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December 19, 2006

The Honourable Rona Ambrose
Minister of Environment
Les Terrasses de la Chaudière
10 Wellington St., 28th Floor
Gatineau, Quebec
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Subject: Proposed Canada Clean Air Act

Dear Minister Ambrose:

I am pleased to provide the following comments on the proposed Canada Clean Air Act. These comments pertain to the Notice of Intent published in the *Canada Gazette*, Part I, on October 21, 2006 and the Canada's proposed Clean Air Act.

Positive elements of the proposed Clean Air Act

The Clean Air Act (CAA) proposal includes some positive ideas that would be beneficial amendments to CEPA.

Positive elements of the CAA proposal include acknowledging that air pollutants (smog precursors) and greenhouse gases share many emission sources, and should be addressed together. In addition, throughout the CAA the Minister of Health is given a greater role on these important issues of environmental health, in addition to the Minister of Environment's role. The CAA would require the Ministers to publish air quality projections, and report annually to Parliament on air quality, attainment of benchmarks, effectiveness of measures to protect air quality, and new measures. It would also require that all fines paid would be held in an Environmental Damages Fund.

The Government has also indicated that it intends to address indoor air quality, vehicle fuel efficiency and energy efficiency in the near future, and I support these directions. While the CAA proposal includes these positive elements, several of my previous recommendations for strengthening CEPA, including implementing a precautionary approach and focusing on pollution prevention, are not reflected in the CAA. I suggest that the Government of Canada also consider these additional elements in its amendments to CEPA.

Targets and timelines

There is an urgent need to reduce emissions of air pollutants and greenhouse gases. However, the only target and timeline articulated to date in the proposed CAA is reduction of greenhouse gas emissions to 45-65% below 2003 levels, by 2050.

To protect the environment and human health, emission reductions are needed now. Emission-reduction targets for air pollutants and greenhouse gases should be health-based and informed by international best practices, the precautionary principle, and pollution prevention rather than pollution control. I recommend that the Government of Canada mine international experience to set and achieve targets that will protect health. For example, Canada could adopt California's vehicle fuel-efficiency rules to reduce emissions of both air pollutants and greenhouse gases.

While the CAA proposal indicates that targets to be developed for air pollutants will be fixed caps, initial targets for greenhouse gases will be intensity-based. To ensure that emission reductions take place, targets for air pollutants and greenhouse gases need to be fixed caps, rather than intensity-based targets that may allow emissions to grow over time. American court cases regarding the New Source Review portion of US Clean Air Act illustrate the importance of fixed caps for protecting air quality. Old, highly polluting coal-fired power plants without modern pollution-control equipment are still operating in many US states, in part because of the absence of a clear and fixed cap on emissions.

Climate change will result in environmental effects that impact health, and the cost of delay in curbing climate change is substantial. In Toronto, climate change is expected to cause more days of extreme heat and exacerbate the burden of illness due to smog. I believe it is important that Canada clearly recommit to the Kyoto process with a fresh approach to achieving emission reductions. While the draft CAA sets a greenhouse gas target for 2050, I recommend setting a series of reduction targets that start in 2008 and become progressively more stringent, peaking before 2050.

Each year air pollution contributes to 1,700 premature deaths and 6,000 hospitalizations in Toronto alone. Air pollution exaggerates health inequalities since vulnerable groups (the elderly, children and those with existing illness such as asthma) are most affected. The CAA proposes that "short-term" air pollutant reduction targets be established for the 2010-2015 period. Given that air pollution is already affecting the health and quality of life of many Canadians, we must strive for air quality improvements before 2010-2015. I suggest that the Clean Air Act include a series of health-based air pollutant reduction targets, that begin with short-term targets for 2008 and become progressively more stringent, peaking by 2015.

Removing substances from CEPA Schedule 1

The proposed CAA would remove air pollutants and greenhouse gases from Schedule 1 of CEPA. The inclusion of a substance on Schedule 1 is the trigger that initiates many CEPA powers and processes designed to reduce harm to the environment and human health, for pollutants in all environmental media (air, water, soil). The federal government must ensure that provisions are in place that are equivalent to those provided by Schedule 1 of CEPA, at a minimum, before removing air pollutants and greenhouse gases from Schedule 1.

Need for a Clean Air Act

While the proposed Clean Air Act includes several positive elements listed above, many of the powers described in the CAA are already available under CEPA, and so the need for a CAA is unclear.

The largest change introduced by the CAA would be the creation of a new section of CEPA pertaining to a prescribed list of air pollutants and greenhouse gases. As noted above, these substances are now listed on CEPA Schedule 1.

The CAA would require the relevant Ministers to issue Air Quality Objectives (AQOs) for particulate matter less than ten microns in diameter (PM₁₀) and ozone. Given that Canada-wide Standards (CWSs) exist for these substances, AQOs would need to go beyond the current CWSs. It would also be beneficial for the Government help achieve these objectives with support for their implementation, such as through a system of incentives and penalties related to attainment of the objectives.

CEPA provides the federal government with relatively broad powers to protect the environment and human health. I encourage the Government of Canada to enhance the Canadian Environmental Protection Act, and its implementation. The Notice of Intent commits Canada to “take measures that reduce these emissions to achieve tangible benefits to the health of Canadians and to Canada’s environment”. I support this goal, and I urge the Federal Government to build an environmental policy for Canada that empowers us to meet it.

Sincerely,

Original signed by Dr. David McKeown

David McKeown, MDCM, MHSc, FRCPC
Medical Officer of Health

cc: The Honourable Tony Clement, Minister of Health
Director General, Systems and Priorities Directorate, Environment Canada
Mary MacDonald, Acting Director, Toronto Environment Office