



November 24, 2022

Standing Committee on Environment and Sustainable Development
Sixth Floor, 131 Queen Street
House of Commons
Ottawa, Ontario
Canada K1A 0A

VIA EMAIL: ENVI@parl.gc.ca

Honourable Members of the Standing Committee on Environment and Sustainable Development,

Re: Bill S-5, Strengthening Environmental Protection for a Healthier Canada Act

CEPA is a primary regulatory authority for Canada's actions on the climate emergency, the plastic pollution crisis, and air and water quality issues. This legislation must be modernized to adequately protect the environment and the health of all people in Canada, particularly marginalized or vulnerable populations. This includes infants, children or adolescents; women, including pregnant women and women in critical windows of vulnerability¹; seniors; Indigenous peoples; individuals with a pre-existing medical condition; workers that work with a toxic substance; or those with intersecting identity factors subject to a disproportionate potential for exposure to, or for adverse effects from a substance, including a toxic substance, endocrine disrupting chemical, a priority toxic substance, or a substance of high concern.²

CEPA regulates environmental health risks based on exposure data that is assumed to be distributed evenly across the general public. This means that risk assessments do not adequately account for variances in exposure levels and impacts, particularly in these vulnerable subpopulations that experience chemical exposure differently based on age, sex, gender, race, and other intersecting identity factors. In order to address and remedy this gap, **the federal government must strengthen and pass Bill S-5 without delay.** In order to better

¹ Critical windows of vulnerability include infancy, puberty, pregnancy, lactation and menopause.

² Acharya-Patel, K. & Women's Healthy Environments Network (WHEN). Protecting Vulnerable Populations: An Intersectional Approach to CEPA Reform. https://sencanada.ca/https://sencanada.ca/Content/Sen/Committee/441/ENEV/briefs/WHEN_KanishaAcharya-Patel_e.pdf

protect vulnerable populations, CEPA reforms must mandate risk mitigation measures including safe substitution, mandatory hazard labelling, and improved access to information.

Recommendations

Risk-mitigation involves limiting the effect that risks can have: it is a single component of the larger risk management process that is based on precaution and protection from hazards. Risk-mitigation measures to control the presence of a substance in the environment and in people's bodies must include: safe substitution, mandatory hazard labelling, and improved access to information. Applying a gender-based analysis to this legislation, we see that **Bill S-5 does not go far enough to address disproportionate gendered and racialized impacts** and that **strengthening amendments will help to make this Bill more equitable**. Appendix A provides a case study example of talc to illustrate how vulnerable populations, particularly women, are not adequately considered in the risk management processes.

1. Safe substitution: CEPA should provide authority for regulations and other instruments to manage the risk of toxic chemicals by **mandating the use of safer or more sustainable alternatives to toxic substances**. This will prompt a shift to a risk management model that ends the toxic treadmill that simply replaces one harmful substance with another [clause 29].

CEPA currently approaches chemical management by controlling the exposure of hazardous substances rather than eliminating a hazardous substance altogether. Safe substitution means that substitution becomes the first response to hazardous chemicals, which is accomplished by identifying safer alternative substances or non-chemical replacements and ensuring that regrettable substitution does not occur. This ensures we do not get stuck on a "toxic treadmill" where one toxic substance can be replaced by a new substance, often from the same class of chemicals, that is subsequently discovered to be equally harmful.

For example, Bisphenol A or BPA is a commonly used xenoestrogen that is present in plastics, the lining of canned food, receipts, cosmetics, and many other products. BPA is an endocrine disrupting chemical (EDC)³, meaning it interferes with and prevents the binding of natural

³ **Endocrine disrupting chemicals (EDCs)** are chemicals or mixtures of chemicals that interfere with the way the body's hormones work. Some EDCs act like "hormone mimics" and trick our body into thinking that they are hormones, while other EDCs block natural hormones from doing their job. Other EDCs can increase or decrease the levels of hormones in our blood by affecting how they are made, broken down, or stored in our body. Finally, other EDCs can change how sensitive our bodies are to different hormones. EDCs can disrupt many different hormones, which is why they have been linked to numerous adverse human health outcomes including alterations in sperm quality and fertility, abnormalities in sex organs, endometriosis, early puberty, altered nervous system function, immune function, certain cancers, respiratory problems, metabolic issues, diabetes, obesity, cardiovascular problems, growth, neurological and learning disabilities, and more."

hormones to their receptors and can act as a mimic of estrogen; consequently, BPA can cause egregious health effects. Women and people with ovarian reproductive systems⁴ are more at risk of endocrine disruption because they have higher levels of estrogen in the body, different reproductive organs, higher body-fat content, and other sex-specific qualities that increase their susceptibility to harm. This posits them at higher risk of BPA-related illness like cancers, hormonal disruption, reproductive disease, precocious puberty⁵, behavioural changes, endometriosis⁶, PCOS, and obesity. The chemical industry's solution to BPA was to replace it with "regrettable substitutes" which are other chemicals that have proven to be equally, and in some cases more, hazardous to health. The chemicals management plan science committee has recommended that there be a mandatory duty to assess alternatives as a part of the risk management process for existing substances, as well as a mandatory substitution test with a goal of replacing toxic substances with safer alternatives.⁷

2. Mandatory hazard labelling: Enabling consumers to make informed choices includes mandating that **products with harmful substances include hazard labelling** which identifies the substance, alerts consumers of specific hazards, and provides directions for safe use [clause 20].

