



# NO CONSEQUENCES: TOXIC EXPOSURE, WEAK ENFORCEMENT AND ENVIRONMENTAL RACISM

The Women's Healthy Environment Network and Breast Cancer Action Quebec



**ACTION** CANCER DU SEIN DU QUÉBEC  
BREAST CANCER **ACTION** QUEBEC

OUR BODIES, OUR ENVIRONMENT



**WHEN**

Women's Healthy Environments Network

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This report was prepared by the Women's Healthy Environment Network and Breast Cancer Action Quebec.

**About WHEN:**

Since 1994, WHEN has been educating the general public, media and policy makers that environmental health is a key determinant of public health, and has promoted public action for the prevention of environmental health harms. WHEN uses the influence and knowledge of women to become champions for change, and is a trusted source of credible tools and information on today's relevant and emerging environmental health topics.



**About Breast Cancer Action Quebec:**

Breast Cancer Action Québec advocates for breast cancer prevention and the elimination of environmental toxins linked to the disease. We work to empower people to make the societal changes needed to stop the disease before it starts. BCAQ works to raise women's awareness of how to reduce breast cancer risk, and to inform women and the general public about scientific research on breast cancer and treatments, as well as other medical and social issues related to this disease. We work with women to bring about the necessary social changes to stop the disease before it manifests, i.e. work for primary prevention.





**CEPA is currently being modernized to address the 87 recommendations made in 2017 by the Standing Committee on Environment and Sustainable Development (ENVI) of parliament.**

This report highlights the impacts of weak enforcement of CEPA on Canada's vulnerable populations. Inadequate CEPA enforcement and accountability disproportionately impacts the racialized and low-income communities in proximity to industrial facilities, and creates hazardous occupational conditions for workers.

There is an opportunity to prioritize enforcement activities to protect vulnerable populations, such as Indigenous, racialized and low-income communities who face inequitable exposures to toxicants.

## **WHAT ARE VULNERABLE POPULATIONS?**

Vulnerable populations as defined by the Canadian Environmental Law Association are "a group of individuals within the general Canadian population who, due to either greater susceptibility and/or greater exposure, may be at greater risk than the general population of experiencing adverse health effects from exposure to chemicals" (CELA, 2019).

## **WHAT IS THE CANADIAN ENVIRONMENTAL PROTECTION ACT (CEPA)?**

CEPA regulates the substances that are deemed toxic to human and environmental health, and "to contribute to sustainable development through pollution prevention" (CEPA, 1999).

