



**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**  
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

February 12, 2010

British Columbia Ministry of Environment  
Consultation on the *Cosmetic Use of Pesticides in British Columbia*  
c/o Cindy Bertram  
PO Box 28159 Westshore RPO  
Victoria, B.C. V9B 6K8

Via email: [cindybertram@shaw.ca](mailto:cindybertram@shaw.ca)

Dear Ms Bertram,

**Re: Consultation on the Cosmetic Use of Pesticides in British Columbia**

We write in response to the public consultation currently occurring in your province and respectfully ask that our comments be taken into consideration despite our office not being physically located in the province of British Columbia.

**Background About CELA's Involvement in Pesticide Issues**

The Canadian Environmental Law Association (CELA) is a non-profit, public interest organization founded in 1970. CELA is an environmental law clinic – within Legal Aid Ontario - dedicated to providing legal services to low income people and disadvantaged communities, and advancing the cause of strong environmental protection through advocacy, education and law reform.

Members of our staff have worked on pesticides issues for over 25 years. We have been at the forefront of Canadian activity summarizing the research about human health impacts, particularly to children, and were extensively involved in efforts to reform the *Pest Control Products Act*, several progressive revisions to which were proclaimed in June of 2006. We have acted in the courts on behalf of clients adversely affected by pesticides as well as on behalf of multiple groups and individuals who successfully opposed repeated legal challenges to pesticide bylaws in Hudson, Quebec and Toronto, Ontario. Public inquiries about pesticides to our office are numerous, mainly from residents of Ontario but we have been contacted by residents of British Columbia about pesticide bylaws and provincial legislation on numerous occasions. For over twenty years we have assisted hundreds of groups and individuals across the country in efforts to achieve the dozens of bylaws now in place and last year celebrated the passing of Bill 64 in the Ontario legislature to ban the use and sales of cosmetic pesticides across the province, the most progressive law of its kind in North America and one that we hope British Columbia will emulate.

## **Focus on Protecting Children’s Health**

While the federal and provincial governments in Canada have made important advances in recent years to recognize, reduce, and in some cases prevent, exposure to pollution and hazardous substances, serious problems remain. More children have asthma than ever before. Cancer in children, though rare, is the leading cause of illness-related death in children aged one year or older. Several cancers are on the rise among young adults in Canada raising concern about exposure to carcinogens during vulnerable periods of development including in the womb. Very large numbers of children experience a wide range of learning, behavioural and developmental disabilities. Emerging but rapidly expanding scientific evidence points to the ability of many different chemical exposures to disrupt the human endocrine system contributing to impacts on reproduction, development and the later development of cancer. Many complex, and not entirely understood, factors contribute to these various health outcomes. However, scientific evidence is increasingly revealing that exposure to environmental contaminants, including pesticides, is one of these many interacting factors.

We also know that we are faced with the double challenge of reducing ongoing emissions of toxic substances as well as facing ongoing exposure from historical sources that remain persistent in the environment. Scientific evidence confirms that we should focus on minimizing or eliminating exposures during sensitive life stages, to avoid harm to development in the womb and in early childhood. We also should be ensuring safe food and water supplies and ensuring good air quality, indoors and out, and minimizing exposure to toxic substances in consumer products. Given these multiple challenges, we should take every opportunity to minimize or eliminate exposures to toxic substances that are unnecessary and easily eliminated. The cosmetic use of pesticides falls squarely into this category.

## **British Columbia’s proposals for addressing the “cosmetic” use of pesticides**

In response to the issues and questions posed in the consultation paper we have grouped our responses under the following six areas:

1. **Urban vs. Rural is a False Distinction:** We respectfully disagree with the statements in your consultation paper, and echoed by the Pest Management Regulatory Agency, that the use of pesticides for ornamental or aesthetic purposes is exclusively an issue in urban areas. Such uses may be more frequent or more concentrated but that is simply a function of larger numbers of people and higher population density. Needless exposure to pesticides is just as important in non-urban areas, particularly for children. Indeed, there is the very real possibility of greater pesticide exposure in non-urban agricultural or forestry settings, including the reality of take-home exposures by those occupationally involved with pesticides, as well as the potential for pesticide drift if insufficient safeguards exist. These other pesticide uses can create a baseline of exposure that may be higher than occurs in urban areas underscoring the importance of eliminating any additional and needless exposures from “cosmetic” uses. Nor should a pesticide reduction policy, appropriately motivated by precautionary concern for reducing such needless exposures, treat urban and non-urban residents any differently.

