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Publications

Pest Management Regulatory Agency
Health Canada
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Submitted via email: pmra.publications@hc-sc.gc.ca

**Re: Proposed Approach to Special Reviews – Consultation Document
(Response to Re-evaluation Note REV2013-18)**

To Whom it May Concern,

We write in response to the above-noted consultation document dated December 30, 2013. As explained in more detail below we make the overall observation that this consultation document contains an uneven level of detail resulting in an unbalanced treatment of the subject and a document that does not particularly live up to its name.

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, and has participated for many years on the federal government's Pest Management Advisory Council. We have conducted extensive research, summarized the scientific literature, and have created a wide range of public outreach materials, about associations between toxic substances and impacts on fetal development and child health.¹ We also authored a comprehensive scoping review of the literature concerning early environmental exposures and associations with several chronic diseases.² Pesticides, alongside other chemicals/pollutants of concern figure prominently

¹ See multiple resources contained on the website of the Canadian Partnership for Children's Health and Environment www.healthyenvironmentforkids.ca

² Cooper K, Marshall L, Vanderlinden L, and Ursitti F (2011) *Early Exposures to Hazardous Chemicals/Pollution and Associations with Chronic Disease: A Scoping Review*. A report from the Canadian Environmental Law Association

in the results of this research and thus remain within our top priorities for seeking regulatory action and law reform to encourage exposure reduction measures.

As well, CELA was involved since the late 1980s in efforts to reform federal law governing pesticide registration³ and stayed closely involved throughout the multi-year process of revising the revised *Pest Control Products Act*, (PCPA) promulgated in 2006.^{4,5,6}

Comments

In light of the foregoing, we have reviewed the “Proposed Approach to Special Reviews – Consultation Document” and, as noted above, find it to contain a very uneven level of detail resulting in an unbalanced document that does not live up to its name.

Section 2.0 of the document is entitled “*Legislative Requirements for Special Reviews under the Pest Control Products Act.*” However, the only legislative requirements spelled out in this section have to do with those that would *initiate* a special review. To this end, Section 2.0 provides a useful and accurate level of detail concerning the PCPA requirements for initiating special reviews of pesticides, including specific information about legal provisions in Section 17 of the Act that would trigger a special review with passing reference to related and supporting provisions in Sections 12, 13 and 14. Given the choice to cite and provide plain language interpretation of the triggering provisions of Section 17, it would be useful and helpful for such a document to provide similar treatment for these other highly relevant sections of the Act.

Likewise, and more importantly, Section 3.0 – Proposed Approach to Special Reviews, could say far more about this proposed approach so the document would provide a reasonable and consistent level of detail about the subject matter it is intended to address.

While the proposed five-step process appears a reasonable and logical approach, it says almost nothing about the heart of the matter in Step 3 – Science-based assessment of the aspect(s) of concern.

As in Section 2.0, spelling out most of the details in Section 17 that trigger a special review, we recommend a similar treatment in Section 3.0 such that the legal requirements contained in Sections 18, 19 and 20 of the statute are cited, quoted, and the process by which they are implemented, explained. We particularly include Section 20 of the PCPA in this recommendation since it is related to the final decision on cancellation or amendment and it authorizes the Minister to take into account the precautionary principle during a special review in

Association, the Ontario College of Family Physicians and the Environmental Health Institute of Canada. <http://www.cela.ca/publications/EE-and-CD-Scoping-Review>

³ Castrilli JF and T Vigod, (1987) Pesticides in Canada: An Examination of Federal Law and Policy. Study Paper prepared for the Law Reform Commission of Canada.

⁴ Federal Pesticide Registration Review Team, July 1990. A Proposal for A Revised Federal Pest Management Regulatory System. Secretariat, Federal Pesticide Registration Review, Ottawa.

⁵ Cooper K, Vanderlinden L, McClenaghan T et al (2000) Environmental Standard Setting and Children’s Health. Case Study #2, Regulating Pesticides to Protect Children’s Health. A report from the Canadian Environmental Law Association and the Ontario College of Family Physicians.

⁶ Standing Committee on Environment and Sustainable Development (2000) Pesticides – Making the Right Choice for the Protection of Health and the Environment. House of Commons, Canada.

considering whether a situation involving a pest control product endangers human health, safety or the environment. This decision will likely be a matter of great public interest and, therefore, it behooves the PMRA to clearly indicate in such a document how the decision-making process and legislative requirements noted in Section 20 will be undertaken and made transparent to the Canadian public.

It is often the case that pesticides subject to special reviews are of considerable scientific controversy and public interest. A document purporting to “outline the legislative requirements for special reviews as set out in the *Pest Control Products Act*”⁷ should provide details beyond simply what triggers special reviews. Rather, it should spell out the legal and procedural details for how the PMRA will conduct special reviews according to PCPA requirements, with cross references to existing and more detailed documents if necessary.

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

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⁷ At page 1 in the Introduction to the Consultation document.