

**Brief to the Senate Committee on Social  
Affairs, Science and Technology reviewing  
Bill C-8, *Pest Control Products Act***

**Notes for an address to the Committee and an Appendix of  
Proposed Amendments to Bill C-8, Clause by Clause**

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The Canadian Environmental Law Association is pleased to have an opportunity to speak to the Senate Committee on Social Affairs, Science and Technology with respect to Bill C-8.

We are pleased that the Minister of Health introduced Bill C-8, which, in our view, was long over-due. In 2000, CELA published an in-depth report regarding children's health and standard setting in Canada.<sup>1</sup> One of our primary research questions was whether standard setting in Canada is protective of children and we took a close look at pesticide law in a case study to that report. Essentially our study concluded that environmental standard setting in general was not protective of children, and in particular, the legislation supporting pesticide standard setting was not protective of children. Our analysis also found that even where good intentions occur and child-protective measures are included, the end result is often standards that are not protective. This loss of child-protective measures results from the compromises that result from the lack of an overall precautionary approach and the ability of risk management exercises to dilute or eliminate child-protective measures.

Bill C-8 goes a long way towards enshrining key requirements that would legislate a level of protection for children in assessing pesticides. These include several specifically child-focused measures, the limited time frame for pest control product approvals and provision for special reviews. As well, there are requirements for periodic re-evaluations of pest control products, including for the large backlog of existing products needing to be re-evaluated. Putting the burden of proving that pest control products are acceptable on the applicant is an essential improvement in Bill C-8 and one

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<sup>1</sup> Canadian Environmental Law Association and Ontario College of Family Physicians Environmental Health Committee, *Environmental Standard Setting and Children's Health*, May 2000. At: [www.cela.ca](http://www.cela.ca)

that we fully support.

Several important amendments were made during the Commons Committee review of Bill C-8, then Bill C-53, that we strongly support. In particular, The Bill was strengthened with that addition of some key definitions for such terms as “acceptable risk”, “formulant”, and a revised definition of a “pest control product” to include both formulants and contaminants. Sections 7 and 19, having to do with the registration of new products and the re-evaluation of existing products, were improved to include the need to aggregate exposures and assess the cumulative effects of pesticides with common mechanisms of toxicity. Other valuable amendments included the provision to ensure mandatory public consultation on the development of policies, guidelines and codes of practice relating to the regulation of pest control products. Likewise, the amendment to require a periodic review of the Act, and a report on such reviews, every seven years is an important measure to ensure ongoing improvement and public accountability.

Finally, two areas where Bill C-53 improved upon the existing *Pest Control Products Act* and for which some useful amendments were made by the Commons Committee include an emphasis on lower risk pesticides and overall improvements in public access to information. In our view, these latter two areas need further refinement.

Hence, CELA suggests to this Committee that the direction and strength of amendments already made to this Bill can be further refined in two important areas.

These are:

1. A legislated mandate and provisions for risk reduction with respect to pest control products approved for use in Canada;
2. Improvements to the public participation, right to know and access to information

provisions of the Act.

We have prepared a chart with the amendments that we are suggesting and have included it as an appendix to this Brief. Note that this chart is an amended version of the one we submitted to the Commons Committee and includes amendments that we believe will further strengthen the Bill in the direction the government and parliament has already moved.

On the issue of reduced risks from pesticides in Canada, we note that many of our suggested amendments to the Commons Committee were partially or wholly adopted, some of which are noted above. However, we remain convinced that the Mandate section of the Bill should explicitly provide for reduced reliance on, risk of and use of pest control products by promoting ecosystem oriented, least toxic approaches to pest management, within a framework of pollution prevention. We made suggestions to the Commons Committee for amending various sections to accomplish this mandate. Those still in need of amendment have to do with a series of changes to require that where there are effective alternatives, only those pest control products that pose a lower risk of harm than the effective alternatives are approved for use in Canada. Appropriate amendments to the evaluation and decision sections for new applications, special reviews and re-evaluations have been suggested in this regard.

Another suggestion we make is for reduction and eventually phase out of non-essential uses of pest control products. Accordingly, we have suggested new sections to provide for special registration rules for lawn and garden pesticides between now and 2004, and an end to new product registrations for lawn and garden pesticides after January 1, 2004 unless the product is intended to protect public health or for normal

agricultural use. We have made similar suggestions for pesticides intended to be used for recreational purposes such as on parks, golf courses and sports fields.

