

February 1, 2019

Publications
Pest Management Regulatory Agency
Health Canada
2720 Riverside Drive
A.L. 6607 D
Ottawa, Ontario K1A 0K9

hc.pmra.info-arla.sc@canada.ca

To Whom it May Concern,

Re: Structural Pest Control Products: Label Updates
Response to Regulatory Proposal PRO2018-04

The Canadian Environmental Law Association (CELA) is pleased to respond to the consultation on the above-noted regulatory proposal (PRO2018-04). For over 40 years, we have addressed issues of pesticide exposure and human/environmental effects, and pesticide law and policy. We address these issues from a public interest perspective and as they relate to vulnerable populations, with particular focus on fetal and child health and impacts on low-income populations.

Our comments address three areas including the scope of the consultation paper and the two areas where feedback is sought regarding inclusion on proposed/registered labels, namely, consistency in:

- definitions for proposed pesticide application types, and
- human health precautionary statements.

Not only is feedback sought in the above two areas, page 4 of PRO2018-04 states that “submitted comments should be limited to those relating to” these two areas. While we support the objective of achieving consistency on labels in these two areas, subject to further comments in 2 and 3 below, the scope of this consultation unfairly limits public input.

1. Prior “Consultation and Engagement” excluded necessary public input

It is inappropriate for this public consultation to limit input to the two issues raised in PRO2018-04 when the public and public interest groups were excluded from prior multi-stakeholder discussions about the scope of pesticide labelling issues to be considered. Introductory statements in PRO2018-04 regarding “Consultation and Engagement” note that key stakeholders were engaged with a specific consultation request to provide input on the proposed label

Canadian Environmental Law Association

T 416 960-2284 • 1-844-755-1420 • F 416 960-9392 • 55 University Avenue, Suite 1500 Toronto, Ontario M5J 2H7 • cela.ca

statements prior to publication of PRO2018-04. While these stakeholders are referred to as “key stakeholders within the structural pest control products (SPCP) industry,” the list of stakeholders notes obvious industry stakeholders but also the Federal/Provincial/Territorial Committee on Pesticides and Pest Management. This latter group is not a “key stakeholder within the SPCP industry.” Nor should this FPT Committee be considered by the PMRA to replace the perspective of the public or public interest groups.

Had we been involved in this prior consultation, we would have raised two issues regarding labelling of Domestic Class products that are important to the actual users of these products. These issues include:

- the challenge of being able to read the absurdly small font size routinely used on Domestic Class products that provides crucial information about active ingredients and directions for product use; and
- the related challenge of a lack of this same important information being available, on-line for example, in more than English and French.

The public, as users of these products, and public interest groups who advance the health and environmental concerns of the public, are clearly stakeholders on issues of pesticide labels. Thus, we do not accept that the prior “Consultation and Engagement” described on page 2 of PRO2018-04 constituted adequate consultation with stakeholders.

a) Font size on Domestic Class product labels is too small for crucial information

Label information about both pesticide active ingredients and the instructions for use on Domestic Class products routinely uses a font size of less than five points. This very small font size:

- is very difficult to read, particularly for an aging population, and
- means that crucially important information about pesticide product ingredients and use can be overlooked or considered unimportant compared to the marketing objectives of the rest of the packaging.

This common practice of using such a small font size for information about active ingredients and product use thus undermines the precautionary statements that are the subject of this consultation.

b) Information about product use and risks should be available online in multiple languages

Canada is among the most multicultural and linguistically diverse countries in the world with nearly 200 languages spoken. New immigrants in particular may be unlikely to speak English or French fluently or at all. As well, many new immigrants experience either low-income or sub-standard housing circumstances or often both. Such housing conditions are known to result in a greater likelihood of pests and pesticide use.

While legislated product labelling requirements follow Canada's longstanding policy of English and French bilingualism, we believe that manufacturers of Domestic pesticide products should recognize Canada's linguistic diversity and potential for language barriers to understanding pesticide use and disposal instructions. Since these products are often marketed in dozens of countries around the world, label information in multiple languages should be easy to generate. Clear pictograms are another option to overcome possible language barriers.

