



HOUSE OF COMMONS  
CANADA

CHAPTER 2, "RISKS OF TOXIC SUBSTANCES," OF  
THE FALL 2009 REPORT OF THE COMMISSIONER  
OF THE ENVIRONMENT AND SUSTAINABLE  
DEVELOPMENT

**Report of the Standing Committee on  
Public Accounts**

Hon. Shawn Murphy, **MP**  
**Chair**

SEPTEMBER 2010

**40th PARLIAMENT, 3rd SESSION**



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# **STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**40th PARLIAMENT, 3rd SESSION**

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# **THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

has the honour to present its

## **SIXTEENTH REPORT**

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Chapter 2, “Risks of Toxic Substances,” of the Fall 2009 Report of the Commissioner of the Environment and Sustainable Development and has agreed to report the following:

## INTRODUCTION

Many types of chemical substances play an important role in modern society, with Canadians using them on a daily basis. However, when released into the air, water, or land, some of these substances can threaten human health and the environment. Moreover, emerging science is uncovering new risks that certain toxic substances pose to human health, including carcinogenic effects.

The federal government plays a central role in managing chemicals that pose a risk to the environment and human health, mainly through the *Canadian Environmental Protection Act, 1999* (CEPA 1999). One of the things CEPA 1999 deals with is determining whether existing and new substances are harmful to human health or the environment and managing the risks of those determined to be toxic. The task of assessing and managing the risks associated with toxic substances is jointly administered by the Minister of the Environment and the Minister of Health.

In an audit included in its Fall 2009 Report, the Commissioner of the Environment and Sustainable Development (CESD) selected seven of 85 substances that were listed as toxic under CEPA 1999 as of September 2008 to examine how Environment Canada and Health Canada have managed the risks these substances pose to the environment and human health and the measures taken by both departments to control, reduce, and prevent these risks.<sup>1</sup> The seven toxic substances were chosen by CESD because they are persistent and bio-cumulative in nature, and represent a range of risks to Canadians, as well as a variety of sources of exposure. They include (with examples of their uses in parentheses): lead (batteries), mercury (compact fluorescent light bulbs), bis (2-ethylhexyl) phthalate or DEHP (plastic toys), chlorobiphenyls or PCBs (building sealants), dioxins and furans (incineration), dichloromethane (paint removal), and polymbrominated diphenyl ethers or PBDEs (electronic equipment).

As effectively managing the risks of toxic substances is crucial for ensuring the health and safety of Canadians and protecting the environment, the Public Accounts

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<sup>1</sup> Commissioner of the Environment and Sustainable Development, Fall 2009 Report, *Chapter 2 – Risks of Toxic Substances*.

Committee held a meeting on the audit on 6 May 2010.<sup>2</sup> At the meeting, the Office of the Auditor General was represented by Scott Vaughan, Commissioner of the Environment and Sustainable Development and Jim McKenzie, Principal. Environment Canada was represented by Cynthia Wright, Acting Assistant Deputy Minister, Environmental Stewardship Branch; Brian T. Gray, Assistant Deputy Minister, Science and Technology Branch; Margaret Kenny, Director General, Chemicals Sector; and George Enei, Director General, Science and Risk Assessment. Health Canada was represented by Glenda Yeates, Deputy Minister; Karen Lloyd, Director General, Safe Environments Directorate; and Athana Mentzelopoulos, Director General, Consumer Product Safety Directorate.

## **STATUS REPORTS**

In his opening statement to the Committee, the CESD observed that despite progress made by Health Canada and Environment Canada, risks posed by toxic substances still require active management. Accordingly, the CESD made three recommendations based on the main findings of the audit, in the areas of risk management, reporting, and performance assessment, which are discussed in turn:

### **A. Risk Management**

One of the key areas for improvement identified in the audit relates to the use of risk management strategies for lead and mercury. The CESD noted that although these two toxic substances have been managed for over 30 years, there were no risk management strategies that provided a consolidated picture of the federal government's objectives and priorities for managing the risks. In order to strengthen transparency and accountability, the CESD recommended that the two departments implement consolidated risk management strategies that clearly outline the remaining objectives, priorities, actions under way or planned, timelines and monitoring programs in effect for lead and mercury.

