, treated, prepared, processed, stored and handled.*

*(2) Subsection (1) does not apply in respect of manure found in or on a vehicle that is entering Canada from the United States if the manure was produced by animals, other than swine, that are being transported by the vehicle.*

**41.1** *(1) Despite section 41, a person may import into Canada an animal by-product or a thing containing an animal by-product, other than one described in section 45, 46, 47, 47.1, 49, 50, 51, 51.2 or 53, if an inspector has reasonable grounds to believe that the importation of the by-product or thing, by its nature, end use or the manner in which it has been processed, would not, or would not be likely to, result in the introduction into Canada of any reportable disease, any disease referred to in Schedule VII and any serious epizootic disease to which the species from which the by-product was derived is susceptible and that can be transmitted by the by-product, and the by-product or thing is not intended for use as animal food or as an ingredient in animal food.*

*(2) No person shall, in respect of any animal by-product or thing containing an animal by-product that has been imported in accordance with subsection (1), use or cause it to be used as animal food or as an ingredient in animal food.*

...

**43.** *A person may import into Canada cooked, boneless beef from a country or a part of a country not referenced to in section 41 if*

*(a) it was processed in a place and in a manner approved by the Minister;*

*(b) it is accompanied by a meat inspection certificate of an official veterinarian of the exporting country in a form approved by the Minister;*  
*and*

*(c) on examination, an inspector is satisfied that it is thoroughly cooked.*

...

**46.** *No person shall import into Canada meat and bone meal, bone meal, blood meal, tankage (meat meal), feather meal, fish meal or any other product of a rendering plant unless, in addition to the requirements of sections 166 to 171,*

*(a) the country of origin, or the part of that country, is designated under section 7 as being free of, or as posing a negligible risk for, any reportable disease, any disease referred to in Schedule VII and any serious epizootic disease to which the species from which the product was derived is susceptible and that can be transmitted by the product, and the person produces a certificate of origin signed by an official of the government of that country attesting to that origin; and*

*(b) an inspector has reasonable grounds to believe that the product has been processed in a manner that would prevent the introduction of any reportable disease, any disease referred to in Schedule VII and any serious epizootic disease to which the species from which the product was derived is susceptible and that can be transmitted by the product.*

...

**52.** *(1) Despite anything in this Part, a person may import into Canada an animal by-product if the person produces a document that shows the details of the treatment of the by-product and an inspector has reasonable grounds to believe – based on the source of the document, the information contained in the document and any other relevant information available to the inspector and, if necessary, on an inspection of the by-product – that the importation of the by-product would not, or would not be likely to, result in the introduction into Canada, or the spread within Canada, of a vector, disease or toxic substance.*

*(2) Notwithstanding anything in this Part, a person may import an animal by-product under and in accordance with a permit issued by the Minister under section 160.*

[4] The Tribunal must determine whether the Agency has established all the elements required to support the impugned Notice of Violation and, if Krasnobryzhyy did import meat into Canada, whether he met the requirements that would have permitted such importation.

### **Procedural history**

[5] Notice of Violation 3961-11-M-0146 dated May 2, 2011, alleges that on that date at the P-E-Trudeau International Airport, in Montreal, Quebec, Krasnobryzhyy “committed a violation, namely: Import an animal by-product, to wit: meat, without meeting the prescribed requirements, Contrary to section 40 of the *Health of Animals Regulations*, which is a violation under section 7 of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* and section 2 of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*.”

[6] The Agency served the Notice of Violation personally on Krasnobryzhyy on May 2, 2011. The Notice of Violation indicates to Krasnobryzhyy that the alleged violation is a serious violation under section 4 of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*, for which the penalty assigned is in the amount of \$800.00.

[7] On May 11, 2011 (received by fax at the Tribunal on May 13, 2011), Krasnobryzhyy requested a review of the facts of the violation by the Tribunal, in accordance with paragraph 9(2)(c) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*. By way of his request for review, Krasnobryzhyy indicated that he wished to proceed with a review by way of an oral hearing, in accordance with subsection 15(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*.

[8] On May 26, 2011, the Agency sent its report (Agency Report) concerning the Notice of Violation to Krasnobryzhyy and to the Tribunal, the latter receiving it on May 30, 2011.

