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ANNOTATED GUIDE TO THE CANADIAN ENVIRONMENTAL PROTECTION ACT

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This work unravels the complications of the *Canadian Environmental Protection Act*, offering a practical explanation of how each of the Act's more than 356 sections operate and relate to one another. This information is crucial for those charged with implementing the Act and for those who need to know how it can affect one's clients or business. The only annotated resource on the subject, it includes:

- A section-by-section explanation of the entire *Act*
- An analysis of key reported case law
- A consolidation of the *Act*'s six schedules
- Annotations to the List of Toxic Substances
- The text of key regulations, with commentary

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What's New in this Update:

This release features updates to Appendix WP. Words and Phrases and Appendix SLL. Selected Legal Literature. Appendix A49 has also been updated.

Highlights:

- **APPENDIX WP. WORDS AND PHRASES—PESTICIDE—**The administrator's delegate issued [an administrative monetary penalty] because the respondent ... applied approximately 290 kilograms of Tide detergent to the roofs of 98 units of a condominium complex ... in order to remove moss from those roofs. [T]he answers to ... three sub-issues are appropriately considered together, as they rest primarily on this Court's construction of ... relevant sections of the *IPMA* [*Integrated Pest Management Act*, S.B.C. 2003, c. 58] and the *PCPA* [*Pest Control Products Act*, S.C. 2002, c. 28]. The key provisions are the definitions of "pesticide" and "use" in section 1 of the *IPMA* and the definition of "pest control product" in the *PCPA*. [I]n the *IPMA*, "pesticide" means "a micro-organism or material that is represented, sold, used or intended to be used to prevent, destroy, repel or mitigate a pest." In applying this definition to the case at bar, the administrator focuses on the word "used" and submits that detergent is a "material" that is "used" to prevent, destroy, repel or mitigate a pest. I agree with the administrator that "pesticide" is defined as including a material that is "used" to mitigate a pest. "Used" is defined as including mixing, preparing or applying, or possessing for the purpose of applying. "Pest control product" is defined as a "product" that is "used as a means for directly or indirectly controlling [or] destroying ... a pest." [I]t is clear that the detergent was used in a manner which brought it within the plain meaning of those definitions, namely that [the respondent] applied the detergent to directly remove the moss growing on the roofs of a condominium complex. The [Environmental Appeal Board] takes the position that the word "used" should be read as "generally used," and that evidence was necessary (and was not adduced) to prove common usage. However, the relevant statutory provisions do not say that general use for pesticide purposes is necessary to bring a substance within the Acts. The definition of "pest control product" in the *PCPA* is indistinguishable from that of "pesticide" in the *IPMA* in the sense that both encompass products "used" to

control or mitigate pests. (*Administrator, Integrated Pest Management Act v. MKY Holdings and the Appeal Board* (2025), 2025 CarswellBC 1881, 2025 BCSC 1060 (B.C. S.C.) at para. 2, 20, 21, 26, 27, 39 Loo J.)

- **APPENDIX WP. WORDS AND PHRASES—COLOURABLE MOTIVE—**... the effects [of legislation] may suggest a purpose other than that which is stated in the law; in such a case, the law is said to have a colourable motive. (*Biogénie Canada Inc. c. Canada (Agence d'inspection des aliments)* (2025), 68 C.E.L.R. (4th) 299, 2025 CarswellNat 3393, 2025 CAF 150, 2025 FCA 150, 2025 CarswellNat 3392 (F.C.A.) at para. 37 de Montigny C.J.)