



August 15, 2017

Via email: ec.ministre-minister.ec@canada.ca; Hon.Jane.Philpott@Canada.ca
(Original to follow by mail)

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The Honourable Jane Philpott
Minister of Health
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RE: House of Commons Standing Committee on CEPA Review

Dear Ministers:

The Business Council of British Columbia (the Business Council) is pleased to submit these summary comments on the June 2017 House of Commons Standing Committee on Environment and Sustainable Development (the Committee) report entitled *Healthy Environment, Healthy Canadians, Healthy Economy: Strengthening the Canadian Environmental Protection Act, 1999*.

All forms of human activity bring impact and risk. Industrial activity continues to provide the financial basis for continuous improvement in our quality of life. As always, sound decision-making on whether and how to permit certain actions (individual and industrial) means finding a balance, avoiding a human tendency to say “no” when faced with incomplete information, or over-regulating. In its current form, the *Canadian Environmental Protection Act 1999* does a reasonable job, particularly in comparison to other jurisdictions’ approaches, of providing a coherent and functional framework for industry and regulators to make trade-offs between precaution and risks to human health and the environment, on the one hand, and the recognized benefits of economic activity, on the other. This is an important feature of the *Act* and a useful starting point for thinking about the possible scope, breadth, and timing of legislative improvements.

We also note that Canada’s Chemical Management Plan (CMP) is working well, as reinforced in testimony by your officials, industry representatives, and other external stakeholders during the review process. In fact, the CMP is a global success story that is on track to achieve its objectives within the timeframe established more than a decade ago. The CEPA substance categorization process and the CMP are so successful that they informed the recent bipartisan overhaul of chemical safety legislation in the United States. Canada’s categorization decisions, and subsequent risk assessments, are studied and emulated by many other jurisdictions.



As a mid-sized, open, and export-oriented economy, Canada relies on finding, exporting, and transforming raw materials — energy, minerals, metal ores, forest products, and agri-food commodities.¹ The conversion process for natural resources, along with the supply chain linkages to market, underpins much of Canada’s economic prosperity and constitutes over 70 percent of BC’s merchandise exports. Our natural resource extraction and related downstream manufacturing industries contribute greatly to the country’s economic well-being by supporting/generating hundreds of billions of dollars of export earnings, many tens of billions of dollars in government revenues, and hundreds of thousands of jobs – most of which pay above average wages/salaries. Yet much of the public and legislative discussion about environmental and health related issues in recent years has adopted a negative position on the role and impact of these industries and overlooked the improvements Canada has made on environmental performance indicators over time.² The reality is that Canada’s local environment is already far cleaner than those of most other jurisdictions.

While not intending to downplay the other resource and manufacturing industries contributing to Canada’s and BC’s economy, the chemical industry is one example of a sector where CEPA has a significant impact. It sustains more than 89,000 direct jobs,³ each of which supports at least five others in other parts of the economy, putting the total number of jobs derived from the industry at ~525,000.⁴ British Columbia’s share of direct Canadian employment in chemical manufacturing (NAISC 325) is 7% (~6,150),⁵ having increased steadily since 2010. Using the multiplier noted above, the total employment effect rises to ~30,000 BC jobs, including many high-paying positions in technical/scientific, professional, and transportation services.

Direct GDP from the chemical sector is about 8% of Canadian manufacturing output.⁶ When viewed from the perspective of merchandise exports⁷, the value-added to the BC and Canadian economy is substantial, not only in terms of jobs but also their relative quality given the skills required, high levels of labour productivity, and above-average wages. Of note, positions in pharmaceutical and medicine manufacturing – downstream users of the output of, and counted as part of, the chemical industry -- have increased fourfold since 2001.

Furthermore, the chemical industry’s Responsible Care management regime is a role model recognized by the United Nations and copied by 62 countries around the world. Canada’s regulatory framework for the categorization of substances and subsequent risk assessment methodology put us in the lead among international jurisdictions. No other country has proposed or implemented as many risk management

¹ <http://www.bcbc.com/bcbc-blog/2017/three-hard-truths-about-canadas-trade>.

² <http://archive.epi.yale.edu/epi/country-profile/canada>.

³ Table 281-0024 Survey of Employment, Payrolls and Hours (SEPH), employment by type of employee and detailed North American Industry Classification System (NAICS), annual (persons).

⁴ Chemical Industry Association of Canada.

⁵ Table 281-0024, op.cit.

⁶ Table 379-0031 Gross domestic product (GDP) at basic prices, by North American Industry Classification System (NAICS).

⁷ <http://www.bcbc.com/bcbc-blog/2017/three-hard-truths-about-canadas-trade>.



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activities in the chemicals sector as Canada. Indeed, the current list of 23,000 substances and assessment of 3,000 is the most complete of any country, comes closest to meeting the goal set by the Strategic Approach to International Chemicals Management organization⁸, and has been lauded, justifiably, by at least one influential environmental group.⁹

As a general principle, the Business Council supports processes for continuous improvement, including regular reviews of legislation, regulation, and policy. The completeness of the CEPA review by the House of Commons Committee deserves praise. However, with the solid foundation already provided by the Act, implementing the full suite of recommendations in the Committee report is inconsistent with the successful history of the statute and could undermine its integrity — notably, by not respecting the division of powers between provinces and the federal government, not enabling science and evidence to inform outcomes, and inadvertently weakening the impetus for industry innovation.