[9] In a letter dated May 30, 2011, the Tribunal invited Krasnobryzhyy to file with it any additional submissions (Additional Submissions) in this matter, no later than June 29, 2011. The Tribunal extended this date to August 8, 2011, given that the Agency tried three separate methods of delivering their Report to Krasnobryzhyy's address but was unable to confirm that Krasnobryzhyy had retrieved it. On August 31, 2011, the Agency confirmed to the Tribunal by email that after several delivery attempts (first by courier, then by registered mail and then by notice to him that it was at a particular postal outlet near his address), its Report had been returned to it as "unclaimed".

[10] By letter dated March 16, 2012, the Tribunal provided the parties with notice that the hearing of this matter would take place in Montreal on April 23, 2012.

[11] The oral hearing requested by Krasnobryzhyy was held in Montreal, Quebec on April 23, 2012, with both parties present. Krasnobryzhyy was self-represented and the Agency was represented by Ms. Sylvie Renaud. At the beginning of the hearing, the Tribunal asked Krasnobryzhyy if he had seen a copy of the Agency Report to which he replied he had not and as a result, the Tribunal adjourned the hearing for 15 minutes, so that he could familiarize himself with the contents of the Report before the hearing proceeded with the presentation by the parties of their evidence and arguments in the case.

## **Evidence**

[12] The evidence before the Tribunal in this case consists of written submissions from the Agency (Notice of Violation and Agency Report) and from Krasnobryzhyy (submissions contained in his request for review) as well as the oral testimony given by the witnesses at the oral hearing. The Agency presented one witness, Agency Inspector 17739 while Krasnobryzhyy presented one witness—himself—at the hearing on April 23, 2012. The Agency also tendered one exhibit at the hearing: copies of pages 1 and 2 of the "Inspector's Non Compliance Report for Travellers at Points of Entry" which is already, in part, located at

Tab 6 of the Agency Report. The exhibit provides a missing second of three pages of the document as currently only pages 1 and 3 are found at the Tab 6.

[13] The parties did not dispute the following fact: Krasnobryzhyy came to Canada from the Ukraine via Amsterdam and Spain on board flight KL 671 landing at the P-E-Trudeau International Airport in the afternoon of May 2, 2011.

[14] Pertinent evidence presented by the Agency was as follows:

- a. Krasnobryzhyy completed and signed a Canada Border Services Agency Declaration Card E311(09) (Declaration Card) dated May 2, 2011. Krasnobryzhyy marked "Non" beside the following statement: "J'apporte (nous apportons) au Canada: viande ou produits à base de viande; produits laitiers; fruits; légumes; semences; noix; plantes et animaux, parties d'animaux; fleurs coupées; terre; bois ou produits du bois; oiseaux; insectes;" (Declaration Card signed by Krasnobryzhyy at Tab 2 of Agency Report; and oral testimony of Inspector 17739).
- b. At the beginning of the secondary inspection, Inspector 17739 asked Krasnobryzhyy if he had anything to declare and he responded "no". The Inspector asked Krasnobryzhyy if the luggage before him was his, that he had packed it and that he knew the contents of it. He responded "yes" to each of the questions. The Inspector then searched Krasnobryzhyy's luggage and found one stick of dry sausage weighing approximately .2 kilograms (Canada Border Services Agency Tag for intercepted item BSF 156 (BSF 156) at Tab 5 of Agency Report; and Inspector's Non Compliance Report for Travellers at Points of Entry (Non Compliance Report) at Tab 6 of the Agency Report and Exhibit 1; and oral testimony of Inspector 17739).
- c. Inspector 17739 stated in her Non Compliance Report that Krasnobryzhyy came to the secondary inspection counter, that she found undeclared sausage in his bags and that she asked him if the bags belonged to him and he said that it did. She states in that document that she also asked Krasnobryzhyy whether he had any permits or certificates and he answered "no". Also noted in the report by Inspector 17739 was that the products were not declared and that they were seized, confiscated and destroyed (Non Compliance Report at Tab 6 of the Agency Report and Exhibit 1).
- d. Inspector 17739 took a photo of the meat products she found and although the quality of the photocopy of that photo is poor, it does appear that the product in question was a stick of dry salami (Photo at Tab 7 of the Report; Exhibit 1 of the hearing; and oral testimony of Inspector 17739).

- e. The Automated Import Reference System (AIRS) of the Canadian Food Inspection Agency (CFIA) confirmed to Agency Inspectors that sausage and similar products from Spain are to be refused entry into Canada. The AIRS report recommends that the Agency therefore “Refuse Entry” of such products (Tab 9 of Report; and oral testimony of the Inspector 17739).