Public participation, right to know and access to information are critical components of Bill C-8 and many valuable new provisions were proposed the previous Bill C-53 and improved upon with amendments. We have suggestions to improve these elements. For example, we suggest amending Bill C-8 to make it clear that names and content of active substances, formulants and contaminants, as well as results of tests to establish the product's efficacy and harmlessness shall all be deemed not to be confidential business information (and thus available through the proposed Registry for public review). We also suggest providing certain minimum labelling requirements in the legislation rather than in regulation because of the over-riding importance of some of the types of information including ingredient information, poison control and treatment information and several other matters. These labelling requirements would be intended to assist with health and safety protection, provide consumers with essential information to make informed decisions and increase the chances of uses in accordance with product design. We have also included suggestions to add a National Pesticides Sales Database, and an adverse effects database to Bill C-8 to improve data collection and study of pesticides use and effects.

We wish to note that CELA has collaborated with the World Wildlife Fund for over two years on appropriate provisions for a new *Pest Control Products Act*. We have also collaborated closely with the Ontario College of Family Physicians, the Canadian Association of Physicians for the Environment, Pollution Probe, the Learning Disabilities Association of Canada and other organizations focused on child health and environmental

protection. Accordingly, we support the submissions made to your Committee by these organizations.

Thank you for your time today. We would be pleased to answer any questions that the Chair allows.

<b>C-8 section #</b>	<b>C-8 Text</b>	<b>Proposed amendment</b>	<b>Rationale</b>
Section 4	Mandate	Add new clause (e) ensure that where there are effective alternatives, only those pest control products that pose a lower risk of harm than the effective alternatives are approved for used in Canada.	This amendment is required to promote decreased reliance on pesticides and to ensure reduction of risk from pesticides over time.
Section 4	Mandate	Add new clause (f) reduce reliance on, risk of and use of pest control products by promoting ecosystem oriented, least toxic approaches to pest management within a framework of pollution prevention	Pesticides are intentionally designed to kill living organisms; this amendment is required to decrease the burden on human health and the ecosystem of anthropogenic chemicals.
Section 7	Vulnerable sub groups	Amend section 7(7)(a)(I) by adding “the ill and those with environmental disabilities” after the word “seniors”	The same amendment should be made to s. 19(2)(b)(I). This amendment is necessary to provide for consideration of the effect of the pest control product on those persons who are ill or who have environmental disabilities during the evaluation of the pest control product.
Section 8	Registration	Amend section 8(1) by adding after “If the Minister considers that the health and environmental risks and the value of the pest control product are acceptable,” the words, “and there is no less harmful yet equally effective pest control product available”	Toward the goal of pesticide use reduction, this section is intended to avoid continued registration of new pesticides where there are less harmful effective alternatives available.
Section 8	Registration	Add a new clause 8(4.1) The Minister shall refuse to register a pest control product where there is a less harmful yet equally effective registered alternative pest control product.	This section provides the obligation to refuse to register a pesticide where there are less harmful yet equally effective alternatives available.
Section 8	Registration	Add a new clause 8(4.2) The Minister shall refuse to register a pest control product intended to be sold directly to consumers, or for lawn, garden or cosmetic use unless it is intended to replace and is	There are data that pesticide use is higher per hectare in some urban settings than in most agricultural settings. Most of this urban use is for non-essential cosmetic

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		demonstrated by the applicant on a preponderance of evidence to pose a lower risk of harm to human health, future generations, or the natural environment than a pesticide currently registered for that use.	use. Thus there is higher exposure without sufficient necessity. This amendment is required to gradually reduce the risk of pesticides used on lawns and gardens, subject to the time limitation for new registrations contained in the next amendment.
Section 8	Registration – non-essential cosmetic use	Add a new clause 8(4.2.1) Despite any other provision of this or any other Act, after January 1, 2004, the Minister shall refuse to register a pest control product intended for lawn or garden use where the primary purpose of the pest control product is non-essential. Without restricting the generality of the foregoing, non-essential means uses not intended to protect public health nor intended for normal agricultural use.	This amendment is required to provide for a phase-out of pesticides intended for non-essential lawn and garden use
Section 8	Registration	Add a new clause 8(4.3) The Minister shall refuse to register a pest control product intended to be used on parks, golf courses, sports fields or for other recreational use unless it is intended to replace and is demonstrated by the applicant on a preponderance of evidence to pose a lower risk of harm to human health, future generations or the natural environment than a pesticide product currently registered for that use.	This amendment is intended to reduce the risk of pesticides used in recreational settings over time, subject to the time limitation for new registrations contained in the next section.
Section 8	Registration	Add a new clause 8(4.3.1) Despite any other provision of this or any other Act, after January 1, 2004, the Minister shall refuse to register a pest control product intended to be used on parks, golf courses, sports fields or for other use on recreational lands where the primary purpose of	This amendment is required to provide for a phase-out of pesticides intended for non-essential use on recreational lands.



