



Court File No. _____

FEDERAL COURT

BETWEEN:

FRIENDS OF THE EARTH CANADA, PREVENT CANCER NOW

and

SAFE FOOD MATTERS INC.

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	January 19, 2026		
	19 janvier 2026		
	Nasreen Mudhoo		
	TOR		1

Applicants

- and -

ATTORNEY GENERAL OF CANADA and MINISTER OF HEALTH

Respondents

NOTICE OF APPLICATION

Pursuant to section 18.1 of the *Federal Courts Act*

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the applicants. The relief claimed by the applicant appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicants' solicitors WITHIN 10 DAYS after being served with this notice of application.

Copies of the Federal Courts Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Issued on: January 20, 2026

Issued by: Nasreen Mudhoo (Registry Officer)

Address of Local Office: Toronto Local Office / Bureau local de Toronto 180
Queen St. W., Suite 200 /180, rue Queen O., Bureau 200 Toronto, Ontario M5V
3L6

Date:

Issued by: _____

(Registry Officer)

Address of local office:

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TO: ATTORNEY GENERAL OF CANADA
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APPLICATION

1. This case is about the approval of Canada’s pest management regulator, the Pest Management Regulatory Agency of a new “forever” chemical, a polyfluoroalkyl (“PFA”) substance for use in Canada - at a time when Health Canada and Environment and Climate Change Canada are proposing to move away from and eliminate PFAs. PFAs are synthetic chemicals that do not breakdown, and background exposure to PFAs in Canada is ubiquitous.

2. The chemical is cyclobutirflruam, and it is the first of three PFAs for which the Pest Management Regulatory Agency (“PMRA”) published consultations in Q4 2025 that it has approved. The registration of the chemical for use in Canada was granted under the *Pest Control Products Act* (“Act”) on December 19, 2015.

APPLICATION:

3. The applicants make application for:

- a. An order setting aside the registration of the pest control product;
- b. In the alternative an order setting aside the registration with a suspension period, and remitting the matter back to the PMRA with instructions;
- c. An order that each party shall bear their own costs;
- d. In the alternative, an order for costs in favour of the applicants.
- e. Such further and other relief as the Applicants may advise and the court may permit.

The Parties

4. The Minister of Health is responsible for administering the Act. The Minister has delegated this responsibility to the PMRA.

5. The applicant Safe Food Matters Inc. (“SFM”) is a Canadian non-governmental organization dedicated to promoting public health by working to uphold the administration of laws that are protective concerning inputs to food, including pesticides.

6. The applicant Friends of the Earth Canada (“**FOE**”) is a non-governmental organization that works to protect the health of the environment by contributing to the development of government policies that limit the use of pest control products and food production technologies that are harmful.

7. The applicant Prevent Cancer Now (“**PCN**”) is a not-for profit organization whose mission is to eliminate the preventable contributors to cancer through research, awareness, education and advocacy. PCN publicly advocates for restrictions on the production and use of pesticides.

The Statutory Scheme

8. The Act is a protection statute first and foremost. Subsection 4(1) of the Act provides that the “primary” purpose of the Act is the prevention of “unacceptable risks” to people and the environment from the use of pest control products. A pest control product is defined as the active ingredient that causes the intended effects to a pest, or the product that contains this active ingredient, along with its formulants and contaminants. “Acceptable risk” is defined in subsection 2(2) of the Act, which provides that “the health or environmental risks of a pest control product are acceptable if there is reasonable certainty that no harm to human health, future generations or the environment will result from exposure to or use of the product, taking into account its conditions or proposed conditions of registration.”

9. Under subsection 8(4), the Minister must deny an application for registration or for the amendment of a registration if the Minister does not consider the health or environmental risks of a pest control product to be acceptable.

10. Subsection 7(7) of the Act provides that in evaluating health and environmental risks and in determining acceptable risk, the Minister shall apply a scientifically based approach. Subsection 7(6) provides that the applicant has the burden of persuading the Minister that the health and environmental risks and the value of the product are acceptable. The applicant is also called the registrant.

11. Subsection 7(8) requires that the Toxic Substances Management Policy (“**TSMP**”) issued by the Government of Canada and any other policies of the Government of Canada be given effect in the evaluation. The TSMP is issued under the “*Canadian Environmental Assessment Act*”

(“CEPA”) and incorporates concepts from that statute’s “*Review Panel Regulations*”. The Government of Canada in March, 2025 issued the “*State of Per- and Polyfluoroalkyl Substances (PFAS) Report*” (“**State of PFAs Report**”) outlining a strategy to phase-out most PFAs.

12. When making a registration decision, the Minister may specify maximum residue limits (“MRLs”) for the pest control product under section 9 of the Act. MRLs are the highest amount of a specific pesticide residue that is permitted to remain on a food commodity when a pesticide is used according to approved label directions. When making a decision on MRLs, the Minister must consider available information on aggregate exposure and cumulative effects under subsection 11(2), and apply a ten-fold margin of safety to a threshold effect of the pesticide to take into account toxicity to infants and children under subsection 11(3) unless the Minister determines that a different margin of safety would be appropriate on the basis of reliable scientific data.