[15] In cross-examination, Inspector 17739 told the Tribunal that her conclusion that the product in question was a meat product was based on her experience in identifying various food products during her years acting as an Agency inspector. Inspector 11739 had testified in her direct examination that she has been an Agency inspector for more than four years. Also in cross-examination, Inspector 17739 admitted that she did not do any tests on the product to determine that it was a meat product and that she may not have asked for a certificate or permit for the product but she did not find one in the bags where the sausage was located.

[16] Krasnobryzhyy’s written evidence is contained in his submissions in his request for review filed with the Tribunal in May 2011 wherein he states “... I forgot to declare a 100 gram dry salami. The customs officer I delt with confiscated it and fined me for 800 dollars. A Canada Agricultural Review Tribunal officer says I can be tried if it’s more than 20 kgs.”

[17] At the hearing, Krasnobryzhyy was self-represented and testified that he travelled from Kiev to Amsterdam to Spain, arriving in Montreal on May 2, 2011. He told the Tribunal that he forgot to declare the sausage he acquired in Spain and ended up bringing it into Canada that day. He testified that the Customs officers who questioned him that day asked very private questions and his response to these questions may have been rude. During the secondary questioning and examination, the officer who inspected his luggage never asked him whether he had any permits or certificates which would have allowed the importation of the sausage. Krasnobryzhyy told the Tribunal that he observed other people in the inspection lines next to him whose forbidden items were simply taken from them and they were let go without a Notice of Violation.

[18] In cross-examination, Krasnobryzhyy confirmed that he was not asked for a certificate or permit by the officer who completed his primary inspection. When then asked during cross-examination, if he presented a certificate or permit to the secondary inspector, he replied that if he had been asked, he would have referred the officer to the sausage label that listed the ingredients on it.

[19] During his closing argument, Krasnobryzhyy told the Tribunal that even after two inspections, at primary and secondary, he had never been asked for certificates or permits for the product he had imported and that if he had been asked he would have called his friend in Spain and she would have said the sausage was actually made of soy.

## **Analysis and Applicable Law**

[20] This Tribunal's mandate is to determine the validity of agriculture and agri-food administrative monetary penalties issued under the authority of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* (the Act). The purpose of the Act is set out in section 3:

*3. The purpose of this Act is to establish, as an alternative to the existing penal system and as a supplement to existing enforcement measures, a fair and efficient administrative monetary penalty system for the enforcement of the agri-food Acts.*

[21] Section 2 of the Act defines "agri-food Act":

*2. In this Act,*

*"agri-food Act" means the Canada Agricultural Products Act, the Farm Debt Mediation Act, the Feeds Act, the Fertilizers Act, the Health of Animals Act, the Meat Inspection Act, the Pest Control Products Act, the Plant Protection Act or the Seeds Act;*

[22] Pursuant to section 4 of the Act, the Minister of Agriculture and Agri-Food, or the Minister of Health depending on the circumstances, may make regulations:

*4. (1) The Minister may make regulations*

*(a) designating as a violation that may be proceeded with in accordance with this Act*

*(i) the contravention of any specified provision of an agri-food Act or of a regulation made under an agri-food Act...*

[23] The Minister of Agriculture and Agri-Food has made one such regulation, the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations* SOR/2000-187, which designates as a violation several specific provisions of the *Health of Animals Act* and the *Health of Animals Regulations*, and the *Plant Protection Act* and the *Plant Protection Regulations*. These violations are listed in Schedule 1 of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations* and include a reference to section 40 of the *Health of Animals Regulations*.

[24] The Act's system of administrative monetary penalties (AMP), as set out by Parliament, is very strict in its application. In *Doyon v. Attorney General of Canada*, 2009 FCA 152, the Federal Court of Appeal describes the AMP system as follow, at paragraphs 27 and 28:



*[27] In short, the Administrative Monetary Penalty System has imported the most punitive elements of penal law while taking care to exclude useful defences and reduce the prosecutor's burden of proof. Absolute liability, arising from an actus reus which the prosecutor does not have to prove beyond a reasonable doubt, leaves the person who commits a violation very few means of exculpating him - or herself.*

*[28] Therefore, the decision-maker must be circumspect in managing and analysing the evidence and in analysing the essential elements of the violation and the causal link. This circumspection must be reflected in the decision-maker's reasons for decision, which must rely on evidence based on facts and not mere conjecture, let alone speculation, hunches, impressions or hearsay.*

[25] Moreover, the Federal Court of Appeal, in *Doyon*, points out that the Act imposes an important burden on the Agency. At paragraph 20, the Court states:

