

# Tracking Federal Regulatory Initiatives

# Regulatory Affairs

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|---|--|
| <p><b>Fishing and Recreational Harbours Regulations, amendment</b></p> <p>The proposed regulations would require that any person who uses a vessel as a residence must obtain a lease from the Minister of Fisheries and Oceans. This would replace the current discretion of a harbour manager to approve the berthing of a floating home in a harbour.</p> <p>The amendment also clarifies the prohibition against a person berthing a vessel which may “endanger or cause damages to the harbour facilities” by using the phrase “endanger or damage the harbour facilities”, as recommended by the Standing Joint Committee for the Scrutiny of Regulations (SJC). In addition, as recommended by the SJC, the definition of “floating home” would be repealed and replaced with functional terminology used in the new prohibition set out in section 7.1, which refers to a “vessel to be used as a residence”.</p> <p>The new leasing/licensing regime will involve berthage fees, to be based on market-based rates. These are not set out in these proposed amendments.</p> <p>Contact: Yolaine Maisonneuve, Director, Harbour Operations, Department of Fisheries and Oceans, 200 Kent Street, Ottawa, Ontario, K1A 0E6. Tel: 613-993-2972.</p> | <p><i>Fishing and Recreational Harbours Act</i>, section 9</p> <p>Not included in Regulatory Plan</p> <p>Published in Canada Gazette January 3, 1998</p> |

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# Proposed Regulations

## for Pre-Publication in Part I, Canada Gazette

### Statutory Authority & Regulatory Plan Listing

#### Consular Fees (Specialized Services) Regulations,

The proposed regulation repeals the Consular Fees Regulations (SOR/88-377) and would increase the fees for 24 specialized services set out in a schedule.

The regulations would also provide for the waiver of the fee in certain instances, including for a person who is destitute or to whom overriding humanitarian or compassionate considerations apply. Also excluded are services provided to a Canadian or foreign official, for a naval vessel or service aircraft of a Commonwealth country.

Among the specialized services are: administering an oath (\$50 per document); attesting the execution of a document, other than a certificate of origin or a document in support of a consignment of goods (\$50 per document); initialling alterations in any document not prepared by a consular officer (\$50 per document); certifying a copy of a document (\$20 per page); arranging for and effecting the transfer of private or public funds from Canada or elsewhere to a mission.

Contact: H.G. Pardy, Director General, Consular Affairs Bureau, Department of Foreign Affairs and International Trade, Lester B. Pearson Building, 125 Sussex Drive, Ottawa, Ontario, K1A 0G2. Tel: 613-996-2213; Fax: 613-992-6135; E-mail: pierre.pichette@extott23.x400.gc.ca.

*Financial Administration Act*, subsection 19(1)(a)

Not included in Regulatory Plan

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#### Mackenzie Valley Land Use Regulations

The proposed regulations would replace the *Territorial Land Use Regulations* (TLURs) in the Mackenzie Valley. The change would establish the land management regime pursuant to the Gwich'in Comprehensive Land Claim Agreement of April 22, 1992 and the Sahtu Dene and Metis Comprehensive Land Claim Agreement of September 6, 1993.

The Regulations would set out:

- land use activities that require a permit on all lands within the Mackenzie Valley, excluding national parks;
- land uses that are prohibited without the express written authority of the Mackenzie Valley Land and Water Board or the inspector;
- procedures for applying for a permit;
- the process for issuing a permit;
- provisions relating to security deposits (with higher amounts than the maximum \$100,000 set out under the TLURs); and
- the fee schedule.

The regulations are modeled on the TLURs and are modified:

- to recognize the Board as the authority for regulating land use (with the Board replacing the Department of Indian Affairs and Northern Development);
- to expand regulation to settlement and other private fee simple lands; and
- to update the provision for security deposits.

The regulations would also subject all development proposals in the Mackenzie Valley to environmental impact review.

The fee schedule would be consistent with the TLURs.

Contact: Will Dunlop, Director, Resource Policy and Transfers, Northern Affairs Program, Department of Indian Affairs and Northern Development, Les Terraces de la Chaudière, Ottawa, Ontario, K1A 0H4. Tel: 819-994-7468; Fax: 819-953-0335.