2. **Follow Ontario’s Leadership and Ban All Use and Sale of Pesticides in the Context of Reasonable Exemptions:** We recommend that you follow the approach taken by the Province of Ontario of simply banning the use and sale of pesticides province-wide in the context of a series of exemptions for specific uses. These exemptions can include existing agricultural and forestry operations alongside those uses related to the protection of public health. The end-result is a ban on the use and sale of pesticides for unnecessary or “cosmetic” uses. This approach is in line with the Hudson, Quebec pesticide by-law (and many others that followed its approach) and that withstood multiple legal challenges. In the context of the Supreme Court decision upholding the jurisdiction of municipalities to pass by-laws to control the use of cosmetic pesticides on private property, the case also held that governments, including municipal governments, have an obligation to respect the precautionary principle. In a world of multiple chemical exposures, banning the use and sale of needless pesticides is an exemplary way to apply a precautionary approach.
3. **Exempt Indoor Uses:** In the above approach, the indoor use of pesticides is also exempted. Such uses are typically for control of indoor pest infestations. As such, they would also fall within a public health exemption. Given the opportunity for significant exposure from indoor uses of pesticides, they should occur within the careful application of Integrated Pest Management approaches that apply a hierarchy of using chemical pesticides as an option of last resort.
4. **Ban Pesticide Use, With Exemptions, Regardless of Proximity to “Residential Areas”:** The consultation document asks about other “cosmetic” uses including food gardens and/or fruit trees in or near residential areas. Like indoor uses and the use of pesticides for lawns and gardens, these are examples of activities for which pesticide use is not essential and for which a broad array of non-chemical pest control alternatives exist. Where food or fruit tree production is at a larger scale, exemptions for horticulture or agriculture would already be in place. In the case of the other examples noted, that is, the use of pesticides by business or commercial properties with public access or use, such as commercial gardens, retail businesses or landscaping of businesses in residential areas, we strongly disagree that such uses should be exempted from a cosmetic pesticide ban. They are no different from such uses in residential areas and are as much a part of the needless pesticide exposure burden that such policy measures should be attempting to eliminate. Even the world-famous Butchart Gardens in Victoria is already well on its way to applying such approaches (<http://www.butchartgardens.com/content/view/153/252>) similar to the complete elimination of pesticides in the gardens of Rideau Hall in Ottawa achieved by gardening expert Ed Lawrence.
5. **Complementary Educational Programs are Essential:** Much experience across the country demonstrates that pesticide bans must be paired with complementary educational programs to support the transition of homeowners and businesses in rural and urban areas to applying non-chemical approaches to controlling pests and in creating beautiful gardens and greenspaces. Halifax provides a good example. Starting in 2000,

Halifax enacted a phased bylaw that ultimately prohibited cosmetic pesticide use by the spring of 2003. A poll commissioned by the municipality in the fall of 2002 showed that 90% of residents with lawns were already practicing sustainable alternatives to pesticides in preparation for full implementation of the bylaw in the spring of 2003. This experience has been repeated across the country and Canadians subject to pesticide bylaws, and provincial laws, have healthy, chemical-free lawns and gardens that are as beautiful as ever.

6. **IPM in Lawn Care is Often a Public Relations Exercise:** While approaches to IPM can be laudable, particularly indoors where great care must be taken to control the possibility of excessive exposure, it has been our experience in Ontario that the use of IPM in the context of lawn and garden care, particularly by large lawn care companies, is more of a public relations exercise than any serious change in practices. We therefore strongly disagree with the suggestion that a cosmetic pesticide ban would be effective if it were implemented in the context of allowing continued pesticide use only by licensed companies trained in IPM practices.

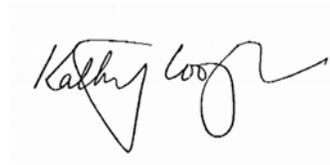
In closing, we urge the Province of British Columbia to live up to its often well-deserved reputation as a leader in environmental policy. We urge you to do so now, as Ontario has done, and enact comprehensive legislation without the loopholes or half-measures that exist in laws enacted or proposed in New Brunswick, Newfoundland and Prince Edward Island.

**In a world of multiple chemical exposures, we can and must eliminate those that are unnecessary.**

All of which is respectfully submitted.

Yours truly,

**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**

A handwritten signature in black ink, appearing to read 'Kathleen Cooper', written over a light grey rectangular background.

Kathleen Cooper  
Senior Researcher

CELA Publication No. 710  
ISBN 978-1-926602-53-0