*[20] Lastly, and this is a key element of any proceeding, the Minister has both the burden of proving a violation, and the legal burden of persuasion. The Minister must establish, on a balance of probabilities, that the person named in the notice of violation committed the violation identified in the notice: see section 19 of the Act.*

[26] Section 19 of the Act reads as follows:

**19.** *In every case where the facts of a violation are reviewed by the Minister or by the Tribunal, the Minister must establish, on a balance of probabilities, that the person named in the notice of violation committed the violation identified in the notice.*

[27] Therefore, it is incumbent on the Agency to prove, on the balance of probabilities, all the elements of the violation that form the basis of the Notice of Violation. In the case of a violation of section 40 of the *Health of Animals Regulations*, the Agency must prove the following:

- (1) Krasnobryzhyy is the person who committed the violation;
- (2) Krasnobryzhyy imported an animal by-product, in this case sausage, into Canada; and
- (3) if Krasnobryzhyy did import meat products into Canada, that Agency officials provided a reasonable opportunity to Krasnobryzhyy for him to justify the importation in accordance with Part IV of the *Health of Animals Regulations*.

[28] The Tribunal must consider all the evidence, both written and oral, before it to determine whether the Agency has proven, on the balance of probabilities, each of the elements of the alleged violation.

[29] With respect to element 1, Krasnobryzhyy's identity as the alleged violator is not in dispute. Throughout the secondary inspection process, the identity of Krasnobryzhyy, the alleged violator, and the care, control and ownership of the luggage that was searched have not been disputed. The Tribunal finds as fact that Krasnobryzhyy was the alleged violator identified by the Inspector 17739 and the bags she searched did belong to Krasnobryzhyy.

[30] With respect to element 2, the Tribunal accepts, as a finding of fact, that the Agency has established, on the balance of probabilities that the product that Krasnobryzhyy imported was a dry meat sausage weighing approximately .2 kilograms. The testimony of Inspector 17739 that, given her experience she recognized the product as meat, as well as her photo at Tab 7 of the Agency Report, prove that is it more likely than not that the product in question contained meat or meat products rather than the suggestion by Krasnobryzhyy at the end of the hearing that a telephone call to his friend in Spain would have provided evidence that the product contained no meat and was instead made of soy.

[31] There remains for analysis, then, only the evidence pertaining to element 3 of the alleged violation. This third element is essential to proving a violation of section 40 of the *Health of Animals Regulations*. That section, as noted above, states as follows: "*No person shall import into Canada an animal by-product, manure or a thing containing an animal by-product or manure except in accordance with this Part.* Moreover, the Minister of Agriculture and Agri-Food, in the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*, has found it necessary to designate in the listing of section 40 of the *Health of Animals Regulations* in Schedule 1, Part 1, Division 2 (Violation #79. section 40) of those *Regulations* that the violation relates to the: "Import an animal by-product without meeting the prescribed requirements". In both instances—in the *Health of Animals Regulations* themselves and in the listing of the violation under the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations*, the violation mentions and permits a justification from the alleged offender.

[32] The severity and draconian nature of the AMPs regime noted by the Federal Court of Appeal in *Doyon*, noted above in paragraph 24, requires that this Tribunal be very careful in determining the required elements for any alleged violation it is asked to review. In the case of an alleged violation of section 40 of the *Health of Animals Regulations*, clearly the first two elements already analyzed—the identity of the alleged violator and whether that person imported an animal by-product—are necessary elements of the proof of a violation. However, a third element is also required to give any reasonable significance to the other words in section 40 of the *Health of Animals Regulations* – "*except in accordance with this Part*" – or to wording in the listing of the violation under the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations* – "without meeting the prescribed requirements".

[33] There can be no doubt, that alleged violators of section 40 may defend themselves by adducing evidence proving they met the prescribed requirements permitted under Part IV of the *Health of Animals Regulations*. Moreover, the responsibility and burden for proving that a person has met the prescribed requirements of Part IV falls on the alleged violator and he or she must take all necessary and reasonable steps to make such a justification known to the Agency. Normally, this justification will take one of two forms, either by

- a. the traveller declaring any animal by-products to the Agency either in writing on that person's Declaration Card or in person to an Agency official once that person had deplaned and entered Canada on his way through an airport, such that an Agency inspector could inspect the product and determine if it should be allowed entry into Canada pursuant to s. 41(1)(a) or s. 41.1(1) of the *Health of Animals Regulations*; or
- b. the traveller producing a certificate (s. 41(1)(b); s. 41(1)(c); s. 43; s. 46), document (s. 52(1)), or permit (s. 52(2)) such that the meat product would be permitted to be imported into Canada under Part IV.