Product labels could also provide URLs for the online location of basic information in multiple languages. This information should include the product name, active ingredient(s), and direction for use, the latter including all of the precautions, first aid, toxicological, environmental hazard, storage and disposal information provided on product labels in English and French.

In advance of what we consider a preferred approach of setting legal requirements for larger font size on labels, providing this key information in multiple languages should also occur for English and French labels if for no other reason than people will have online access to such important information in a font size that they can actually read.

c) Consistency across all labels for the term “residential areas”

A final issue that, had we been consulted, we would have raised as in-scope for a consultation about pesticide product label updates, is the need for consistency in use of the term “residential areas” on all Commercial Class pesticide labels used by the SPCP industry. From recent scans of proposed and final re-evaluation decision documents among the pyrethroid pesticides we are aware of the PMRA's approach to gradually bring consistency to an updated definition of “residential areas” on commercial class pesticide labels, as follows:

Residential areas are defined as any use site where the general public, including children, could be exposed during or after application. For structural uses, in residential sites, this includes homes, schools, restaurants, public buildings or any other areas where the general public including children may potentially be exposed. Non-residential areas include, but are not limited to: industrial/commercial indoor sites (for example, laboratories, warehouses, food granaries); modes of transport in areas where passengers are not present (for example, buses, railcars, trailers); and animal housing (for example, livestock housing and poultry, pet kennels).

This definition of “residential areas” is excellent given that existing labels are inconsistent and often include far less comprehensive definitions or little to no definition at all. Surely a consultation about “SPCP label updates” that includes a stated purpose of achieving “consistency in label statements for SPCPs” should include this important update to the definition of “residential areas.” The public should not have to wait until the outcome of multiple and often lengthy re-evaluation exercises for the PMRA to establish this updated definition as an industry standard across all Commercial class product labels.

2. Comments on the proposed application type definitions for inclusion on proposed/registered labels

We take no issue with the proposed definitions except for a dubiously legitimate distinction made between application types for “indoor broadcast” and “space” spraying of pesticides. To compare the two definitions:

- The definition of “indoor broadcast” states that such application is “to broad expanses of indoor structural surfaces” including “walls, floors, ceilings” etc.
- The definition of “space” application is “a suspension of fine droplets (0.1 – 100 micrometres) in the air within an indoor space.”

The difference between these application types is essentially one of spray droplet size (e.g., finer droplets occur from aerosol cans) but the effect, in terms of ultimate coverage of exposed surfaces by a pesticide is not likely to be particularly different. Indeed, the consultation paper at page 3 seems equally vague about this distinction by noting that “definitions are to be applied on the labels of all formulation types but may have to be altered to fit non-liquid formulations (dusts, aerosols, etc.), as necessary” (*emphasis added*). No suggestions for such “altered” definitions are provided in PRO2018-04. Similarly ambiguous distinctions exist between “indoor broadcast” and “space” spraying in the recommended exposure assessment calculations in Chapter 7 (Indoor Environments) of the USEPA Standard Operating Procedures for Residential Pesticide Exposure.

The ambiguous difference between these two definitions can mean that a liberal application of a product registered as a “space” spray could result, after settling of aerosol droplets, in the same kind of exposure on indoor surfaces as a product registered for “indoor broadcast” application. The consequence can be that products that are not allowed to be applied as “indoor broadcast” but are allowed as “space” sprays may result in excessive exposure for which restrictions on “indoor broadcast” applications would be intended to address.

We do not raise this concern in the abstract. The Proposed Re-evaluation Decision Document for tetramethrin (PRVD 2016-10) recommends cancelling indoor broadcast treatments, and for Domestic products, “limiting indoor uses to house plants, bedbug treatments and space sprays (for example, openings leading to voids and hollow spaces in walls)” (at p. 25). These recommended changes are confirmed in the Regulatory Decision Document (PRD 2018-01) which cancels, as of February 2020, indoor broadcast treatments and directs that Domestic class product labels add the statement “Use only for spot or crack and crevice applications.” Yet, during 2017 the PMRA registered a product containing tetramethrin (Blaze Pro Ant Killer, Registration No. 32595) for space spraying to control ants with a label that contains no such restriction on space spraying. The product label (http://pr-rp.hc-sc.gc.ca/1_1/view_label?p_ukid=117377067) recommends “space” spraying with no restrictions noted for the location of spraying. This product is registered until December 31, 2023.