The Business Council endorses the submissions to the Committee by the Chemical Industry Association of Canada, the Canadian Association of Petroleum Producers, and the Canadian Fuels Association. The chemical industry's assessment implies that 60 of the 87 recommendations in the report could contribute positively to the existing regulatory regime; we agree. Acting on these can lead to substantial progress in updating CEPA, although we believe efforts to improve the statute should focus on more significant aspects and avoid “fine tuning” for reasons of efficiency – and because CEPA is already a well-regarded statute with an inbuilt requirement for continuous improvement via the regular review process. However, the remaining recommendations in the Committee's report raise several concerns. These include the points enumerated below.

Right to a healthy environment: The Committee's recommendations discuss broad legal and constitutional principles. In our view, CEPA is not the appropriate place for this. If the goal is to inform the assessment and management of chemicals of concern, we believe that including a statement to this effect in the preamble to the Act would provide appropriate and sufficient guidance for decision-makers.

Investigative provisions: The Business Council does not support the removal of the investigation provision as a prerequisite to bringing an environmental protection action, lowering the threshold for an action from an allegation of “significant harm” to “harm” to the environment, or enabling a greater role for private citizens in enforcement. Enforcing CEPA is a federal government responsibility. It must be maintained as such, while also respecting the role of provinces under Canada's model of cooperative federalism.

⁸ The overall SAICM objective is “...the achievement of the sound management of chemicals throughout their life cycle so that by the year 2020, chemicals are produced and used in ways that minimize significant adverse impacts on the environment and human health.” (see <http://www.saicm.org/About/SAICMOverview/tabid/5522/language/en-US/Default.aspx>).

⁹ <http://environmentaldefence.ca/2011/07/06/press-releases-345/>.



Air Quality Management System (AQMS): While the AQMS is not a perfect process, it is a well-established multi-stakeholder tool for advancing air quality and air quality objectives. It is also supported by science-based investigation of health and environmental impacts of air pollution that respects the joint management responsibility of provinces and the federal government. Industry is an active participant in the AQMS and appreciates the opportunities to contribute through the process. The Committee's recommendation to have the federal government "develop legally binding and enforceable national standards for air quality" does not respect the roles and responsibilities of the provinces and may undermine provinces' ability to manage their land and resources. We also find the focus on "hot spots" problematic; the same is true of the recommendations relating to water quality. The Business Council strongly opposes these recommendations.

Simultaneous assessment of alternatives (recommendations 56-60): These recommendations overlook the complexity and scope of the assessment and (if relevant) the subsequent risk management processes for substances managed under CEPA. They assume government has the ability to identify potential alternatives and proposes to create additional unnecessary processes and costs, while producing few benefits not accounted for in the risk assessment methodology and subsequent risk management. Preparing national safer alternatives action plans cannot be a regulated activity but instead should be part of the normal research conducted by federal government scientists in collaboration with industry – leading to guidelines and best practices in addition to encouraging additional innovation.

As the federal government proceeds to next steps on its environmental agenda, one thing is clear, Canadians are insufficiently aware of the existing and complex interplay of environmental and health regulation in our country. They mostly lack a full appreciation of how regulators provide oversight and apply the rules within and across sectors. Too often the reaction by an individual citizen to issues is anchored in a values-based discussion of whether Canada should be in one business or another, rather than how best to regulate. They rely not on fact, but on impressions, intuition, and feelings, and seek information compatible with their current beliefs, often reinforced by a small minority of vocal, well-funded and organized critics. It is the responsibility of Parliamentarians to endorse and then vigorously defend the kind of businesses Canada permits, and under what circumstances. With this comes an obligation to educate and then communicate both the facts about why these sectors are important to our collective well-being, and the regulatory structure in place to protect the public interest. Too often this is missing from the conversation and leads to incorrect conclusions and unnecessary conflict. We would be pleased to support the government's effort to bring more coordination between all levels of government, First Nations, regulators, and industry.

We respect the Government of Canada's commitment to continuous improvement in the management of substances that can harm the health of people and the environment. Change that helps reduce uncertainty, particularly for industries and companies that operate in highly competitive global markets, is desirable. Parliamentarians must stand up for Canada, and what we do well. Adding regulation without demonstrated benefits only weighs down economic activity while failing to improve health and environmental outcomes.



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The Business Council, established in 1966, is an association representing 260 large and medium-sized enterprises active in every sector of British Columbia's economy. We are a public policy organization, providing research, analysis, commentary, and advocacy on issues relevant to strengthening Canadian and BC competitiveness and prosperity. We support competitive taxes, effective and nimble regulation, and responsible fiscal policies to enable vigorous business activity and provide the resources necessary to pay for education, health care, and other public services for citizens. We have a proven record of constructive policy advocacy on environmental sustainability, economic reconciliation with First Nations, innovation and productivity, climate change and energy, tax and fiscal policy, sound regulation, trade policy, and the development and attraction of skills and talent.

Our members come from all major sectors of the province's economy, including forestry, energy, mining, manufacturing, transportation, advanced technology, health research and life sciences, tourism, retail and wholesale trade, construction, utilities, post-secondary education, and professional, scientific, and technical services. Taken together, the enterprises, academic institutions, and sectoral associations affiliated with the Business Council account for approximately one-quarter of all private sector payroll jobs in BC.

Yours sincerely,

*Original signed by
Greg D'Avignon*

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President and Chief Executive Officer
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