

ENVI@parl.gc.ca

December 1, 2016

Cynara Corbin
Clerk of the Standing Committee on Environment
and Sustainable Development
House of Commons
131 Queen Street, 6th Floor
Ottawa, Ontario K1A 0A6

Dear Ms. Corbin:

Re: Stakeholder Input for Review of the Canadian Environmental Protection Act, 1999

Pollution Probe is pleased to present the following submission for consideration by the House of Commons Standing Committee on Environment and Sustainable Development in the comprehensive review of the provisions and operation of the Canadian Environmental Protection Act, 1999 (CEPA). We commend the federal government for proceeding with the important review of CEPA, particularly provided the overall strength of the regulation. We provide only brief comment below related to enhancing protection for vulnerable populations and formalizing the use of alternatives assessments and the substitution principle.

1. Enhanced Protection for Vulnerable Populations

Certain populations including children, expectant mothers, the elderly and those with a compromised immune system are at increased risk of exposure to environmental contaminants or are particularly vulnerable to the potential resulting health effects. Social, economic and environmental factors also underlie many behaviours that affect our health. Children are particularly vulnerable to environmental exposures because of differences in size, intake, and behaviour. Depending on their age, their ability to metabolize, detoxify and excrete many environmental contaminants is different from that of an adult. Some environmental contaminants are found in the body for a short time before being excreted; however, continuous exposures can create a persistent body burden. Children have been shown to have body burdens consisting of many different environmental contaminants, including heavy metals, pesticides and endocrine disrupting chemicals.

While the overall health of children in Canada is improving with regards to traditional health metrics, a number of childhood disorders associated with environmental exposures, including asthma, several cancers, mental health effects, behavioural issues and childhood obesity, are on the rise. Exposures to even small amounts of certain environmental contaminants during critical periods of development have been shown to result in permanent and irreversible damage to the growing nervous system, affect

emerging behaviour patterns and contribute to immune dysfunction and reproductive effects. In addition, many of these health effects may not show themselves until much later in life.

Where hazard, use and exposure data is available, vulnerable populations are taken into consideration under CEPA as part of the assessment of potential risks to human health from specific substances. However, there is no formal recognition of the importance of considering vulnerable populations and their protection from potential health risks when determining whether a substance is deemed toxic.

Recommendation:

Given the important differences for vulnerable populations in terms of types of exposure and safe exposure thresholds, the federal government should consider formally acknowledging and requiring that chemicals under CEPA be tested for potential effects on vulnerable populations, including children and the developing fetus. This formalized approach will contribute to strengthening the Act's ability to protect all Canadians from harmful exposures to toxic substances.

2. Formalizing the Use of Alternatives Assessment and the Substitution Principle

Substances determined to be toxic under CEPA are currently regulated on a chemical by chemical basis. This approach has the potential to unintentionally lead to alternative substances of equal or greater harm entering the market in place of a regulated substance. Alternatives assessments can help to minimize the potential for the unintended consequences resulting from a move away from one potentially harmful substance, to an alternative that could turn out to be even more hazardous.

A number of jurisdictions include alternatives assessment as part of the decision-making process for regulating substances, including the U.S. Environmental Protection Agency, which makes use of Design for the Environment (DfE) alternatives assessments as a part of risk management actions for Work Plans under the Toxic Substances Control Act. The Massachusetts Toxics Use Program requires toxic substance users to examine their method of chemical use and the possibility of alternatives, rather than requiring them to halt the use of a specific chemical. By requiring an evaluation of how chemicals are used and identifying potential alternatives, the program notes that industry is often in a position to find ways to improve their processes including the development of safer products and more efficient operations.

Under CEPA, Ministers have at their discretion the option to investigate the development and use of alternatives when determining how best to regulate a substance however, this is action is not currently mandatory. The federal government should consider formally requiring an assessment of whether safer substitutes exist as a key factor in the decision-making process for determining how a specific toxic substance is most effectively regulated. For example, if and where it is determined that safer substitutions do exist, decisions could be made to phase out the use of a toxic substance over time rather than allowing its continued use under certain conditions. A mandatory requirement to substitute for safer substances where they exist could also be considered. The effective implementation of the substitution principle – ensuring that harmful substances are replaced with safer alternatives - will require the federal government to further build capacity and expertise in alternatives analysis in order to guide the process of finding safer alternatives.

Recommendation:

In conducting alternatives assessment under CEPA, the feasibility of adopting and implementing safer alternatives should be taken into consideration and clear recommendations for the elimination, or

limited use of a toxic substance should be provided. Where possible, efforts should be made to ensure transparency across the supply chain regarding key information and the process that would be used in the development of alternatives assessments and data should continue to be reviewed on a consistent basis to ensure up-to-date and accurate information.

Pollution Probe commends the Government of Canada for continuing to take steps to improve CEPA and we very much appreciate the opportunity to provide input as part of the review process. For further discussion or clarification of any of the comments in this submission, please do not hesitate to contact us.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Melissa DeYoung". The signature is written in a cursive, flowing style.

Melissa DeYoung, Project Manager
Pollution Probe

About Pollution Probe

Pollution Probe is a national, not-for-profit, charitable organization that works to improve the health and well-being of Canadians by advancing policy and delivering programs that achieve positive, tangible environmental change. Pollution Probe has a proven track record of working in successful partnership with industry and government to develop practical solutions for shared environmental challenges.