

To: Hon. David Anderson,
Minister of Environment.

From: Paul Muldoon,
Chair, CEN Toxics Caucus Steering Committee
cc. CEN Toxics Caucus Steering Committee

Dear Mr. Anderson,

The undersigned organizations, who are members of the CEN Toxics Caucus, would like to broach with you the idea of an entirely new initiative on the part of Environment Canada. This concerns a national programme of Pollution Prevention. It arises over our contention that work in the area of Pollution Prevention under the Canadian Environmental Protection Act (CEPA) is inadequate as a national programme.

These inadequacies have been much debated over the past decade. One route for Pollution Prevention is through the toxic substances management programme, whereby candidate substances are identified and placed on Schedule I, after which Pollution Prevention measures may be put in place as one of many possible options and outcomes. But this is a painfully slow and cumbersome process, with little result to date.

The whole process has been criticized from many quarters, including environmentalist Professor Ross Hume Hall, academics such as Professor William Leiss and businesspeople such as Jean Belanger, the former President of the Canadian Chemical Producers Association.

Another route to Pollution Prevention is through the Pollution Prevention Planning requirement under CEPA, Part IV. But since the requirements are to be on a substance-by-substance basis, they cannot even begin to cover all toxic substances of concern. There is also a serious doubt as to whether the federal government has the jurisdiction to administer Pollution Prevention Planning effectively: such planning concerns activities within workplaces, rather than at the end of the waste pipe, and what goes on within workplaces is under provincial and territorial jurisdiction - except for federal undertakings, which brings us to the CEN Toxics Caucus proposal.

What we are proposing is a more intelligent, realistic and effective national programme of Pollution Prevention. It is based on the Canadian Labour Congress's National Pollution Prevention Strategy (enclosed) with which your office and your Department have long been familiar. Essentially, our proposal is in three parts or phases:

- a) the enactment of a Pollution Prevention Regulation for federal undertakings under CEPA, Part IX;
- b) federal leadership to encourage the provinces and territories to enact similar legislation, as a move towards a standardized national programme of Pollution Prevention; and
- c) federal economic instruments in the form of a national fee levied on the use of toxic substances, to be rebated pro rata to those provincial governments meeting the federal standard, to cover the administrative costs of their regulatory programme.

Our first priority, without any advance commitment to phases II and III, is the enactment of a federal regulation under CEPA Part IX. We would like to explain why we think this is a good idea. First, the federal government can clearly regulate Pollution Prevention in its own back yard, without the limitations and qualifications put on Pollution Prevention Planning in CEPA Part IV. It does not matter that the number of industrial workplaces under Part IX is relatively small: our aim is to produce an

effective national working model. The experience of US states such as Massachusetts, New Jersey and Oregon is that if you regulate Pollution Prevention by workplaces rather than substance-by-substance, you can have an effective programme that covers all of the substances that are likely to be of concern in a workplace.

It is quite true in these states that planning is triggered by a list of substances but the planning programme does not cover only substances on the list. In the CLC's proposal, the list is also used as a trigger of the fee for toxic substances use. Under Part IX, such a list would not be based on a declaration of "CEPA-toxic", nor need it be. By international standards, the NPRI list is rather too short and the Domestic Substances list far too long. Massachusetts, for instance, uses a list derived from EPA and TRI, comprising some 500 substances.

A regulation under CEPA Part IX does not, of course, amount to a national programme. That needs complementary action by the provinces and territories. Here, we have to be realistic. The political and constitutional structure of Canada simply does not allow the federal government to produce an effective national programme of Pollution Prevention worth the name. Such programmes have to be constructed, not directed from the centre, with a concept of federal leadership which does just that - it leads. It neither dictates nor follows. Nor does it come out with grand-sounding names that amount to nothing in practice.

We would like to meet with you and your officials to discuss our proposal. Our aim is to get federal government commitment to such a regulation. After that firm commitment, we would like to see multi-stakeholder consultation, which includes not only the environmental movement but also provincial and territorial governments and the business community. With respect, we do not see such consultation as taking place through CCME, where the federal government cannot exercise leadership and in which the environmental movement is a peripheral bystander.

We look forward to your response,

Yours sincerely,

Green Campus Society

Ocean Voice International

Citizens Environment Alliance

Reach for Unbleached

7th Generation Initiative

The Labour Environmental Alliance

CLEANf/Ld

CAPE

Bert Riggall Foundation

Citizens' Network on Waste Management

Ontario Toxic Waste Research Coalition

Ontario Toxic Waste Research Coalition

Falls Brook Centre

BCEnvironmental Network Waste Health and Toxics Caucus

Earth Care Canada

CELA

People Against Nuclear Energy

Forest Protection Allies

Citizens Environment Alliance of southwestern Ontario

Nature Saskatchewan
CIELAP
STORM
Sierra Club of Canada