

# **Submissions of the Canadian Environmental Law Association in response to Health Canada's Draft Children's Jewellery Regulations and Candles Regulations**

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response to Health Canada's Draft Children's Jewellery Regulations  
and Candles Regulations**

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**Re: Canada Gazette Part 1, November 22, 2003  
Proposed Children's Jewellery Regulations  
Statutory Authority: Hazardous Products Act  
Sponsoring Department: Department of Health**

**And re: Canada Gazette Part 1, November 22, 2003  
Proposed Candles Regulations  
Statutory Authority: Hazardous Products Act  
Sponsoring Department: Department of Health**

The Canadian Environmental Law Association (CELA) is a non-profit public interest organization specializing in environmental law and policy. It is also a legal aid clinic within Legal Aid Ontario and provides legal representation to individuals and groups eligible for legal aid on matters of environmental law. CELA's involvement in policy reform and casework related to environmental and consumer product lead contamination has been longstanding and detailed. We closely followed the very lengthy process of developing the Lead Risk Reduction Strategy and have been very concerned for some time about the risks to children, in particular, from certain consumer products, including costume jewellery and candle wicks.

## **I – Proposed Children’s Jewellery Regulations**

### **Scope of the Regulation**

We strongly support a regulatory approach to dealing with these particular consumer products. However, we have a very strong concern about the scope of the Children’s Jewellery Regulations in that the proposal states that it is directed to

“jewellery that is produced, sized, decorated, packaged, advertised or sold in a manner that appeals to a child under 15 years of age.”

CELA has been involved in several investigations in which lead-containing jewellery is easily available to children and is purchased by children at major accessory and clothing retail stores in Canada. We have watched retail outlets for over seven years, while your department has considered whether and how to regulate these products, and found this jewellery to be widely available. We have had these products tested for lead content by independent laboratories. Those results confirmed the same exceptionally high lead content found by independent testing done for CBC Marketplace, the Hamilton Spectator, and by your own department. All of the jewellery in all of these tests was inexpensive, readily available to children, or bought directly for children.

The appeal to children is that the jewellery is attractive and extremely inexpensive. This jewellery is purchased and worn by children, and given to them as gifts, regardless of whether it is advertised or packaged in a manner that aims at children under 15 years of age.

Furthermore, older teens and adults are also at risk from this type of jewellery. A woman’s cumulative body burden of lead is of concern for each pregnancy. Children, especially infants and very young children who are being held, are often inclined to play with and mouth pendants worn by adults. They are also given, as temporary playthings or distractions, key chains or other non-choking hazard items that can often include these lead-containing baubles. All jewellery sold or manufactured in Canada should be subject to the regulation.

The definition proposed in the regulation also exempts “merit badges, medals for achievement or other similar objects”. This exemption countenances ongoing, unnecessary exposure to items with high lead content. This exemption is unnecessary and should be deleted.

### **Adequacy of the Total and Migratable Lead Standard**

The proposed regulation suggests that the migratable lead standard should be 90 mg/kg and the total lead standard should be 600 mg/kg. The risk assessment cited in support of this standard is over twenty years old. It is astonishing, after seven years of consultation,

and with everything that is known about the health effects of lead, that your department has chosen to continue to rely upon out of date information.

It has been well established in the scientific literature since at least 1991, that lead is a serious health hazard for children at exceptionally low levels of exposure. To summarize, in children with a blood-lead level at or higher than 10 micrograms per decilitre, observed associations include deficits in:

- IQ and speech and language processing;
- perceptual-motor function and integration;
- reaction time;
- attention span;
- reading, spelling and math scores.

There are also observed associations with:

- non-adaptive classroom behaviour;
- poorer handwriting;
- higher risk for learning disabilities;
- failure to complete high school;
- antisocial and delinquent behaviour with effects following a developmental course;
- poorer vocabulary and grammatical reasoning scores and hand-eye coordination.

Moreover, as you will know well, more recent data confirms that there likely is no safe level for lead exposure in young children.

It is therefore an abdication of Health Canada's responsibility to not aggressively regulate hazardous and unnecessary sources of lead.

