

**Learning Disabilities Association of Canada ** Toxic Free Canada ** Storm Coalition **
Crooked Creek Conservatory Society of Athabaska ** Chemical Sensitivities Manitoba**
Canadian Environmental Law Association**

February 13, 2009

The Honourable Leona Aglukkaq, M.P.
Minister of Health
Health Canada
0916A Brooke Claxton Building, 16th Floor
Tunney's Pasture
Ottawa, Ontario K1A 0K9

The Honourable Jim Prentice, M.P.
Minister of the Environment
Environment Canada
Les Terrasses de la Chaudière, North Tower, 28th Floor
10 Wellington Street
Gatineau, Quebec K1A 0H3

Transmission by email and by mail

Re: The lack of CMP policies to improve hazard (toxicity) data, under the Challenge and in priority-setting for post-categorization chemicals

Dear Minister Aglukkaq and Minister Prentice

The following organizations are submitting this letter regarding a major component of the Chemicals Management Plan (CMP) – the need to improve data on hazard (toxicity data) for chemicals identified through the categorization process. We have raised this issue with officials at Health Canada for some time during formal consultation meetings during the categorization process, and beyond, including information sessions related to different aspects of the CMP. Based on the November 2008 workshop on Priority Setting, there is some indication that Health Canada will consider an action under the authority of the Canadian Environmental Protection Act (CEPA) Section 71 (b) or (c) to obtain available or new data on hazard. We are writing to you today to support that critically important action under CEPA.

The lack of attention to the need for improved hazard data appears to emanate from the Explanatory Note in the Canada Gazette Notice of Feb 3, 2007 regarding the CMP Industry Challenge. Highlighted in bullets are three measures the Ministers will implement "to further protect the health of Canadians and the environment".

3. Purpose

The Ministers will implement a series of measures regarding these substances to further protect the health of Canadians and the environment from the potential effects associated with exposure to these substances. These measures will:

- Improve, where possible, persistence and/or bioaccumulation information;
- Identify industrial best practices in order to set benchmarks for risk management, product stewardship, and virtual elimination; and
- Collect environmental release, exposure, substance and/or product use information.

In so doing, the Ministers will make timely risk management interventions that minimize the risk of serious or irreversible harm associated with the above substances.

Unlike the Registration, Evaluation and Authorization of Chemicals (REACH) policy in the European Union (EU)¹, or the U.S. Environmental Protection Agency's (EPA) Chemical Assessment and Management Program (ChAMP)² for priority chemicals, none of these three measures under the CMP requires the government to commit to policies that would improve toxicological information to fill what are large gaps in hazard data for most substances. Under the government's Challenge to Industry, there is no reference to the submission of all available toxicological information. A foremost purpose of the U.S. chemical assessment program, (the High Production Volume, now the ChAMP program) and the European Union's REACH program ("no data no market"), is to fill missing toxicity data gaps to protect human health. Such a focus is absent from the CMP.

Our concern is the heavy reliance on exposure data under the CMP to prioritize and designate substances as toxic, or not toxic under CEPA, without adequate information on hazard. This could be remedied by issuing a Notice for new or available toxicological data under a CEPA

¹ Annex I of Regulation (EC) No. 1907/2006 (REACH) Guidance on Information Requirements and Chemical Safety Assessment.

² EPA Launches New Chemical Assessment and Management Efforts. Release date: 09/24/2008 EPA also plans to develop a program to challenge the U.S. chemical industry to provide health and safety information on inorganic high-production volume (HPV) chemicals.

Section 71 (b) and/or (c) Notice as has been done for information on quantities and uses under the Challenge program.

There are several sections of CEPA that support a more comprehensive commitment to addressing toxicity data. Section 71 as noted above, along with CEPA section 70, which requires the submission of information, held by the manufacturer, importer or distributor, that supports the conclusion that a substance is toxic or capable of becoming toxic. To date, there has been no formal or transparent data call-in to industry to submit toxicity data as authorized under section 70 or Section 71. The large gaps in hazard data were apparent for most substances during the characterization of substances on the DSL.

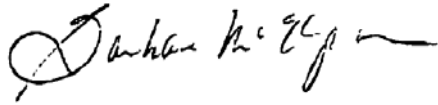
Under the CMP, the Rapid Ecological Screening Approach has been used to designate substances that the government considers to be of lower concern, because they are unlikely to meet the criteria set out in paragraphs 64 a or b of CEPA 99. However the application of this screening tool does not meet the requirement to investigate whether or not they might meet 64 c - "exhibits carcinogenicity, mutagenicity, developmental toxicity, or reproductive toxicity and a high likelihood of exposure to individuals in Canada". Several public interest organizations objected to the government use of the rapid screening approach on these substances.³ These substances need to be part of a more substantive and rigorous approach that includes a requirement and update of toxicity data. This requirement would support greater accountability and transparency in the CMP.

With this letter, we urge the government to obtain and improve data on hazard under its Chemicals Management Program. We trust that Health Canada will issue a Section 71 Notice to obtain available and/or new toxicological data on "uncertain" substances and for substances that lack data on critical health endpoints. We trust that proposed action will have the strong support of your Department.

We would welcome the opportunity to discuss this matter with your office.

Yours sincerely,

³ Canadian Environmental Law Association and Ecojustice. NGO Comments on Government's Proposal to "take no further action" on 754 Low Ecological Concern Substances as published in the Canada Gazette Part 1, Volume 41, Number 25 (August 2007). See: http://cela.ca/uploads/f8e04c51a8e04041f6f7faa046b03a7c/590_lecs.pdf




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cc. Canadian Environmental Network, Canadian Network for Human Health and the Environment