

March 18, 2016

Pest Management Regulatory Agency
Health Canada
2720 Riverside Drive
Ottawa, ON K1A 0K9
Via email: pmra.publications@hc-sc.gc.ca

RE: Consultation on “Notice of Intent Regarding Conditional Registrations under the Pest Control Products Regulations” (Notice of Intent NOI2016-01)

To Whom it May Concern,

We write in response to the above-noted consultation document and in light of a longstanding interest in the use and regulation of pesticides in Canada.

While we strongly support the move to discontinue the use of conditional registrations, we submit that existing conditional registrations should also be discontinued.

As well, we are concerned that this consultation document is quite misleading on how it characterizes this problem.

About CELA

The Canadian Environmental Law Association is a public interest organization founded in 1970 for the purposes of using and improving laws to protect public health and the environment. Funded as a legal aid clinic specializing in environmental law, CELA represents individuals and groups in the courts and before administrative tribunals on a wide variety of environmental and public health matters. In addition, CELA staff members are involved in various initiatives related to law reform, public education, and community organization. CELA has a long history of addressing the regulation of toxic substances, including pesticides.

As the PMRA will know, in September of 2013, on behalf of our client, the Sierra Club Canada, and in conjunction with several additional clients represented by Ecojustice, we filed a Notice of Objection regarding the continued conditional registration contained in Registration Decision RD2013-14 – Clutch 50 WDG, Arena 50 WDG and Clothianidin Insecticides – July 23, 2013.¹

¹Notice of Objection to Registration Decision RD2013-14 – Clutch 50 WDG, Arena 50 WDG and Clothianidin Insecticides – July 23, 2013. Letter with appendices from Canadian Environmental Law Association and Ecojustice to Hon. Rona Ambrose, Minister of Health, September 24, 2013. Online at: <http://www.cela.ca/publications/notice-of-objection-clothianidin-pesticides>

The PMRA Notice of Intent Regarding Conditional Registrations under the Pest Control Products Regulations

Among the many concerns raised in our September, 2013 Notice of Objection, and in concerns raised with the PMRA since that time, is the longstanding problem of conditional approvals on neonicotinoid pesticides. Such approvals have been repeatedly granted in the absence of key information about environmental effects on bees and despite increasing and extensive information available in the scientific literature about unacceptable environmental effects on bees.

The Consultation Document (NOI 2016-01) describes the issue of conditional registrations as follows:

Conditional registrations, which are approximately one percent of all registered pesticides in Canada, are granted only when the review of the scientific data and information is sufficient to determine that the risks of a pesticide are acceptable, but PMRA requires additional information, such as monitoring data after a product registration, to confirm the results of models used in the risk assessment. However, the transparency provisions of the Pest Control Products Act do not apply until the conditional registration is renewed or converted to a full registration (in other words, until the additional information is received and reviewed by PMRA).

We find these statements misleading in several respects.

The problem is inappropriately minimized by stating that conditional approvals constitute about one percent of approvals.

While the one percent figure may be the case, the number of registrations is irrelevant and misleading given that these conditional registrations are dominated by the neonicotinoid pesticides, now among the most widely used pesticides in the world.

Moreover, the statement that conditional registrations are granted only when the PMRA requires additional information, such as monitoring data, is equally misleading. It minimizes a very serious problem with the PMRA having granted, and repeatedly extended, conditional registrations to neonicotinoid pesticides in the absence of chronic toxicity studies in bees. These studies on the effects of neonicotinoid pesticides on bees have been repeatedly required of registrants, in some cases for nearly 15 years, with no consequences for non-compliance.

In the PMRA's own words, in Section 12 Notices of Conditions issued under the *Pest Control Products Act* requiring submission of chronic hive studies in bees, these studies constitute a "critical data gap."² One such notice states:

² See, e.g., Health Canada, Section 12 Notice of Conditions regarding Application Number 2008-0359 "Additional Information Required to Fulfill the Terms and Conditions for Conditional Registration. On-line at: http://pr-rp.hc-sc.gc.ca/1_1/view_label?p_ukid=67241929

“To date, no valid Hive studies have been submitted to the PMRA. This represents a **critical data gap** in the risk assessment of Clothianidin. A new study is required to address the toxicity of Clothianidin to bees.” (emphasis added)

At the time, in 2008, such hive studies were outstanding since 2003 and, as far as the public is aware, remain outstanding. This “critical data gap,” unfilled for nearly fifteen years, is hardly as minor/trivial as the description and example of such data call-ins provided in the consultation document.

We also question the logic and relevance of the statement in the consultation document (NOI2016-01) that refers to the lack of application of the *Pest Control Products Act* transparency provisions while conditional registrations are in effect. This statement seems to imply that if these provisions were in effect the public would be assured of the PMRA being in receipt of an adequate information base to justify the conditional registration decision. While it may be the case that some conditional registrations require the provision of relatively minor information, this has clearly not been the case with the neonicotinoids.

To reiterate, we strongly support the discontinuation of this practice and that strict time limits, with no extensions and clear consequences for non-compliance, be placed on data call-ins for all existing conditional registrations. All existing conditional registrations should thus be eliminated as soon as possible.

All of which is respectfully submitted.

Yours very truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

A handwritten signature in black ink, appearing to read "Kathleen Cooper". The signature is fluid and cursive, with a large loop at the end.

Kathleen Cooper
Senior Researcher and Paralegal