### **Support for the Alternative of a Regulatory Ban on All Lead-containing Jewellery**

CELA urges Health Canada to pursue the alternative of a regulatory ban on all lead-containing jewellery. The rationale provided in the Regulatory Impact Analysis Statement that a comprehensive ban would "be extremely disruptive to the costume jewellery trade, since much of the costume jewellery currently on the Canadian market does contain lead" is completely unacceptable. Moreover, they confirm what we have long suspected: that trade considerations, no matter how trivial, trump health and safety concerns within the regulatory decisions taken by the federal government. When we raised this concern with your Minister, Pierre Pettigrew, when he was Minister of International Trade, he wrote back and insisted that trade concerns would never be put before health and safety. Such assurances are clearly not the case. As a persistent substance that is highly toxic at very low levels of exposure, lead use should be restricted to only those few uses where alternatives are not available. To base a regulatory strategy on protecting the economic interests of the costume jewellery trade over the health of children is frankly, a national embarrassment.

Nor do we accept the notion stated in the regulatory impact statement that there is “no health risk from simply wearing..” this jewellery. As you will know well, this jewellery will readily “draw” a line on paper and lead will be on the hands of children who handle the jewellery. Just last summer, we observed a woman holding a young child who was playing with a lead trinket on a necklace. He was playing with it, mouthing it, and putting his hands frequently in his mouth. Furthermore, the comment that only very young children commonly mouth objects is just plain false. Finally, we also reject the acceptability of thousands, or more likely millions of pieces of poor quality jewellery being on the market and ultimately disposed of in landfill.

## **II – Proposed Candles Regulations**

CELA is also concerned with the proposed approach outlined in the proposed candles regulation. As the regulatory impact statement notes, one of the concerns with candles which contain lead core wicks is that the lead vaporizes when the candle is burned. Alarming high proportions of the lead vaporizes. The amounts of lead emitted are exceedingly high compared to the levels at which children’s blood lead levels may be raised to dangerous levels as a result of breathing the vapors.

The only appropriate approach to this question is to ban candles with lead wicks at any level from importation, manufacture or sale in Canada. There is no justification to continue this toxic exposure to children. Furthermore, it is very difficult for consumers to recognize whether or not candle wicks contain lead, even if they are aware of the hazards. This is not a consumer choice issue, this is a human health issue, including the health of children who should not be involuntarily exposed to vaporized lead from candles in their homes at any level.

The regulatory impact statement noted that “even one candle-burning episode per week may release enough lead to raise a child’s blood lead level above 10 ug/dL, which is Health Canada’s recommended intervention level for lead”. It must first be recognized that this is already a high level for lead in a child. Secondly, many many homes burn more than one candle at a time, and far more often than once per week, especially during holidays and at other times.

The recommended regulatory approach to set a “maximum allowable lead content limit of 600 mg/kg for the cores of metallic candle wicks” is completely unresponsive to the problem. This is not an approach that protects the health of children when the lead is being vaporized during burning. As the impact statement notes, many of the impacts from high lead exposure are permanent and very harmful.

The impact statement notes that European manufacturers do not use metal-core wicks; and that Australia and New Zealand placed temporary bans on lead wick candle sales. The statement also advises that alternatives are widely available and that the costs of switching to the alternatives are negligible.

Section 6 of the proposed regulatory text should be deleted and replaced with a prohibition on importation, manufacture or sale of candles with wicks containing lead.

## **CONCLUSION**

The two consumer products at issue do need to be regulated. They are both recognized and widely available sources of unnecessary, high levels of lead exposure to children and others. Health Canada must take a preventive approach in the interests of the health of children and the rest of the population. There is absolutely no necessity for the continued use of lead-containing costume jewellery, nor of lead wicks in candles. Both of these products should be prohibited. The alleged economic disruption to the costume jewellery industry must not be used as an excuse to continue widespread sales and exposure of Canadians to high lead levels in jewellery. Most Canadians are not aware of these hazards when purchasing these items. No Canadians want to give gifts to children, for example, that are hazardous, but the proposed regulation will have that inevitable result in the case of costume jewellery. The entire Canadian population deserves to be protected from both of these hazards. If Health Canada takes the proposed approach, it will be in dereliction of its regulatory and health promotion duties to the people of Canada.

Yours truly,

**CANADIAN ENVIRONMENTAL LAW ASSOCIATION**

A handwritten signature in black ink, appearing to read 'Kathleen Cooper', written over a circular stamp or mark.

**per**  
**Kathleen Cooper, Researcher**  
**Theresa McClenaghan, Counsel**