Currently, industries and producers are not required under CEPA to identify hazardous substances in their labelling. This prevents consumers from being able to make informed purchasing decisions. Further, the commercial availability of products which contain but do not identify toxic substances falsely suggest to consumers that they are safe to use. The current

[https://www.endocrine.org/patient-engagement/endocrine-library/edcs#:~:text=Endocrine%2Ddisrupting%20chemicals%20\(EDCs\)%20are%20substances%20in%20the%20environment,of%20your%20bodys%20endocrine%20system](https://www.endocrine.org/patient-engagement/endocrine-library/edcs#:~:text=Endocrine%2Ddisrupting%20chemicals%20(EDCs)%20are%20substances%20in%20the%20environment,of%20your%20bodys%20endocrine%20system).

⁴ **The ovarian reproductive system** refers to the ovaries, fallopian tubes, uterus, cervix, vagina, vulva, breasts, as well as the sex hormones, including estrogen and progesterone which drive the growth and functioning of this complex system.

⁵ Deborah J. Watkins, et al. (2017). Phthalate and bisphenol A exposure during in utero windows of susceptibility in relation to reproductive hormones and pubertal development in girls. DOI: <https://doi.org/10.1016/j.envres.2017.07.051>;

⁶ **Endometriosis** is a disease characterized by the presence of tissue resembling endometrium (the lining of the uterus) outside the uterus. It causes a chronic inflammatory reaction that may result in the formation of scar tissue (adhesions, fibrosis) within the pelvis and other parts of the body. It is a chronic disease associated with severe, life-impacting pain during periods, chronic pelvic pain, abdominal bloating, nausea, fatigue, and sometimes depression, anxiety, and infertility. Melissa M. Smarr, et al. (2016). Endocrine disrupting chemicals and endometriosis. DOI: <https://doi.org/10.1016/j.fertnstert.2016.06.034>

⁷ Chemicals Management Plan Science Committee, "Combined government discussion paper and science committee report on informed substitution" (January 2018) online: Health Canada & Environment and Climate Change Canada <https://www.canada.ca/en/health-canada/services/chemical-substances/chemicals-management-plan/science-committee/meeting-records-reports/combined-government-discussion-paper-science-committee-report-informed-substitution.html>

chemicals management approach places the burden on the consumer to ensure that the products they are using are safe, which means individuals must develop personal strategies of precautionary consumption in order to avoid toxic substances.⁸ This burden typically falls on women who choose products for their families and avoid toxic substances while pregnant.⁹

The burden of attempting to reduce toxic exposures during pregnancy in particular is a highly gendered and racialized issue which is faced exclusively by women and people with an ovarian reproductive system. Women who are socially vulnerable due to their immigration and economic status are even less likely to have the resources to determine which products are safe for them to use, which means they (and their foetus) are disproportionately exposed to toxics or endocrine disrupting chemicals. This illustrates the complexity and impossibility of navigating toxic exposures on an individual basis. Putting the onus on individuals, particularly during pregnancy, is one of the most profound forms of environmental injustice.

Clear hazard labelling can help mitigate the issue of exposure to toxics. Consumers have a right to know the contents of the products they use in order to make informed decisions.¹⁰ This is particularly important when products contain toxic substances, a priority toxic substance, or a substance of high concern that could be hazardous to health or cause serious health issues.¹¹

3. Improved access to information: Bill S-5 should establish the presumption of non-confidentiality that not only requires reasons to accompany a request for confidentiality, but **puts the onus on the requesting party to demonstrate the necessity for confidentiality** [clause 50(2)].

CEPA should better empower the public to demand health and safety information on hazardous substances from industry, and should make access to this information publicly available in plain language, including for the most vulnerable individuals.¹² CEPA must mandate the creation of publicly available information regarding a substance or product, including specific ingredients

⁸ Stahl, H. (2022, October 20). *The Onus is on the Ill: Environmental Contaminants and Hormonal Health Issues*. CAPE. <https://cape.ca/the-onus-is-on-the-ill-environmental-contaminants-and-hormonal-health-issues/>

⁹ Scott, D. N. (2015). *Our Chemical Selves: Gender, Toxics, and Environmental Health*. UBC Press.

¹⁰ Canadian Environmental Law Association, "European and Canadian Law: Best practices and opportunities for cooperation" (January 2007), online: CELA https://cela.ca/wp-content/uploads/2019/07/555_EU.pdf.

¹¹ Acharya-Patel, K. (2022, March 28). *Gender-based Analysis Plus: A Framework for Implementing CEPA Commitments to Vulnerable Populations*. Women's Healthy Environments Network (WHEN).