[34] The third element of the violation – if Krasnobryzhyy did import meat products into Canada, that Agency officials provided a reasonable opportunity to Krasnobryzhyy for him to justify the importation in accordance with Part IV of the *Health of Animals Regulations* – in the grand majority of cases would be an element of the violation that will be very easily met by the Agency as the threshold for adducing sufficient evidence is extremely low. Normally, the Agency would have only to prove to the Tribunal that the traveller's Declaration Card was falsely marked with a "No" beside the question of whether the traveller was bringing meat products into Canada; or that the person understood and answered "No" to the primary inspector's question about whether the traveller was bringing meat products into; and that the traveller was given an opportunity to produce a certificate, document or permit, which would permit importation of a meat product. In the case of a person who understands either of Canada's official languages, the Agency's burden to prove that they had afforded a traveller a reasonable opportunity to justify any importation of meat products in accordance with Part IV of the *Health of Animals Regulations* would normally be quickly and easily met.

[35] The Tribunal finds, in this case, that the Agency has met this burden. Krasnobryzhyy's conduct by marking "Non" on his E311 Declaration Card and by failing to declare the dry sausage to the Agency at any time before Inspector 17739 found it in his luggage during secondary inspection, is sufficient to prove that he was given a reasonable opportunity to declare the product or to produce a certificate, document or permit, which would permit importation of a meat product, even if as Krasnobryzhyy testified, no Agency officer actually directly asked him for certificates or permits that would have allowed entry of the meat product into Canada. The evidence presented by both parties does not support any finding by the Tribunal that Krasnobryzhyy actually had such a permit or certificate in his possession on May 2, 2011.

[36] The Tribunal is aware that the *Agriculture and Agri-Food Administrative Monetary Penalties Act* creates a liability regime that permits few tolerances, as it allows no defence of due diligence or mistake of fact. Section 18 of the Act states:

**18. (1)** *A person named in a notice of violation does not have a defence by reason that the person*

*(a) exercised due diligence to prevent the violation; or*

*(b) reasonably and honestly believed in the existence of facts that, if true, would exonerate the person.*

[37] When an AMP provision has been enacted for a particular violation, as is the case for section 40 of the *Health of Animals Regulations*, Krasnobryzhyy has little room to mount a defence. In the present case, section 18 of the Act will exclude practically any excuse that he might raise, such as he did not declare it because he forgot. Given Parliament's clear statement on the issue, the Tribunal accepts that none of the statements made by Krasnobryzhyy in his submissions to this Tribunal, in his communications with Agency inspectors, or in his alleged communications with an Canada Agricultural Review Tribunal officer as he sets out in submissions in his request for review—for which there is no evidence either on the record or at the Tribunal itself—would be permitted defences under section 18.

[38] The Tribunal appreciates that Agency inspectors are charged with the important task of protecting individuals, animals, and plants, agricultural production and the food system in Canada from risks posed by pests, pathogens and parasites. In the present case, it is clear from the evidence that the Agency responded to a potential threat from the importation of meat products by Krasnobryzhyy, by examining the product, and after it was determined that it was a product that should be refused entry into Canada by seizing and destroying it as they are validly empowered under Canadian law to do.

[39] The Tribunal finds, following a review of all written submissions of the parties, that Krasnobryzhyy committed the violation and is liable for payment of the penalty in the amount of \$800.00 to the respondent within thirty (30) days after the day on which this decision is served.

[40] The Tribunal wishes to inform Mr. Krasnobryzhyy that this is not a criminal or a federal offence but a monetary violation, and that he has the right to apply after 5 years to have the notation of this violation removed from the Minister's records, in accordance with subsection 23(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, which states as follows:

**23.** (1) *Any notation of a violation shall, on application by the person who committed the violation, be removed from any records that may be kept by the Minister respecting that person after the expiration of five years from*

*(a) where the notice of violation contained a warning, the date the notice was served, or*

*(b) in any other case, the payment of any debt referred to in subsection 15(1),*

*unless the removal from the record would not in the opinion of the Minister be in the public interest or another notation of a violation has been recorded by the Minister in respect of that person after that date and has not been removed in accordance with this subsection.*

Dated at Ottawa, this 28<sup>th</sup> day of May, 2012.

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Dr. Donald Buckingham, Chairperson