

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

**DECISION**

In the matter of an application for a review of the facts of a violation of section 6 of the *Pest Control Products Regulations*, alleged by the Respondent, and requested by the Applicant pursuant to paragraph 9(2)(c) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

**Jacques Fournier, Applicant**

**- and -**

**Pest Management Regulatory Agency, Respondent**

**CHAIRMAN BARTON**

**Decision**

**Following an oral hearing and a review of the submissions of the parties including the report of the Respondent, the Tribunal, by order, determines the Applicant committed the violation and is liable for payment to the Respondent of the penalty in the amount of \$4,000.00 within 30 days after the day on which this decision is served.**

## REASONS

The Applicant requested an oral hearing pursuant to subsection 15(1) of the *Agriculture and Agri-Food Administrative Monetary Penalties Regulations* respecting the *Pest Control Products Act and Regulations*. The oral hearing was held in Granby, Quebec, on June 10, 2002.

The Applicant presented his own case.

The Respondent's case was presented by Ms. Johanne Lafortune, assisted by its solicitor, Ms. Pascale Catherine Guay.

The Notice of Violation dated January 28, 2002, alleges that the Applicant, on or about the 14<sup>th</sup> day of March, 2001, at Lac-Brome in the province of Quebec, committed a violation, namely: "*using a pest control product that is not registered pursuant to the Pest Control Products Regulations*", contrary to section 6 of the *Pest Control Products Regulations* which states:

6. Subject to section 5, every control product imported into, sold or used in Canada or used or contained in another control *product in Canada shall be registered in accordance with these Regulations.*

The following facts are not in dispute:

1. The Applicant owns and operates a sugar bush with approximately 16,000 tapholes in the municipality of Lac Brome.
2. On March 14, 2001, the sugar bush was visited by the Respondent's Inspectors, at which time the Applicant admitted using approximately 2,000 paraformaldehyde pills which he inserted or had inserted in the tapholes of his maple trees.
3. The Respondent's analysis of the samples of the paraformaldehyde pills confirmed that the pills contained a significant amount of paraformaldehyde.
4. No formaldehyde-based product has been registered for the maple syrup production industry in Canada pursuant to the *Pest Control Products Regulations* since January 1, 1991.
5. Paraformaldehyde prolongs sap flow by slowing the proliferation of microorganisms that cause tapholes to heal.

Based on the undisputed facts, the Tribunal finds the Respondent has established, on a balance of probabilities, the Applicant committed the violation, and further finds the amount of the penalty was established in accordance with the *Regulations*.

Although this has no bearing on the outcome of the review, the Tribunal wishes to note that, it accepts the evidence of the Applicant that the Applicant cooperated with the Respondent's Inspectors and removed the paraformaldehyde pills from the tapholes after the trees were inspected.

Dated at Ottawa this 4<sup>th</sup> of June, 2002.

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Thomas S. Barton, Q.C., Chairman