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<sup>2</sup> House of Commons Standing Committee on Public Accounts, 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, Meeting 13.



Accordingly, an integrated risk management strategy for mercury was scheduled for completion by winter 2009-2010, as per Environment Canada's action plan. Moreover, the strategy was to be brought forward for senior management approval by fall 2009 and was to be made publicly available on Environment Canada's website by winter 2009-2010. The Acting Assistant Deputy Minister of Environment Canada indicated to the Committee that a draft strategy is currently going through the final approval process.<sup>3</sup> While the Committee supports the step taken by the Department of combining on one website all of the instruments that are in place or under development, it is unclear when the integrated risk management strategy will finally be approved and adopted.

As for lead, in 2004, Health Canada officials informed the CESD that they decided the current guidance level of 10 µg/dL should be reviewed based on emerging science from around the world, to determine if it is too high and should be adjusted. Health Canada's 2005 regulatory impact analysis statement on children's jewellery noted the results of a 2000 study indicating that even levels below 5 µg/dL may harm the intellectual development and behaviour of children. As a result, for the past 18 months, Health Canada has been working on a toxicological reassessment of lead, which was originally expected to be published between late 2009 and early 2010. According to the Deputy Minister of Health Canada, the reassessment is now scheduled to be released in 2010, and based on its findings, the Department will be in a position to take appropriate measures for managing lead.<sup>4</sup> If the federal government does lower the level for acceptable lead exposure, this is likely to have a significant impact on current control measures for this toxic substance, especially in communities with ongoing lead emissions.

## **B. Annual Reports**

Another issue noted by the CESD was that, at the time of the audit, the Minister of the Environment had not tabled any annual reports, as required under section 342 of

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<sup>3</sup> Meeting 13, 10:25.

<sup>4</sup> Meeting 13, 9:20.

CEPA 1999. It handicaps parliamentarians not to have the annual reports made available in a timely manner, as they are an important reporting mechanism for assisting Parliament in its oversight function. The Acting Assistant Deputy Minister of Environment Canada acknowledged to the Committee that this was “unacceptable” and asserted that measures have been taken to avoid falling behind in the reporting in the future.<sup>5</sup> This includes the creation of a dedicated group responsible for reporting to Parliament, whereas previously, according to the Acting Assistant Deputy Minister, this task was “an add-on to somebody's job” and “diffused amongst many people.”<sup>6</sup> As a result, she asserted that management now knows who is accountable and there are clear timelines in place for people to submit their information and to get the report translated and ready for tabling in Parliament.

Since the audit was completed, a combined annual report for 2006–2007 and 2007–2008 was released in 2009, while the 2008-2009 annual report was released in May 2010. Although it appears that Environment Canada is taking the right steps to address the CESD’s recommendation by making outstanding reports public and ensuring that future reports are released in a timely manner, it is also important that these reports present a transparent and complete picture of the previous year’s compliance promotion and enforcement activities, as well as the related results (e.g., the compliance rates).

### **C. Performance Assessment**

The audit also found that Environment Canada and Health Canada do not currently have processes in place to periodically assess overall progress against objectives set out in the existing risk management strategies for toxic substances or specific criteria for determining if or when risk management actions should be changed based on new scientific findings. As a result, the CESD made several observations during the audit that raised questions about the timeliness of federal government actions. For example, the audit noted that the two departments have yet to respond to

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<sup>5</sup> Meeting 13, 9:55.

<sup>6</sup> Meeting 13, 10:00.

new scientific research from Europe and North America regarding the historic use of PCBs in building sealants. The research indicates that ongoing exposure to low levels of PCBs in building sealants could present a risk to workers restoring or demolishing these structures, and result in localized soil contamination and contaminated waste. As a result, the CESD recommended that the two departments ensure the implementation of risk management strategies be periodically assessed, documented, and reviewed by senior management, and that specific criteria should be put in place to prompt earlier assessments if warranted by new information.

