

January 17, 2017

The Honourable Catherine McKenna  
Minister of Environment and  
Climate Change Canada

The Honourable Jane Philpott  
Minister of Health

*Transmission by email:*     *ec.ministre-minister.ec@canada.ca;*  
  *Hon.Jane.Philpott@Canada.ca*

Dear Minister McKenna and Minister Philpott:

**Re: Initial response to Notice of Intention to Develop Regulations respecting  
Asbestos - *Canada Gazette*, Volume 150, Number 51 - December 17, 2016.**

The news of Canada's commitment for a comprehensive ban on asbestos announced on December 15, 2016 was welcomed by labour, health and environmental and women's advocacy organizations across the country. Indeed, an important element to this announcement was the commitment to ban asbestos and asbestos containing products by 2018.

We, the undersigned organizations and individuals, support the direction the government has taken to address the threats associated with asbestos in Canada. The federal commitment on asbestos has the potential to prevent new cases of asbestos related illnesses. It also aligns Canada with 50 other countries that have asbestos bans already in place. We are taking this opportunity to provide initial comments on the development of regulations to address future activities respecting asbestos including the manufacture, use, sale, offer for sale, import and export of asbestos as published in the *Canada Gazette* (Volume 150, Number 51 - December 17, 2016). In the final part of this submission, we also provide brief comments on the overall government commitment to achieve an asbestos ban in Canada.

Canada-wide we have witnessed a significant loss of lives and severe impacts to families and communities as a result of asbestos-related diseases. According to Statistics Canada, asbestos related diseases continue to rise with new cases of mesothelioma, a rare form of cancer caused by exposure to asbestos in the workplace, increasing from 335 cases in 2000 to 580 cases in 2013 and with another 1900 new cases of asbestos-induced diseases (e.g. lung cancers and asbestosis) expected on an annual basis.

The comprehensive ban on asbestos in Canada must aim to reduce and prevent new incidences of asbestos related diseases. With respect to the notice of intent, we offer the following initial comments for consideration in drafting a regulation to ban asbestos.

- 1) *Life cycle approach* - The ban on asbestos must consider the full life-cycle of the asbestos use from mining to manufacture, use in products and eventually end of life disposal and management. Currently, the scope of the notice for the development of proposed regulations under the Canadian Environmental Protection Act 1999 (CEPA) focuses on prohibition of all future activities with respect to asbestos including the manufacture, use, sale, offer for sale, import and export of asbestos. This approach identifies key phases where asbestos could pose real threats in the life cycle approach.

There are key phases of the life cycle that are absent in the scope of the regulation. The notice of intent to develop regulation does not mention the government's intention to address mining of asbestos in Canada nor does the notice cover the management of asbestos at the end of life of products, locations of and materials containing asbestos.

Banning asbestos mining and strengthening of end of life disposal and management of remediation regimes are necessary if Canada is to achieve a full and effective asbestos ban. Should these key phases of the lifecycle be overlooked, Canadians will face ongoing hazardous exposures to asbestos sources.

- 2) *Close potential loopholes in regulation* - The notice of intent focuses on asbestos and asbestos containing products. It is essential that the scope of these regulations includes a prohibition on export and imports of asbestos and products containing asbestos. Should the regulation allow for the continuation of this practice, Canada will severely undermine its goal to ban asbestos and its reputation in the world.

It is also worth noting at the onset that there is significant concern that an asbestos ban could also lead to a build-up of stockpiles of asbestos and products containing asbestos. Canada needs effective mechanisms embedded in this regulation and within a comprehensive national asbestos strategy to address this matter and avoid situations where exports may be permitted to leave Canada for developing countries that may not have the resources and legal framework to adequately address the impacts associated with asbestos. It is critical that Canada take responsibility for the proper handling, management and safe disposal (i.e., encapsulation and burial) of asbestos and products containing asbestos within its borders.

- 3) *Exemptions must be avoided* – The government issued a survey (under section 71) under CEPA, published in the *Canada Gazette* (Volume 150, Number 51 – December 17, 2016) for the purpose of information gathering on asbestos and asbestos containing products in Canada. This survey will be critical to the development of the regulation as it will provide a current understanding of the amount of asbestos use, the range of products containing asbestos, as well as identification of alternatives to asbestos in Canada. The results of the survey

may also identify applications where safe alternatives to asbestos may not currently exist.

We caution the government to reject proposals for exemptions to banning asbestos use and products containing asbestos. There has been ample time provided from the government announcement to the time the regulations are expected to be completed and enforced, for affected industries to identify alternatives to asbestos. For example, known asbestos-containing products like brake pads can (and are) manufactured without asbestos in Canada. Exemptions create time delays in achieving a full ban on asbestos and may delay companies from identifying alternatives. Furthermore, exemptions may also open opportunities for extended exemption requests by affected industries. Any exemptions will prolong the use of asbestos and continue to pose health threats to workers and users.