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		the pest control product is non-essential. Without restricting the generality of the foregoing, non-essential means uses not intended to protect public health nor intended for normal agricultural use.	
New section 8(5.1)	Mandatory pest-registration monitoring	Add a new section 8(5.1) as follows: “A registrant of a pest control product shall, as a condition of registration, monitor and report to the Minister on environmental fate, and as to adverse effects of the product in the form and manner required by the Minister”	There is a similar requirement in the U.S. The PMRA committed eight years ago to impose this requirement.
New Section 8.1	Expedited Registration of Reduced Risk Pesticides	<p>Add a new section 8.1 as follows:</p> <p>(a) Within 1 year of the coming into force of this section, the Minister shall, utilizing public comment, develop procedures and guidelines, and expedite the review of an application for registration of a pesticide or of an amendment to a registration that satisfies such guidelines.</p> <p>(b) Any application for registration or an amendment, including biological and conventional pesticides, will be considered for expedited review and such an application will qualify for expedited review if use of the pesticide proposed by the application may reasonably be expected to accomplish one or more of the following:</p> <ul style="list-style-type: none"> <li>(i) Reduce the risks of pesticides to human health;</li> <li>(ii) Reduce the risks of pesticides to non-target organisms;</li> <li>(iii) Reduce the potential for contamination of groundwater, surface water, or other</li> </ul>	This amendment is required to provide for expedited review of applications for pest control products which would reduce risks to human or ecosystem health if approved. The wording proposed is adapted from the U.S. <i>Food Quality Protection Act</i> , section 250.

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		valued environmental resources; (iv) Broaden the adoption of pesticide risk reduction strategies or make such strategies more available or more effective.	
Section 16(1)	Re-evaluation	Add, following the words, “or the value of pest control products of the same class or kind”, the following words, “or where information provided pursuant to sections 12 or 13 identifies that there may be a less harmful yet equally effective registered alternative pest control product.”	This amendment would allow for a re-evaluation of a registered pest control product to be initiated where less harmful products become available.
Section 17(2)	Special review where O.E.C.D. ban	Delete the word “all” and substitute the word “any”. Change the marginal note to read “Where OECD restricts”	There may be cases where an O.E.C.D. country, for example, the United States, bans a particular use of a registered pest control product. In such a case, a special review should be required in Canada immediately. An example was the case of Dursban or chlorpyrifos.
Section 19(4)	Re-evaluation or special review	Add to section 19(4) the words, “and the provisions of section 8(1) and 8(4.1) to (4.3.1) apply with necessary modifications to this section.	This amendment is required to ensure that there is a gradual reduction of the risks of products registered for home and garden and recreational use, as well as a phase-out of these products by applying these same requirements to the assessment on re-evaluation or special review.
New Section 19(4.1)	Consideration of all submissions	Add a new section 19 (4.1) “In evaluating the health and environmental risks and the value of a pest control product, the Minister shall consider all submissions made by any person or persons.”	Members of the public may have valuable information even if not expressed in “scientific” language. Furthermore, public concern is relevant to issues such as acceptability of risk.

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Section 21(1)	Confirmation	Replace the text in 21(1) with the following: “If the Minister considers that the health and environmental risks and the value of a pest control product are acceptable and and there is no less harmful yet equally effective pest control product available after any required evaluations.....	This amendment provides for reduction of risks from pesticides by requiring no approval on a re-evaluation or special review where there are less harmful, equally effective alternatives.
Section 21(2.1)	New	Add a new section 21(2.1) the words, “The provisions of section 8(1) and 8(4.1) to (4.3.1) apply with necessary modifications to this section.”	This amendment is required to ensure that there is a gradual reduction of the risks of products registered for home and garden and recreational use, as well as a phase-out of these products by applying these same requirements to the assessment on re-evaluation or special review.
Section 28(1)	Public Consultation	In clause 28(1)(a)(ii), delete the word “significantly”	Determination of “significance” should not be made prior to public consultation
Section 43(5)	Confidential Business Information	Delete section 43(5) and replace it as follows: “For greater certainty, names and content of active substances, names and content of formulants, names and content of contaminants, results of the tests to establish the substance’s or product’s efficacy and harmlessness to humans, animals, plants and the environment are all deemed not to be confidential business information.”	
Section 43(5)	Confidential Business Information	Add a new section 43(5.1) “Information other than as listed in section 43(4) which must be provided in an application for registration or re-registration, re-evaluation or special review, or which must be reported or provided pursuant to sections 7, 12, 13, 16, 18, 19, 22, 28, 33, 34, 35, 41 is deemed not to be confidential business information.	The approach used by some jurisdictions is to provide that whatever the applicant must submit to obtain their approval is available for public review.
Section 43(6)	Designation not	Delete the words “or (5)”	This is a consequential amendment to the