*Mackenzie Valley Resource Management Act*, section 59, subsection 72(3) and sections 86 and 90

IAND/95-17-I

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# Proposed Regulations

## for Pre-Publication in Part I, Canada Gazette

### Statutory Authority & Regulatory Plan Listing

#### **Territorial Land Use Regulations, amendment**

The proposed amendment would remove the application of the regulations to the Mackenzie Valley upon enactment of the proposed *Mackenzie Valley Resource Management Act* and the *Mackenzie Valley Land Use Regulations*.

Contact: Will Dunlop, Director, Resource Policy and Transfers, Northern Affairs Program, Department of Indian Affairs and Northern Development, Les Terraces de la Chaudière, Ottawa, Ontario, K1A 0H4. Tel: 819-994-7468; Fax: 819-953-0335.

*Territorial Lands Act*,  
paragraph 23(j)

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#### **Patented Medicines (Notice of Compliance) Regulations, amendment**

The proposed amendments would introduce a number of improvements to the Regulations.

More specifically, the proposed changes include:

- reducing the length of stay to 24 months from 30 months, whereby the Minister is prevented from issuing a Notice of Compliance (NOC) while patent issues are resolved;
- modifying court discretion to lengthen or shorten a stay, based on the diligence of the patentee in pursuing its application;
- specifying circumstances in which damages or costs can be awarded, including allowing the court to award costs to either a generic manufacturer or a patentee, including solicitor and client costs;
- requiring patentees to certify that the patents submitted on a patent list are relevant to the particular version of a drug;
- authorizing the Minister of Health to audit the patent list and to remove ineligible patents from the patent list;
- clarifying the court's capacity to order disclosure to the patentee of a generic manufacturer's NOC submission, as well as to require that documents disclosed be treated confidentially;
- requiring a generic manufacturer to indicate to the patentee the version of the drug it intends to market (with respect to a notice of allegation (NOA) relating to non-infringement);
- preventing a NOA relating to non-infringement being submitted without a generic manufacturer having first filed a submission for NOC approval with the Minister of Health;
- imposing the burden of proof of proving that a patent would not be infringed on a generic manufacturer seeking to make a version of a patentee's drug and alleging non-infringement of a product-by-process patent on the patent list;
- lengthening the period to add newly-issued patents to the patent list to 45 days from the current 30, where such patents were applied for prior to the filing of the original NOC submission for the relevant drug; and
- providing for a generic manufacturer to be able to have the patentee's case dismissed at an early stage, in certain circumstances.

*Patent Act*, section 5 and  
subsection 55.2(4)

Not included in Regula-  
tory Plan

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The proposed changes respond to the April 1997 report of the Standing Committee on Industry reviewing the *Patent Act Amendment Act, 1992*.

The government has indicated its willingness to bring the proposed regulations into force on a stage basis, in order not to give either patentees or generic manufacturers any strategic advantage.

Contact: Vinita Watson, Director General, Corporate Governance Branch, Industry Canada, 235 Queen Street, West Tower, 5th Floor, Ottawa, Ontario, K1A 0H5. Tel: 613-952-0211; Fax: 613-952-1980; E-mail: watson.vinita@ic.gc.ca

## Exempt from Pre-Publication and Approved

### Statutory Authority & Regulatory Plan Listing

#### **Amendments to Part XI of the Income Tax Regulations relating to Accelerated Capital Cost Allowance for Mining and Bituminous Sands (SOR/98-97, OIC 1998-49)**

These proposed regulations give effect to two 1996 Budget proposals extending the application of accelerated capital cost allowance to certain mining activities.

More specifically:

- the cost of mining property included in capital cost allowance (CCA) Class 41 that becomes available for use in a year, in excess of five percent of the gross revenue from the mine for the year, qualifies for accelerated capital cost allowance;
- all bituminous sands projects, whether of the surface mining type or the “in-situ” type, will be treated as mines for CCA purposes.

The legislation implementing the tax proposals of the 1996 Budget introduced the definition “bituminous sands” in subsection 248(1) of the *Income Tax Act*. This definition facilitates the application of the CCA provisions in respect of bituminous sands mines. The definition referred to a “prescribed manner” for testing hydrocarbons to determine whether they meet the requirements of the definition. These regulations prescribe the conditions which apply to the measurement of viscosity and density of hydrocarbons for income tax purposes.

It is estimated that these regulations implement a level of support (in the form of tax expenditure) in the range of \$30 to \$45 million for every \$1 billion of capital investment in the oil sands sector, and in the range of \$5 million to \$13 million for every \$1 billion of capital investment in the conventional mining sector.