- 4) *Achieve zero asbestos* – The regulations must set a limit of zero for asbestos content. Currently, the range of *acceptable or exempt* asbestos content across provinces and territories in Canada varies between 0.1% to 1% asbestos concentrations. It has been known that over time even non-friable asbestos may become friable, which may result in on-going potential sources of asbestos exposure. By targeting asbestos concentration at zero in regulation, the focus remains on completely preventing asbestos exposure.
- 5) *Asbestos contamination should be avoided* – As a naturally occurring substance, asbestos has also been known to be detected in a range of products, including talc products (e.g., baby powder) and soil conditioners that contain asbestos-contaminated vermiculite. Substantial discussion within the framework of this regulation and the broader efforts to advance an asbestos ban in Canada is necessary.
- 6) *Comprehensive public engagement* – Public stakeholders should be engaged throughout the process of regulation development. While there are legal requirements for public engagement outlined under CEPA 1999, we hope the government will be comprehensive and transparent in these discussions that go beyond the basic public comment period prescribed in CEPA. All stakeholders – public health and environmental non-governmental organizations, labour organizations, Indigenous communities, women’s advocacy organizations, communities affected by asbestos (particularly victims and families of victims), medical professionals and academia - should be targeted for participation in consultations and public comment periods.
- 7) *Rigorous enforcement and compliance mechanisms* – The effectiveness of a regulation to ban asbestos will depend on the enforcement and compliance mechanisms available to implement the ban. *Consideration should be given to the best enforcement practices and how to share enforcement between federal, provincial and local levels of government.*

## ***Additional comments on Canada's approach***

Canada outlined several critical elements of its approach for an asbestos ban. We support these elements. In addition, we offer the following brief comments in support of Canada's commitment to ban asbestos.

### **Support a strong government position to list chrysotile asbestos under the Rotterdam Convention**

In the December 2016 announcement, your government committed to update Canada's international position on asbestos. Canada's effort to update its international position on asbestos should be undertaken immediately without delay. The Conference of the Parties (COP) under the Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, where listing of chrysotile asbestos are expected to be discussed, is scheduled between April 24 and May 5, 2017 in Geneva, Switzerland. Canada has long opposed the listing of chrysotile asbestos to Annex III of the Rotterdam Convention. At the last COP in 2015 Canada abstained from voting on the listing of chrysotile. *We recommend that Canada's position align with the growing global support to list chrysotile asbestos under Annex III.*

### **Establish an Expert Review Panel on Asbestos**

It is our view that Canada should establish an expert review panel on asbestos to advise the government on how to advance the key elements identified by the government in its announcement from December 15, 2016, and ultimately achieve an asbestos ban in Canada. We are attaching a letter addressed to Prime Minister Justin Trudeau on December 6<sup>th</sup>, 2016 signed by over 60 organizations and 40 individuals in support of an expert review panel. Establishing an expert review panel can provide a unique opportunity to identify other matters associated with asbestos that warrant the federal government's attention. These include but not limited to the following:

- 1) *Address Just Transition Issues:* The asbestos ban will affect communities, families and workers across Canada. Substantial discussions are required to address these challenges and to develop strategies to assist with the transition away from asbestos.
- 2) *Asbestos registries for buildings and human health are both required:* The government has initiated online access to information on buildings owned or leased by the federal government that contain asbestos. Registries should be expanded to include other buildings/sites including privately owned buildings containing asbestos. Furthermore, we think there is also a critical need to establish a national registry for victims experiencing asbestos related disease. Such registries are valuable for tracking and informing the key stakeholders including the public, public health, labour organizations, and policy makers on asbestos.

- 3) *Waste Disposal Management Regimes*: The authority to address waste is a shared responsibility by all levels of government – federal, provincial and municipal. Generally, the provinces and territories develop and enforce regulations on waste management. Currently, the regulatory regime to manage asbestos containing waste across provinces and territories is not the same. A substantial review of the waste management regimes across Canada is warranted to advance the goal to ban asbestos in Canada. It is particularly important to focus on how demolition materials containing asbestos are addressed. Many private and public buildings contain asbestos in-situ.
  
- 4) *Promoting best practices for asbestos removal necessary*: Substantial remediation and clean-up of asbestos in buildings will continue to be with us for many generations. Best practices in asbestos removal should be mandatory for developers, building trades, and building owners to ensure the safety in workplaces and for home owners and their occupants. This effort would include reviewing existing approvals and permitting processes for development proposals as well as updating manuals and other information materials to apply best practices in asbestos remediation.
  