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	satisfactory		above-noted amendment to section 43(5).
New Section	Add new 44.1	<p>44.1 Every pesticide control product must carry a label indicating at least the following information:</p> <ul style="list-style-type: none"> <li>a) a list of every active ingredient with quantity or proportion by volume</li> <li>b) a list of every formulant with quantity or proportion by volume</li> <li>c) a list of every formulant with quantity or proportion by volume</li> <li>d) a toll-free information telephone number for further information concerning the product including label translation into languages other than English and French</li> <li>e) poison control and treatment information instructions for use, including associated Integrated Pest Management instructions and any other terms and conditions regarding use associated with the registration of the product in clear, easy to follow terms</li> <li>f) a warning of the dangers of exceeding product concentration instructions</li> <li>g) a statement that it may be an offence to disregard product use information</li> <li>h) a statement that there may be provincial or municipal legislation or by-laws affecting the use or application of the product</li> <li>i) a statement as to protective measures that are recommended or required as the case may be, including storage, prohibition on changing containers or packages, prohibitions on mixing products, protective apparel, removal of</li> </ul>	<p>Consumers' and users' needs to know this type of information is extremely important and should be protected by legislation, not left to regulation. For example, child poisonings by pesticides is known to be a significant cause of child injury in the United States (comparable Canadian information gathering in this regard is poor to non-existent and underscores the need for mandatory adverse effects reporting recommended in new section 8(5.1) above, and the Adverse Effects Database recommended in new section 44.3 below). This type of information will assist in reducing consumer over-use and mis-use of pesticides, and will assist with consumer education as to the intended use and target of the products. Both active ingredients and formulants must be listed so that consumers with allergies, special sensitivities and other vulnerable persons may take steps to avoid exposures that might be dangerous to them.</p>

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		<p>children and vulnerable persons from the vicinity, warnings to neighbours and dangers to pets and animals</p> <p>j) a statement as to the particular target pest, the biological cycle to which the product is directed and the seasons or dates during which it is permitted to be used</p> <p>k) an address or web site at which the consumer may obtain a copy of the registration application and associated studies</p>	
New section 44.2	National Pesticides Sales Database	<p>New Section 44.2:</p> <p>(a) The Minister shall establish a National Pest Control Product Use Inventory to track the use of registered pesticides in Canada which shall include at a minimum, (i) the aggregate sums of each registered pest control product sold and place sold, by municipality (ii) the results of a biannual usage survey which the Minister shall conduct nationally.</p> <p>(b) The information published pursuant to (a) shall be made available to the public on the electronic Registry of Pest Control Products.</p> <p>(c) The Minister may enter into an agreement or agreements with other Departments or with any province of Canada to coordinate or share information as to monitoring environmental fate and environmental and human health effects of pest control products.</p>	<p>This requirement makes use of the data required by section 8(b) of Bill C-53 and will enable tracking of pesticide use trends, will allow for monitoring of pesticide use and exposure on a geographic basis, will allow for tracking of response to special initiatives such as CEC action plans.</p>
New S. 44.3	Adverse Effects Data Base	<p>The Minister shall establish a central registry to gather data on adverse clinical responses to pesticides. The Minister shall provide a</p>	<p>This amendment is required to provide for a mechanism by which cases of adverse clinical responses to pesticides can be</p>

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		mechanism for protection of patient confidentiality in the gathering of such data. The Minister shall make aggregate data from the registry available to the public on the Electronic Registry of Pest Control Products, sorted by pest control product and by municipality.	reported and whereby such incidence can be measured and studied in aggregate and by pest control product
New S. 44.6	Pesticide Use Reduction Plans	A new section 44.6 shall be added as follows: “The Minister shall establish Pesticide Use Reduction Plans by sector, with numerical pest control product reduction targets and dates.	This amendment is required to establish goals and to measure the effectiveness of the Act in reducing reliance on pesticide control products in Canada.