These regulations were released in draft form on December 6, 1996.

Contact: Alexandra MacLean, Tax Legislation Division, Department of Finance, L'Esplanade Laurier, 140 O'Connor Street, Ottawa, Ontario, K1A 0G5. Tel: 613-992-5636.

#### **Les Industries Fermco Ltée Remission Order (SI/98-29, OIC 1997-28)**

This Order remits \$95,583.35 in interest on federal sales tax which Les Industries Fermco Ltée failed to charge on sales of houses to Indians because of incorrect advice from government officials.

The Order relates to a matter decided by the Federal Court on October 27, 1994.

Contact: Kjerstine Holmes, A/Secretary Interdepartmental Remission Committee, Department of National Revenue, 6th Floor, Connaught Building, 555 MacKenzie Avenue, Ottawa, Ontario, K1A 0L5. Tel: 613-954-6937.

*Income Tax Act*, section 221

FIN/96-31-M

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*Financial Administration Act*, subsection 23(2)

Not included in Regulatory Plan

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## Pre-Published and Approved No comments or changes

### Statutory Authority & Regulatory Plan Listing

#### **Food and Drug Regulations, amendment (Schedule No. 1000) (SOR/98-98, OIC 1998-54)**

This amendment clarifies that the Maximum Residue Limit (MRL) for processed foods is the same as the raw agricultural product from which the food is manufactured or derived.

The change eliminates the need to list every processed product covered under the MRL in Table II of Division 15 of the Regulations.

*Food and Drugs Act*, subsection 30(1)

HCan/97-30-I

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## Pre-Published and Approved No comments or changes

Statutory Authority  
&  
Regulatory Plan Listing

The amendment, prepublished in the Canada Gazette Part I on September 6, 1997, comes into force on January 26, 1998.

Contact: Head, Food Residue Exposure Assessment Section, Pest Management Regulatory Agency, Health Canada, A.L. 6605E1, 2250 Riverside Drive, Ottawa, Ontario, K1A 0K9.

Tel: 613-736-3520; Fax: 613-736-3505.

## Ministerial Orders Approved

Statutory Authority  
&  
Regulatory Plan Listing

### **Order Establishing Specifications Relating to Non-automatic Weighing Devices (SI/98-26); Order Regarding Weights and Measures Specifications (SI/98-27)**

*Weights and Measures Act*, sections 13 and 27

The two Orders update the standards for weighing and measuring devices to make them more appropriate to new technology and more compatible with standards applied by Canada's major trading partners.

Not included in Regulatory Plan

The updated specifications for non-automatic weighing devices will permit the enforcement of standards that reflect the modern technology used in the design and operation of non-automatic weighing devices and that are more compatible with international standards, especially those applied by the United States, while taking into account Canada's particular needs.

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The establishment of the new Specifications make some sections of the Regulations and existing Ministerial Specifications redundant or contradictory; these sections of the legislation are revised or revoked.

The two Orders came into effect November 1, 1997.

### **Telecommunications Apparatus Assessment and Testing Fees Order, amendment (SOR/98-91)**

*Financial Administration Act*, paragraph 19(1)(b)

The amendment modifies section 5 and subsections 6(2), 8(2) and 9(1) of the *Telecommunications Apparatus Assessment and Testing Fees Order*. These changes are being made at the request of the Standing Joint Committee for the Scrutiny of Regulations (SJC).

Not included in Regulatory Plan

More specifically:

- a grammatical error is being corrected in section 5 of the English version of the Order;
- the word "and" has been added before the words "also applies to the Minister";
- subsection 6(2) is revoked because the Order authorizing the Minister to prescribe fees does not provide the Minister with the authority to make this provision;
- subsection 8(2) is being revoked because the subsection enumerates the fees payable which are covered by other sections of the *Telecommunications Apparatus Assessment and Testing Fees Order*; and
- the word "minister" in subsection 9(1) is replaced by the word "Minister" in the English version of the Order.

Published in Canada Gazette January 21, 1998

Contact: Marie R. Lefebvre, Regulatory Management Officer, National and International Regulations, Radiocommunications and Broadcasting Regulatory Branch, Industry Canada, 300 Slater Street, Ottawa, Ontario, K1A 0C8. Tel: 613-998-2927; Fax.: 613-993-4433; e-mail: lefebvre.marie@ic.gc.ca

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