Both Health Canada and Environment Canada clearly agreed with the CESD's recommendations in these three areas. However, the action plan provided to the Committee was dated 4 September 2009 and contained some completion deadlines that have now been missed. Therefore, in order to ensure that Environment Canada and Health Canada are making satisfactory progress in addressing the issues raised in the audit, the Committee believes that it is necessary to monitor the departments' implementation of their action plan. The Committee thus recommends:

#### **RECOMMENDATION 1**

**That Environment Canada and Health Canada provide a status report to the Public Accounts Committee by 31 January 2011 on their progress in addressing the recommendations made by the Commissioner of the Environment and Sustainable Development in Chapter 2 of the Fall 2009 Report; and that the two departments continue to provide annual status reports until all of the CESD's recommendations have been addressed.**

#### **LONG-TERM, LOW-DOSE EXPOSURE TO TOXIC SUBSTANCES**

The Committee is deeply concerned that the risk related to long-term, low-dose exposure to many of these toxic substances is unknown. As the CESD noted, an estimated 1 out of every 4 Canadians is expected to die of cancer, and one of the suspected causes is the environmental exposure rate.<sup>7</sup> Accordingly, Health Canada, with the assistance of other federal partners, has undertaken national bio-monitoring programs to help assess the presence of toxic substances in Canadians. The

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<sup>7</sup> Meeting 13, 10:20.

Canadian Health Measures Survey (CHMS) is one such program, whose scope is to be expanded to include children from the age of 3 to 5 in the next survey cycle. The Maternal-Infant Research on Environmental Chemicals study provides additional information on pregnant women and babies, while a First Nations bio-monitoring initiative has also been started by Health Canada, as this population group is not covered by the CHMS. As voiced by the CESD in his opening statement, “These are important initiatives that will provide important data needed to understand whether departmental control efforts are actually leading to better health.”<sup>8</sup>

However, while bio-monitoring is an important first step in understanding what toxins are present in the bodies of Canadians, it does not identify the possible threats to human health caused by long-term, low-dose exposure to these substances. Given the risks that these substances pose, the Committee strongly believes that Health Canada needs to take greater action to identify the effects on human health that the presence of these toxins has on our bodies. Therefore the Committee recommends:

## **RECOMMENDATION 2**

**That Health Canada develop a plan to identify the risks posed by long-term, low-dose exposure to toxic substances, take action to address these risks, and report back to the Committee by 31 March 2011.**

## **INTERNATIONAL ACTION**

The Committee is particularly concerned by the continuing high levels of mercury in some Inuit and wildlife populations in Canada’s North, as evidenced by cases of mercury poisoning, such as that of the White Dog and Grassy Narrows First Nations. Moreover, a major international study of the Arctic found that, during the past twenty years, mercury levels in Arctic marine wildlife have increased two to three-fold,<sup>9</sup> which is particularly troubling considering the significance of fish to the diet and livelihood of the communities in Canada’s North. This problem is likely to grow as Environment Canada

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<sup>8</sup> Meeting 13, 9:05.

<sup>9</sup> Pollution Probe, *Mercury in the Environment: A Primer*, <http://www.pollutionprobe.org/Reports/mercuryprimer.pdf>.

officials noted that cross-border movement of mercury from foreign sources is playing an increasingly important role in exposing Canadians to the toxic substance. As a result, real reductions in mercury emissions will require international action.

In 2009, Canada became involved in the United Nations (UN) Environment Programme to develop a global, legally binding instrument to reduce emissions from all countries. The Acting Assistant Deputy Minister of Environment Canada indicated that the treaty would also help deal with the fact that products may be manufactured offshore and then imported into Canada, at which point they are difficult to deal with and it is sometimes hard to know their contents. As foreign source emissions continue to grow, it is crucial that Canada is at the negotiation table with other world leaders to send a signal to mercury emitters that this toxic substance is controlled and to ensure that it is no longer a threat to Inuit and wildlife populations in Canada's North. The Committee strongly encourages Environment Canada to take concrete actions to support the goal of developing an international treaty to reduce mercury emissions—a known toxin with adverse effects on human health. In order to monitor the progress of the negotiations and the content of the treaty, the Committee thus recommends:

### **RECOMMENDATION 3**

**That Environment Canada include in its annual performance reports an update of the status of the negotiations regarding mercury under the United Nations Environment Programme and the nature of the proposed treaty.**

### **LEGISLATIVE AND REGULATORY FRAMEWORK**

An informed consumer is an integral part in the assurance of safety of consumer products. It is thus troubling that the CESD identified the lack of a labelling requirement for chemical consumer products that may pose a chronic hazard as a result of prolonged use as an important gap in the risk management regime. In fact, in his opening statement to the Committee, the CESD raised the question of “whether departments should go further, as do some countries under the UN initiative, to inform

consumers about chronic hazards such as possible carcinogenicity.”<sup>10</sup> The CESD, however, did not make a recommendation on this issue as Bill C-6, the proposed *Canada Consumer Product Safety Act*, was still under discussion at the time of the audit, and while some countries have adopted labelling under a UN initiative, there continues to be debate over the effectiveness of labels for chronic substances.

When the labelling issue was debated by a committee of the House of Commons when it was examining the former Bill C-6 during the 2<sup>nd</sup> Session of the 40<sup>th</sup> Parliament, the Bill was amended to include the creation of an advisory committee which, among other things, would provide advice on issues such as labelling. The Deputy Minister of Health Canada noted that an advisory committee that would consider and give expert advice on labelling could supplement the work the Department is already doing with respect to chemicals that are used by consumers, and chemicals that are used in the workplace. Accordingly, section 67 of the proposed *Canada Consumer Product Safety Act*, reintroduced as Bill C-36 on 9 June 2010, contains a clause concerning the creation of a committee to provide advice to the minister on matters in connection with the administration of the Act, including the labelling of consumer products.

Moreover, in his opening statement to the Committee, the CESD highlighted the continuing presence of hazardous levels of lead in toys and jewellery, posing a risk to the most vulnerable in Canadian society, children. Yet Health Canada is limited in its ability to remove these products from the shelves, as it currently can only negotiate voluntary recalls with industry. The Deputy Minister of Health Canada indicated to the Committee that the power to issue mandatory recalls is something her Department should have, as was originally proposed under Bill C-6.<sup>11</sup> Section 31 of Bill C-36 would permit the Minister of Health to conduct a recall on human health or safety grounds. The Committee hopes that these measures will be adopted and put in place by Health Canada in a timely manner.

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<sup>10</sup> Meeting 13, 9:05.

<sup>11</sup> Meeting 13, 10:15.

There are currently no regulations in Canada that prevent a company from putting mercury in a product and selling it to the public. Although a regulation pertaining to mercury's release from consumer products was proposed in 2007, it has not yet been implemented. The Acting Assistant Deputy Minister of Environment Canada indicated to the Committee that the two departments are working on regulations that would prohibit the manufacturing, import, and sale of products containing mercury, except when there are essential uses, in which case limits would be set and there would likely be labelling on these products. While this is one of the departments' first regulations under CEPA 1999, the Deputy Minister stated that it is expected by October 2010, since "the work is going well" and there are currently no obstacles to implementing it.<sup>12</sup> Considering the ubiquity of mercury in some everyday consumer products, such as compact fluorescent light bulbs, timely implementation of this regulation is vital for ensuring the safety of Canadians and protection of the environment.

Given the importance of an effective regulatory framework for ensuring the control of mercury and the amount of time that has passed since the regulation was first proposed, the Committee recommends:

#### **RECOMMENDATION 4**

**That Environment Canada implement regulations on the control of manufacturing, importing and sale of products containing mercury by 30 June 2011.**

#### **CHEMICALS MANAGEMENT PLAN**

Launched in December 2006 and jointly administered by Environment Canada and Health Canada, the Chemicals Management Plan (CMP) aims to improve coordination of the government's chemicals management activities by integrating all existing federal programs under CEPA 1999 into a single strategy. According to the Acting Assistant Deputy Minister of Environment Canada, and corroborated by the

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<sup>12</sup> Meeting 13, 9:25.

