



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

February 17, 2012

Consultation on proposed Group 2 Regulations under the Lead Risk Reduction Strategy for Consumer Products
Risk Management Bureau
Consumer Product Safety Directorate
Health Canada
123 Slater Street, 4th floor, Address locator 3504D
Ottawa, Ontario
K1A 0K9

Submitted via e-mail: CPS-SPC@hc-sc.gc.ca

Re: *Proposed Group 2 Regulations Under the Lead Risk Reduction Strategy for Consumer Products (LRRS)*

About CELA

The Canadian Environmental Law Association (CELA) is a legal aid clinic providing direct representation and legal services to low income and vulnerable Ontario communities. We also undertake law reform, public legal education and community development work that advances protection of the environment, with a particular view to the interests of low income and vulnerable communities.

CELA has a longstanding interest and involvement with the regulation of lead in the environment and consumer products. One of our main priorities is the human health impact of toxic substances. We have conducted extensive research and law reform advocacy on the greater vulnerability of children to environmental contaminants, particularly lead. We write today in response to the above-noted consultation concerning regulation of lead in consumer products.

Background and Context

In September of 2009, we responded in detail to the consultation on the Consumer Products Containing Lead (Contact with Mouth) Regulations SOR/2010-273, when they were in draft form.

Numerous lead-related product recalls since that time and our further research into the health effects of low-level lead exposure reinforce our concerns with the federal government's approach to regulating lead in products for the following reasons:

- Children in Canada remain at significant risk from lead exposure given that lead is unsafe for a fetus or young child at any exposure level and average blood-lead levels, although reflective of significant lowering in recent years, remain over 100 times higher than in pre-industrial human populations.

- Strong scientific evidence demonstrates that lifelong lead exposure, at very low levels, is causally associated with hypertension. Studies also indicate possible associations between low level lead exposure and cardiovascular disease, type 2 diabetes, and Alzheimer's disease.
- The legacy of lead in old paint will remain a significant exposure risk for decades into the future, particularly for children living in poverty. This legacy underscores the need to stringently control ongoing and new uses of lead in consumer products.
- Health Canada's Lead Risk Reduction Strategy was initiated 15 years ago with the then-stated rationale of getting beyond an inefficient, reactive, product-by-product approach. It included, among several worthwhile objectives, the elimination of lead from non-essential product applications. Instead, the initial objectives were abandoned and the strategy has been an extremely slow and reactive process of parsing out regulations for multiple product categories. Moreover, even with regulations in place, product recalls continue routinely. For example, despite the serious problem of lead in children's jewellery having been identified for nearly 20 years, and a regulation having been put in place seven years ago in 2005, during this past Christmas season alone there were 14 recalls of children's jewellery containing excessive levels of lead with several of these recalls affecting numerous products.
- Enough is known about the hazards of lead to insist that, worldwide, lead should be highly controlled, including a ban on all non-essential uses in consumer products. Such an approach is being implemented in Canada for the non-essential use of mercury in consumer products.
- Regardless of the reality of global lead contamination, it remains entirely reasonable to regulate lead in products such that the original goal of the Lead Risk Reduction Strategy, i.e., to eliminate non-essential uses of lead in products, can be met by setting regulatory limits at low levels to eliminate its use while accounting for the reality of contamination. This approach has been in place in Canadian regulations since the introduction of lead-free gasoline in the 1970s.

The Current Regulatory Proposal

Notwithstanding the foregoing concerns about the overall legitimacy of the LRRS, we have the following response to the regulatory proposal.

Within the limits of the federal government's chosen regulatory approach, we support a comprehensive expansion of products covered by the regulation to ensure that children's lead exposure from consumer products is reduced.

In addition, expanding the age categories begins to recognize the reality of children's living and playing circumstances and will begin to address the problem of information about age-appropriateness being lost when packaging directions are discarded.

However, we remain concerned that the LRRS is overly focused on establishing regulations in terms of how products are promoted or marketed, i.e., those aspects of products that generally end when the packaging is removed. As noted in our response to the September, 2009 consultation, this regulatory approach inadequately considers how products are actually used,

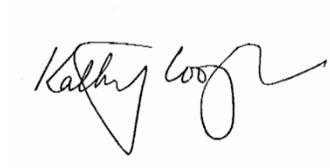
shared, given as gifts, etc., by children and adults in families, in homes, schools and child care settings. It is also contradictory to the approach taken at the same time by the federal government in the regulation of phthalates in toys; an approach that begins to include a more realistic recognition of children's activities and behaviour.

In terms of seeking input on technical feasibility, economic impact and coming into force, it seems inappropriate to be considering further accommodation or delay in removing accessible lead from these products. If there are products where it is not technically feasible to limit accessible lead, these products should not in any way provide cause for delaying this regulation. Moreover, we reiterate that the Lead Risk Reduction Strategy was initiated over 15 years ago. Ample time has been provided for businesses to prepare for regulatory changes to limit the use of one of the most toxic substances known to the scientific and regulatory communities.

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. 823