13. A pest control product can only be registered if its value is acceptable. “Value” is defined in subsection 2(1) as the product’s actual or potential contribution to pest management, and includes the product’s (a) efficacy, (b) effect on host organisms in connection with which it is intended to be used; and (c) health, safety and environmental benefits and social and economic impact.

14. Under section 42, the Minister shall provide access to information, including under subsection 42(2)(f) any reports of the evaluation of the health and environmental risks and the value of registered pest control products prepared by the Minister. Under subsection 42(5) and (6), the reports are to be made available to the public in as convenient a manner as practicable.

The registration context for the pest control product

15. On September 22, 2021, Syngenta Crop Protection, LLC applied to the Environmental Protection Agency (“EPA”) of the US to register cyclobutrifluram in the United States - one technical and four end use products. A concurrent application was made to the PMRA. The EPA shared its human health risk assessment with the PMRA, and the two agencies have similar timelines. Cyclobutrifluram was approved in the US on November 3, 2024, and in Canada on December 19, 2025.

16. On September 12, 2025 PMRA published two documents. The first was the proposed registration decision (“**PRD**”), “*Proposed Registration Decision PRD2025-06 Cyclobutrifluram*” A22011 Crop, A23156 Crop, VICTRATO and VICTRATO 2” for the sale and use of the active ingredient Cyclobutrifluram Technical, and for pest control products containing it, A22011 Crop, A23156 Crop, VICTRATO and VICTRATO 2, for use on romaine lettuce and as a soybean treatment. Unless the context indicates otherwise, these products are collectively referred to as the “**pest control product**”. The PRMA proposed registration of the pest control product for sale and use in Canada because an evaluation of available scientific information found that, under the approved conditions of use, the health and environment rental risks and the value of the pest control product are acceptable. This PRD was subject to public consultation for 30 days until October 12, 2025, with an extension of up to 15 days if more time was needed. SFM asked for and received the extension.

17. The second document published on September 12th 2025 was the Proposed Maximum Limit (“**PMRL**”) document relating to the same pest control products, “*Proposed Maximum Residue Limit PMRL 2025-19 Cyclobutrifluram*” proposing acceptability (a) of the use for the active ingredient cyclobutrifluram, and the end-use products A22011 Crop and A23156 Crop for use on romaine lettuce (which is a variety of leaf lettuce) as an at-plant soil application to suppress root-knot nematodes, as well (b) Victrato and Victrato 2 for use on soybean seed as a seed treatment to suppress/control soybean cyst nematode and early season Fusarium infection. It allowed for a 75-day consultation period, ending on November 26, 2025. SFM requested information from the PMRA’s reading room (“**CTD**”) and received an extension until January 5, 2026.

18. The PRD included sections on impact on human and animal health (3.0); *Pest Control Products Act* characterization (3.1.2); cumulative assessment (3.7); aggregate exposure and risk assessment (3.6); maximum residue limits (3.8) and recommended maximum residue limits Table 3.8.1; impact on the environment (4.0); value (5.0); pest control policy considerations (6.0) including Assessment of the active ingredient under the toxic substances management policy (6.1). It included nine pages of references.

19. The PMRL included sections on the dietary health assessment; the proposed MRLs; and international situation and trade implications. There were no attached references.

20. As indicated, on December 19, 2025, PMRA issued Registration Decision RD2025-12 (“RD”) "*Cyclobutrifluram, A22011Crop, A23156 Crop, VICTRATO and VICTRATO* that granted registration for the sale and use of the pest control products for use on romaine lettuce and as a soybean seed treatment. It provided responses to comments.

21. The Minister of Health and the PMRA were aware of the public interest of the applicants, and their concerns with PFAs.

22. Friends of the Earth and PCN have investigated the linkages between PFAs and pesticides through their Petition to the Auditor General in 2024 calling on the Minister of Environment and Climate Change Canada and the Minister of Health to provide information on a wide range of PFAs- related matters including but not limited to the following matters: the contribution of PFAS in pesticides to farmland PFAS contamination; what is being done in Canada to monitor PFAS in soils, farmland and in waterways that are receiving the pesticides and biosolids runoff; the contribution of fluorinated pesticides to cumulative PFAS exposure to the environment and people in Canada, and specifically to pesticide users, farm workers and others who may be more highly exposed, as well as to pregnant people, infants and children; and the number of pesticide products registered for use in the Canadian marketplace contain ingredients that are PFAS.

23. In a series of emails with PMRA, Dr. Meg Sears of PCN in 2024 attempted to ascertain the portfolio of fluorinated pesticides in the database of PMRA. A list was eventually obtained by searching a database of IUPAC names for “fluor”, but PCN considered it under-representative and asked a follow-up inquiry. No response from PMRA was provided.