¹² Human Rights Council, *Report of the Special Rapporteur (Baskut Tuncak) on the Implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*, UNGAOR, 45th sess, Agenda item 3, UN DOC A/HRC/45/12/Add.1 (2020), online: <https://undocs.org/A/HRC/45/12/Add.1>.

and associated risks that does not require members of the public to seek out this information individually. CEPA provisions should ensure that information on chemicals relating to the health and safety of humans and the environment is not regarded as confidential business information (CBI).¹³ Currently, companies are allowed to keep information on toxics in their products confidential, which obviously hinders the ability of the public to avoid toxic substances.

Thank you for your consideration of these recommendations for amendments to the Bill, we appreciate your time and are available to discuss opportunities to strengthen CEPA.

Honour Stahl
Executive Director, WHEN

About The Women’s Healthy Environments Network (WHEN):

Using evidence-based information, WHEN educates the public and policy makers about environmental health as a key determinant of public health, and advocates for the prevention of environmental health harms. Preventing toxic exposures is a vital component of the protection of human and environmental health, and as such WHEN has been actively promoting the modernization of the Canadian Environmental Protection Act (CEPA) to better protect the health of women and other vulnerable populations.

¹³Jessica Ginsburg & Fe de Leon, “Confidentiality and Burden of Proof under the Canadian Environmental Protection Act: Submission to the House of Commons Standing Committee on Environment and Sustainable Development” (20 November 2006), online: Canadian Environmental Law Association

Appendix A: Talc, Risk Management, Safe Substitution and Labelling

The following example of gendered impacts of toxics in products offers a useful example of how risk management measures, safe substitution and labelling are lacking in the current chemicals management regime, and the need for these specific amendments to be lifted up by this committee.

What is talc? Talc is a naturally occurring mineral and may be used in a variety of products in Canada including paper, plastics, paint, ceramics, putties, drugs, natural health products and cosmetics. Talc is an ingredient in approximately 6500 cosmetic products in Canada (as of 2017).¹⁴

What are the government of Canada's conclusions for health effects associated with talc? Based on the draft screening assessment, talc was identified as a priority for assessment as it met categorization criteria under section 73(1) of CEPA. The ministers proposed to recommend that talc be added to the list of toxic substances in Schedule 1 of CEPA, as the final screening assessment describes the potential areas of concern as:

- (1) **Inhalation** of fine particles of talc when using loose powder products like baby powder, body powder, and loose face powder, which can damage lungs; and
- (2) **Exposure of the female genital (perineal) area** to products containing talc such as body powder, diaper and rash creams, baby powder, genital antiperspirants and deodorants, body wipes, bath bombs and bubble bath, which is associated with ovarian cancer

The government of Canada's **proposed human health objective** (i.e. quantitative/qualitative statements of what should be achieved to address human health concerns): decrease inhalation and perineal exposures from certain talc-containing self-care products to a level which is protective of human health.¹⁵

There are known, safe alternatives to talc such as arrowroot powder and cornstarch, so it is unclear why informed substitution is not occurring. The risk assessment requested stakeholders to submit information on alternatives, if known; **this should not be the responsibility of the stakeholders.**

¹⁴ Environment and Climate Change Canada & Health Canada, "Draft Screening Assessment Talc (Mg₃H₂(SiO₃)₄)" (December 2018), online: Government of Canada <https://www.canada.ca/en/environment-climate-change/services/evaluating-existing-substances/draft-screening-assessment-talc-mg3h2sio34.html>.

¹⁵ Environment and Climate Change Canada & Health Canada, "Risk management approach for talc (Mg₃H₂(SiO₃)₄)" (December 2018), online: Government of Canada <https://www.canada.ca/en/environment-climate-change/services/evaluating-existing-substances/risk-management-scoped-talc-mg3h2sio34.html>.

Depilatory products such as Veet are cosmetic products which present an **avoidable hazard** and thus **should have a label with directions for safe use** (i.e. do not use on perineal region) but no such labelling requirements are in place.

Cautionary statements are currently only required for talc powders intended for children and infants: “keep out of reach of children” and “keep powder away from child’s face to avoid inhalation which can cause breathing problems”; no cautionary statements are required for impacts on other vulnerable populations, such as women

Health Canada identified the following risk mitigation measures, which problematically **place the responsibility of taking precautionary measures on individual consumers** rather than it being the responsibility of the government:

- Read product labels and follow all safety warnings and directions
 - **Problem:** *there are no warnings regarding ovarian cancer*
- Avoid inhaling loose talc powder
 - **Problem:** *loose talc powder products are still commercially available, which suggests to consumers that they are safe to use*
- Avoid female genital exposure to talc
 - **Problem:** *talc-containing personal care products intended for perineal use such as depilatory products are still commercially available, which suggests to consumers that they are safe to use*
- Choose a talc-free alternative
 - **Problem:** *even if alternatives are available, the talc-containing product availability suggests to consumers that they are safe to use.*

Consumers should not bear the burden of having to scour Health Canada and government publications for information surrounding the risks of toxic substances. Critical health effects from talc substances and risk management actions should be communicated to the public in an understandable way, which **does not require consumers having to seek out this information.** ‘Communication to the public to help avoid inhalation or perineal exposure to talc’ was identified as a risk management action in the draft assessment, **but was not included in the final assessment**, which raises concerns as to the government’s commitment to the public’s right to information.