The above example leads us to wonder, in light of the restrictions on “indoor broadcast” applications for tetramethrin prompted by re-evaluation, how many other products is the PMRA

registering under the definition of “space” spraying that would not pass muster under current decisions to cancel “indoor broadcast” spraying? In sum, it is difficult to accept that there is enough of a distinction between “indoor broadcast” and “space” spraying to warrant separate definitions particularly if cancellations in one use will simply lead to registration requests for the other with resulting exposure being equally unacceptable but for a false distinction made between the two application types.

3. Proposed Human Health Precautionary Statements

In general, we support the recommended approach for a baseline of human health precautionary statements on proposed/registered labels, with the following comments, and of course subject to our comments above regarding inappropriately small font size on labels.

Under the Commercial Marketing Class Products, on page 6 of PRO2018-04, the statement is made (in footnote 6 regarding square brackets around “mixing, loading”], that “mixing and loading is not applicable for products sold as ready-to-use and so this can be removed.” This statement is confusing. If it is intended to apply only to ready-to-use products then fair enough. However, it could be construed to imply that there are no Commercial Marketing Class Products that require mixing and loading which would be incorrect. A brief label search of Commercial Marketing Class Products returns various Commercial Class Products that in fact do involve mixing and loading by pest control professionals.

This section notes multiple precautionary statements that address the need to cover or remove food/feed or related processing surfaces, utensils, etc. These precautionary statements should be expanded to include personal care utensils or items such as toothbrushes, wash cloths, or hand towels for which there is hand and mouth contact. Hence, for residential areas, pesticide applicators and users of Domestic class products should be directed to cover/remove these additional items to prevent pesticide exposure. In addition, where control of fleas or bed bugs is not compromised, similar precautions should be taken with children’s soft or plush toys and bulky bedding.

In conclusion, CELA believes that the PMRA should more respectfully recognize that the public and public interest groups are key stakeholders in the issues related to pesticide labels, particularly on Domestic class products. The stated scope of this consultation ignores the fact that industry stakeholders have a vested interest in the use of product packaging as a marketing tool. Such vested interests lead to the concerns we raised about excessively small font size on pesticide packaging to convey crucial information about active ingredients, use instructions, and precautionary statements.

We believe a minimum font size (e.g., no smaller than 10 point) should be mandatory on Domestic class pesticide products to provide the PCP Act Registration number and the active ingredient(s). Likewise, use instructions and precautionary statements should prominently note the health and/or environmental importance of following instructions. This legal status of the need to follow label instructions should be strongly evident.

Pesticide use instructions on labels should be prominent and clear, in a font no smaller than 8 point, and include the use of pictograms. Labels should also clearly note online locations for labels in multiple languages.

For Commercial products, wherever label changes have been made as a result of re-evaluation, there should be a notice, prominently displayed on the first page of the label, advising that use restrictions and changes have occurred and that it is illegal to use the product as described on previous labels.

All of which is respectfully submitted.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

A handwritten signature in black ink, appearing to read 'Kathleen Cooper', with a stylized flourish extending to the right.

Kathleen Cooper
Senior Researcher and Paralegal

***About CELA:** The Canadian Environmental Law Association (CELA) is a non-profit, public interest organization and legal aid clinic established in 1970 to use existing laws to protect the environment and to advocate environmental law reforms. CELA works toward protecting public health and the environment by seeking justice for those harmed by pollution or poor decision-making and by changing policies to prevent problems in the first place. As a specialty clinic funded by Legal Aid Ontario, our primary focus is on assisting low-income people and disadvantaged communities.*

Publication Number: 1240
ISBN #: 978-1-77189-946-8