CESD, the CMP has put Canada at the forefront of assessing and managing the risks associated with substances used in many industrial sectors and consumer products that were brought into commerce prior to the current modern regime of assessing new substances.

The audit identified the risk assessment of 4,300 chemical substances, to be completed by 2020, and the risk management of those substances considered to be toxic as a result of the assessment process, as an important challenge facing the CMP. The Deputy Minister of Health Canada further specified that as part of the plan, the two departments have set out to assess 200 of the highest priority substances by 2011. It was also indicated to the Committee that the departments were on schedule to meet this deadline, having already completed 120 assessments, covering nearly 1,300 substances.

As the final date is a number of years away, it is difficult to track the extent to which the two departments are on target to meet their deadlines, considering the additional capacity and resources this task will likely require. Setting interim targets and monitoring progress against these targets will make it easier to assess whether the final date of 2020 is achievable. As a result, the Committee recommends:

#### **RECOMMENDATION 5**

**That Environment Canada and Health Canada set interim targets and report progress in their performance reports for the 4,300 risk assessments and risk management strategies for toxic substances that are to be completed by 2020.**

#### **CONCLUSION**

While the Committee acknowledges the progress made by Health Canada and Environment Canada in assessing toxic substances through the CMP and the creation of new bio-monitoring initiatives, it is concerned that the two departments may not be sufficiently cautious in their control of toxic substances. As expressed by the CESD, “In the face of the risk of irreversible damages, you should err on the side of precaution.”<sup>13</sup>

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<sup>13</sup> Meeting 13, 10:20.



For instance, the lack of a labelling requirement for chronic hazards in chemical consumer products was identified by the CESD as an area where more could be done to protect Canadians.

The audit by the CESD demonstrated that risks posed by toxic substances to the health of Canadians and the environment continue to require active management. After overseeing the control of lead and mercury for over 30 years, Health Canada and Environment Canada still do not have integrated risk management strategies for these two toxic substances. Environment Canada also failed to table its annual reports in Parliament, as mandated under CEPA 1999, thereby undermining the ability of parliamentarians to perform their oversight function effectively. Moreover, the CESD made several observations during the audit that raised questions about the timeliness of federal government actions, as the two departments do not have a process or specific criteria in place for determining if or when risk management actions should be changed based on new scientific findings. Through this report, the Committee has requested the provision of a status report in order to monitor the progress the two departments have made in improving their management of toxic substances. As well, the Committee has asked Health Canada to identify the risks posed by long-term, low-dose exposure to toxic substances and report back to the Committee on actions taken to address these risks. It has also called for Environment Canada to move forward in making the current legislative and regulatory framework more effective for controlling the presence of toxic substances in consumer products. Lastly, the Committee would request that Health Canada and Environment Canada include in their performance reports updates on the UN treaty negotiations and progress made against interim targets for risk assessments under the CMP.

# APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<b><u>40<sup>th</sup> Parliament, 3<sup>rd</sup> Session</u></b>		
<b>Department of Health</b>	2010/05/06	13
Karen Lloyd, Director General Safe Environments Directorate		
Athana Mentzelopoulos, Director General Consumer Product Safety Directorate		
Glenda Yeates, Deputy Minister		
<b>Department of the Environment</b>		
George Enei, Director General Sciences and Risk Assessment		
Brian T. Gray, Assistant Deputy Minister Science and Technology Branch		
Margaret Kenny, Director General Chemicals Sector		
Cynthia Wright, Acting Assistant Deputy Minister Environmental Stewardship Branch		
<b>Office of the Auditor General of Canada</b>		
Jim McKenzie, Principal		
Scott Vaughan, Commissioner of the Environment and Sustainable Development		

# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (40th Parliament, 3rd Session: [Meetings Nos. 13, 19 and 22](#) ) is tabled.

Respectfully submitted,

Hon. Shawn Murphy, MP

Chair