24. SFM has engaged with PMRA in its consultations on the PRD and the PMRL.

The Decision is Unreasonable

25. The Decision is unreasonable on various grounds, as particularized below.

26. The PMRA did not assess, or did not adequately assess, the pest control product and any derivatives or transformation products using a scientifically based approach to ensure they do not

present a reasonable certainty of no harm to human health or the environment. Concerns relating to the assessment include, but are not limited to, the following: certain aspects of the assessment are flawed, including those relating to reproductive/developmental toxicity, carcinogenicity, endocrine disruption, dietary exposure, metabolism, metabolites, and occupational exposure. The MRL estimate for lettuce has a high degree of uncertainty. Rodent toxicity studies are flawed. The livestock feeding studies dismiss detections without justification. Contradictory statements are made concerning metabolites in studies.

27. The assessment did not take into account current data, literature and understandings on endocrine concerns and the SDH Inhibition mechanism. It did not obtain current data and information on or assess some of the transformation products, including trifluoroacetic acid (“TFA”). It postponed the assessment for TFA.

28. The PMRA did not act within the legislative constraints applicable to it. In particular, without limiting the generality of the foregoing:

29. It did not give due consideration to the definition of a PFAS from the Organization for Economic Co-operation and Development adopted by Environment and Climate Change Canada and Health Canada in their 2025 State of PFAS Report. This definition is more protective than that of PMRA.

30. It did not act within the legislative constraint of section 9 of the Act, which requires that when making the decision on registration of a pest control product the Minister shall specify the MRLs, if necessary. The PMRA designated the PMRL process and PMRL 2025-19 as a separate regulatory mechanism for specifying the MRLs and applied different processes and considerations to it than to the PRD process.

31. It did not properly conduct as required by the legislative scheme:

(a) a cumulative risk assessment or aggregate risk assessment or an assessment of value;

(b) an assessment of the TSMP considerations as understood under the *Bioaccumulation Regulations* of the *Canadian Environmental Assessment Act* or of the understanding of

and concerns with PFAs on the part of Environment and Climate Change Canada and Health Canada set out in part in the State of PFAs Report;

(c) a determination on the application of the PCPA Factor;

(d) a current assessment of transformation products;

(e) application of an approach of precaution if there is no or minimal data or evidence, or data of very small quantities.

32. It did not assess the full pest control product including all formulants and contaminants, which is required for an accurate assessment of the behavior of the pesticide in the human and environmental systems.

33. It did not obtain data that was relevant to Canadians or that was current, for certain aspects of the assessment.

The Decision is Procedurally Unfair

34. The Decision process was procedurally unfair, as particularized below.

35. The timeframe for providing comments was not commensurate with the degree of rigorous review required to comprehend and consider the PRD.

36. The process did not provide the public with a reasonable opportunity to make a case on the PRD. SFM had requested but was not provided with information in PMRAs possession that was required in order to make a reasonable case on all aspects of the PRD. The PMRA made the Decision knowing that information requested by SFM relevant to the PRD, some of which did not qualify as CTD, had not been obtained. A member of the public has to provide comments to two series of documents with different timelines and scopes dealing with the same aspect of evaluation i.e. the health and environmental risks and value of the pest control products.

37. PMRA did not act in a neutral and unbiased manner during the decision process. It exhibited a preference for the position of the registrant and for acting in concert with the EPA to have the pest control product approved.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) An affidavit from a representative of one or more applicants, to be served;
- (b) Material Requested pursuant to Rule 317 and produced to the Applicants and to the Court pursuant to Rule 318 of the *Federal Court Rules*; and
- (c) Such further and additional materials as counsel may advise and the Court may allow.

Rule 317 Request

38. The Applicants request that the Minister send a certified copy of the following material not in the Applicant's possession, but in the possession of the Minister, or the PMRA as the Minister's delegate, to the Applicant and to the Registry:

- (a) All documents in the possession of the Minister, or the PMRA as the Minister's delegate, related to the Decision including but not limited to:
- (b) All briefing notes, memos, monographs and draft briefing notes prepared by PMRA scientific staff relating to the Decision, the PRD, the PMRL and to the registrant's applications/ submissions for the PRD and the PMRL;
- (c) All agendas, briefing notes and minutes prepared for PMRA decision-makers in relation to the Decision, the PRD, the PMRL and to the registrant's applications/submission numbers for the PRD and the PMRL;
- (d) All communications between PMRA and EPA relating to their concurrent reviews of the pest control product;
- (e) All communications between PMRA and the registrant relating to the pest control products;
- (f) All PMRA policies, guidance or practices relied on in the Decision; and

39. The Applicants request that the Minister send a certified copy of such further and other material as may be requested.

Date: January 19, 2025

M McDonald

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