- 5) *Improve reporting on asbestos releases and transfer under the National Pollutant Release Inventory*: Reporting on asbestos (non-friable) under the National Pollutants Release Inventories (NPRI) has been required since the program was established in 1994 and mandated in CEPA 1999. Reporting to NPRI is required for facilities that meet specific thresholds (e.g. employee threshold or pollutant volume threshold). Facilities reporting under NPRI on asbestos (friable form) between 2009 to 2015 for disposal on- and off-site have not changed significantly from year to year with totals reported never falling below 23,000 tonnes (refer to Figure 1). Improved reporting under NPRI is necessary to establish better tracking of asbestos releases and transfer from facilities across Canada. Changes have been made to reporting thresholds for other toxic pollutants (e.g., mercury, lead, dioxins and furans) under NPRI to provide a better reflection of releases and transfer of these pollutants to the environment.

**Figure 1: Reporting on Asbestos (non-friable) Disposal on and off site between 2009-2015 under the National Pollutant Release Inventory**

<b>Year (number of facilities reporting to NPRI)</b>	<b>On-site (tonnes)</b>	<b>Off-site (tonnes)</b>	<b>Total (tonnes)</b>
<b>2015 (50)</b>	22,020	1,287	23,307
<b>2014 (52)</b>	33,430	707	34,137
<b>2013 (56)</b>	32,584	800	33,384
<b>2012 (54)</b>	23,661	4,457	28,117
<b>2011 (58)</b>	22,820	5,110	27,931
<b>2010 (67)</b>	31,547	6,295	37,842
<b>2009 (67)</b>	18,251	5,466	23,717

Source: National Pollutant Release Inventory, <http://ec.gc.ca/inrp-npri/donnees-data/index.cfm?lang=En>

- 6) *Issues facing vulnerable communities:* The challenges associated with asbestos facing vulnerable communities, including people of low income, Indigenous communities and fence line remote communities, have yet to be fully addressed in the government's commitment to ban asbestos. People of low income and Indigenous groups may be at higher risk from asbestos exposure should they live in poorly maintained and older housing buildings. Substantial resources may be needed to remediate these accommodations, so better understanding accountability and resource needs will be key areas of investigation. Similarly, communities that border mines, buildings or landfills where there is known or suspected asbestos may also face issues that need to be better understood. The government should identify potential challenges facing these vulnerable communities.
- 7) *The need for a national mesothelioma health care strategy:* Around 500 Canadians annually now fall victim to mesothelioma, the marker cancer for asbestos exposure. Efforts to improve early detection and innovative treatment are not sufficiently resourced or coordinated in Canada. A mesothelioma diagnosis is usually a death sentence. A focal area of discussion in the asbestos related disease (ARD) detection efforts should include comprehensive and mandatory training for physicians both in medical school and in practice to recognize and diagnose patients. Federal government leadership is needed to work with the provinces on a national mesothelioma health care strategy.

We hope the above initial comments are helpful. We are available to discuss the above and look forward to engaging with your departments to achieve a ban on asbestos in Canada for the protection of all Canadians.

Yours truly,

## **ORGANIZATIONS**

### **Canadian Environmental Law Association**

Fe de Leon, Researcher and Paralegal, Email: [deleonf@cela.ca](mailto:deleonf@cela.ca)

### **Canadian Association of University Teachers**

Laura Lozanski, Health and Safety Officer; Email: [lozanski@caut.ca](mailto:lozanski@caut.ca)

### **Friends of the Earth Canada**

Beatrice Olivastri, Chief Executive Office; Email: [beatrice@foecanada.org](mailto:beatrice@foecanada.org)

### **CASLE (Canadians for A Safe Learning Environment)**

Karen Robinson; Email: [karen.robinson@casle.ca](mailto:karen.robinson@casle.ca)

