Topic:	Principled concerns on Bill C-31 and Suggested Alternative Approach: Amended
From:	Mary Lou McDonald, president, Safe Food Matters Inc.
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We are Safe Food Matters Inc., and we work in the legal and regulatory arena with a view to ensuring our food is safe. We welcome the opportunity to address Division 13 of Bill C-31. We have 3 main concerns, and offer an alternative approach. Please see below.

- **Concern 1: Removal of the only codified check on pesticide decision-making**
    - Scientific decision-making, by virtue of its reliance on the scientific method, requires a periodic "re-check" to ensure the science still holds in the face of new evidence, new lines of evidence, and the application of new methodologies. This is inherent to the scientific method — it is a continually evolving process.

    - Without a codified check there is no institutional guarantee that the science and approach stays up to date. The obligation is to **"get the science right and get the right science"** (Health Canada 2000 Decision-Making Framework) and the legislators at the time recognized the re-evaluation "re-check" needed to be put right into the law. Without it, there is no legal safeguard to ensure that a pesticide — once considered safe — remains so. Re-evaluations have been worthwhile, resulting in reduced uses and mitigation measures for many pesticides (eg. chlorpyrifos, neonics, imidacloprid, abamectin, glyphosate). See Appendix A.

    - During an initial registration, the public is not provided access to confidential test data underlying the decision. The public is, however, granted access to this information on a re-evaluation, and is also allowed to provide comments and file notices of objection, all of which allow for a public check on decision-making. Replacement of the re-evaluation removes this accountability mechanism.

    - This public check also serves the Act's own objectives: an ancillary objective of the Pest Control Products Act is to facilitate public participation in the decision-making process (PCPA s. 4(2)(c)), and the courts have been clear that a pillar of the Act is to provide "the opportunity for public participation to enhance decision-making and increase public confidence in it."

- **Concern 2: The "assessment" provisions do not cut it**
    - An assessment considers only "available information", which means evidence in front of the Pesticide Regulatory Directorate (Directorate) at the time. It does not account for any of:
        - information not in front of the Directorate
        - new lines of evidence that are emerging
        - new scientific methodologies

    - An assessment asks the wrong question: it asks whether risks have "increased significantly" since the last review. This is a different standard of risk than the "no harm" standard that is central to the Act.

    - The Directorate is supposed to ensure (have a "reasonable certainty") that no harm will arise from the use of a pesticide to human health, the environment, or future generations.

    - The paradigm arising from the assessment provisions is that it becomes acceptable for Canadians to be harmed by pesticides, provided any increase in risk is not judged "significant."

- It is conducted only by Directorate, without input from the public or other regulatory scientific branches or bodies in Canada. This is putting a lot of trust in one regulator, whose views can differ from other agencies and may not always be right.

- For example, the Directorate has recently approved two forever chemicals, or "PFAS" (cyclobutrifluram, isocycloseram) and is on track to approve another this year: epyrifenacil. Meanwhile, Health Canada and ECCC have issued a State of PFAS Report recommending PFAS be regulated as a class and removed. Countries in Europe are already banning some PFAS, requiring the Directorate to conduct special reviews on them in Canada. See our article on this.

- There is no requirement that the evidence and methodologies considered by the Minister in the assessment be published. No reasons are provided if a re-evaluation does not proceed, meaning the regulator does not have to be transparent in decision-making. Without reasons and transparency, the regulator cannot be held to account, so there is no way to ensure the Directorate "got the right science and got the science right."

- **Concern 3: Continuous Oversight does not cut it**
  - Continuous Oversight is backward looking, but science and the "no harm" standard require looking forward. Continuous Oversight is a "look back" analysis that, in principle, asks whether a new study provides numerical data that can be compared with the Directorate's existing risk assessment and, if it cannot, the evidence is excluded.

  - The approach also "triages" out a lot of relevant and new evidence, as described in the Information Note. It is not concerned with "getting the right science", but rather concerned with fitting the science into its static decision-making model. A recent Federal Court decision confirms the opposite is required: that a review at the time of re-evaluation must be a rigorous and substantive scientific assessment that includes an assessment of new science, not a "look-back" at the science and available information already in hand.

  - The triage approach criteria exclude studies that are clearly relevant, and others because they are not presented conveniently. Excluded studies include those that:
    - look at the fate of pesticides in the environment
    - report on the full pesticide product not the active ingredient alone, even though the "real world" exposure is to the full product and the Act provides for assessment of the full product
    - are published in a language other than English
    - do not report the concentration of the pesticide in the way the Directorate wants
    - do not report the site of exposure

- **Alternative Approaches**
  - It is our understanding that the Directorate is backlogged with re-evaluations, which is slowing its work flow. The solution is to improve process, not remove protection. Process could be improved by:
    - utilizing AI tools for literature searches, translation, workflow
    - considering proportional effort concepts. Right now, the Directorate employs a Policy on Proportional Effort which seeks to match the resource allocation of regulatory reviews to the actual risk profile and complexity of a regulated product or entity. The concept would be that if the regulatory effort required for a re-evaluation is of low proportional effort, then it need not proceed to full re-evaluation. Rather, re-evaluation of those aspects of the pesticide that present complexity would proceed, and the other aspects (if any) need not.