**EHANS (Environmental Health Association of Nova Scotia)**

Suzanne LeBlanc; Email: leblancsm@gmail.com

**Montreal Chapter, Council of Canadians**

Abdul Pirani, Chair; Email: apirani.coc.montreal@gmail.com

**Minnesota Peace Group, Fairmont, USA**

Judi Poulson; Email: judpeace@gmail.com

**Benedictine Sisters Erie PA**

Pat Lupo, OSB; Email: Plupo@neighborhoodarthouse.org

**Prevent Cancer Now**

Meg Sears PhD, Chair; Email: Meg@PreventCancerNow.ca

**Canadian Mesothelioma Foundation**

Eudice Goldberg, MD, FRCPC, Chair, Board of Directors; Email: info@cmfonline.org

**International Ban Asbestos Secretariat**

Laurie Kazan-Allen, Coordinator; Email: lka@btinternet.com

**Chemical Sensitivities Manitoba**

Sandra Madray, Research & Education; Email: madray@mts.net

**Saint John Citizens Coalition For Clean Air**

Gordon W Dalzell; Email: dalmar@nbnet.nb.ca

**Asbestos Disease Awareness Organization**

Linda Reinstein; Email: Linda@adao.us

**IPEN**

Olga Speranskaya, Co-Chair; Email: olga@ipen.org

**Canadian Association of Physicians for the Environment (CAPE)**

Dr. Jean Zigby, President, Email: jeanzigby@gmail

**Citizens Network on Waste Management**

John Jackson; Email: jjackson@web.ca

**Unifor**

Sari Sairanen, Director Health and Safety; Email: Sari.Sairanen@unifor.org

**National Council of Women of Canada**

Karen Monnon Dempsey, President; Email: monnondempsey@outlook.com

**Occupational Health Clinics for Ontario Workers Inc.**

Michael Roche, Chief Executive Officer; Email: mroche@ohcow.on.ca

**BC Government and Service Employees' Union**

Stephanie Smith, President; Email: Stephanie.Smith@bcgeu.ca

**MiningWatch Canada**

Jamie Kneen, Co-Manager; Email: jamie@miningwatch.ca

**The Provincial Council of Women of Ontario**

Mary Potter; Email: jmpotter068@gmail.com

**Toronto Environmental Alliance**

Heather Marshall, Campaigns Director; Email: heather@torontoenvironment.org

**Women's Healthy Environments Network (WHEN)**

Carlisle Kent, Board Chair; Email: carlisle@womenshealthyenvironments.ca

**Registered Nurses' Association of Ontario**

Doris Grinspun, RN, MSN, PhD, LLD(hon), O.Ont., Chief Executive Officer;  
Email: dgrinspun@rnao.ca; jmo@rnao.ca

**IAVGO Community Legal Clinic**

Maryth Yachnin, Staff Lawyer; Email: m\_yachnin@lao.on.ca

**Environmental Defence**

Muhannad Malas, Toxics Program Manager; Email: mmalas@environmentaldefence.ca

**National Network on Environments and Women's Health**

Anne Rochon Ford, Co-Director; Email: annerf@yorku.ca

**Quill Plains (Wynyard) Chapter, Council of Canadians**

Elaine Hughes; Email: tybach.1933@sasktel.net

**Crooked Creek Conservancy Society of Athabasca**

Rosemary Neaves, Chair; Email: reneaves@telus.net

**Asbestos-related Research, Education & Advocacy Fund (AREA Fund)**

Tracy Ford, Co-Founder; Email: tracy@areafund.ca

**International Joint Policy Committee of the Societies of Epidemiology**

Wael Al-Delaimy MD PhD, Chair; Email: chair@ijpc-se.org

**Partnership for Work, Health and Safety**

Mieke Koehoorn; Email: mieke.koehoorn@ubc.ca



## INDIVIDUALS

Stacy Cattran, Daughter of Bill Coulbeck, electrician and mesothelioma victim, ON;  
Email: scattran@gmail.com

Sarah Miller, Environmental Co-Chair, Environmental and Occupational Working Group,  
Toronto Cancer Prevention Coalition, ON; Email: reachsandbarsarah@gmail.com

Bruce Lanphear, MD, MPH  
Simon Fraser University, Burnaby, BC; Email: blanphear@sfu.ca

Paul A. Demers, Director  
Occupational Cancer Research Centre, Toronto, ON;  
Email: Paul.demers@cancercare.on.ca

James Brophy, PhD, Adjacent Faculty  
University of Windsor, ON; Email: jimbrophy@yahoo.com

Margaret Keith, PhD, Adjacent Faculty  
University of Windsor, ON; Email: margkeith@yahoo.com

Mayor Mike Bradley  
City of Sarnia, ON; Email: mike.bradley@sarnia.ca

Dr. Stephen Bornstein  
St. John's, NL; Email: sbornste@mun.ca

Ed Chessor, P.Eng., former CIH  
Email: echessor@mail.ubc.ca

Adam Melnick, Business Agent for Heat and Frost Insulators & Allied Workers Local 95,  
ON; Email: adam.melnick@insulators95.com

Alissa Boardley, Daughter of Michael Boardley who succumbed to mesothelioma in  
October 2010,  
Ottawa, ON; Email: alissa\_boardley@yahoo.ca

Renee Guay  
St. Catharines, ON; Email: Renee.guay@gmail.com

c.c. The Honourable Rona Ambrose, Conservative (rona.ambrose@parl.gc.ca);  
The Honourable Thomas Mulcair, NDP (thomas.mulcair@parl.gc.ca);  
Elizabeth May, Green Party (Elizabeth.May@parl.gc.ca);  
Rhéal Fortin, Bloc Québécois (Rheal.Fortin@parl.gc.ca);  
Director, Chemical Management Division, ECCC (ec.amiante-asbestos.ec@canada.ca)