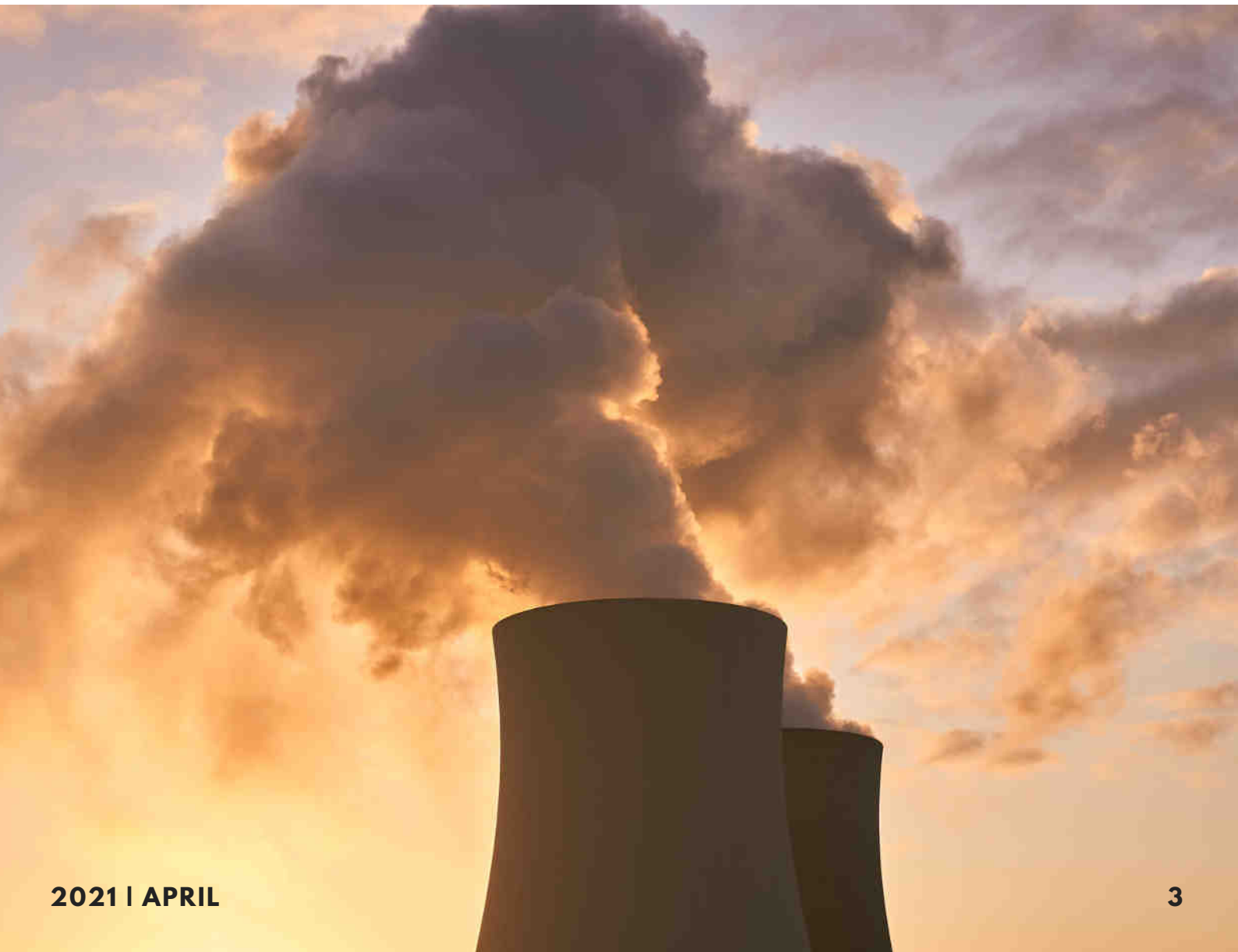
## **COSTS OF WEAK ENFORCEMENT**

**Poor air quality** is one indicator of our failures on enforcement, and in Canada it results in roughly 7700 people dying prematurely per year, and has been estimated to incur \$39 billion in costs (IISD, 2017).

Poor air quality is concentrated in urban environments that are predominantly Indigenous, racialized and low-income (Ging et al, 2020).

## RECOMMENDATIONS:

- 1. CEPA enforcement prioritization and focus must be targeted to ‘hotspot’ communities** of Indigenous, racialized and low-income communities, in collaboration with Canada’s environmental health sector.
- 2. CEPA enforcement must take a more proactive approach to product testing**, particularly for products with reproductive hazards, racially-targeted skin and hair products, and gendered occupational exposures, to address the unequal exposures and health outcomes found in vulnerable populations.
- 3. CEPA must be modernized immediately to protect vulnerable populations; substitute harmful substances with safer alternatives; increase accountability for risk management; address aggregate, cumulative and synergistic effects of chemicals; re-assess substances when there is new science or regulatory action in other jurisdictions; and recognize that all people in Canada have the right to a healthy environment.**





## **Canada is not enforcing its environmental laws, and it is racialized and low-income communities that bear the burden of the resulting pollution.**

**The Environmental Commissioner's report (2018) on CEPA enforcement found significant deficiencies in enforcement, prioritization and impact:**

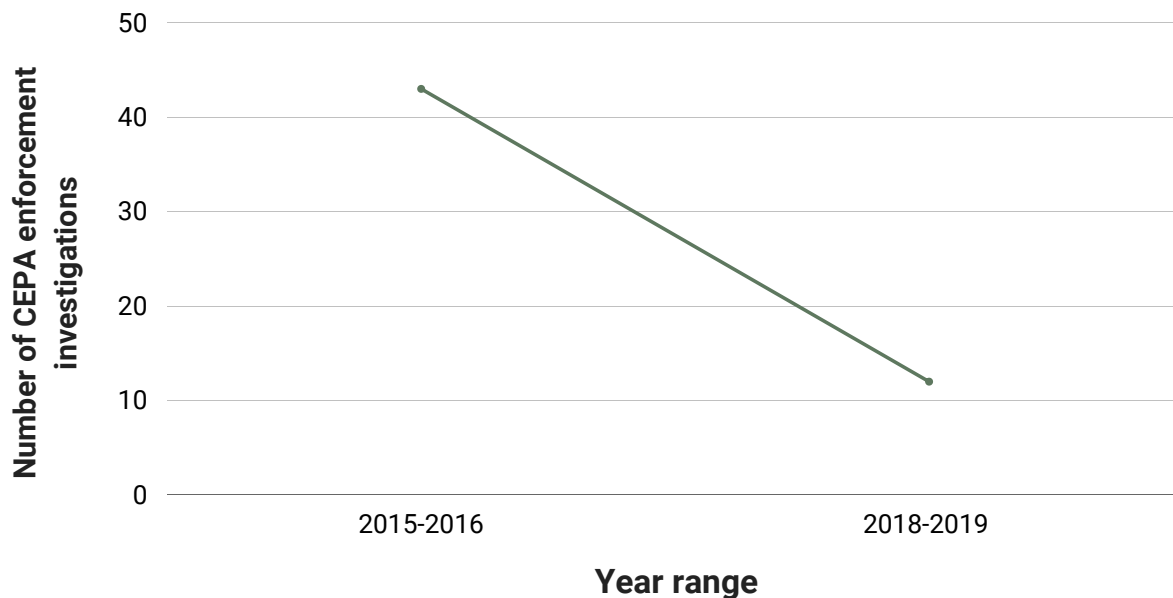
- "Environment and Climate Change Canada did not base most of its enforcement priorities on risks to human health and the environment"
- "Health Canada and Environment and Climate Change Canada did not always establish performance targets or indicators to determine whether risks to the environment and human health had been reduced or eliminated."
- "The departments did not set timelines to evaluate progress toward objectives."

**In terms of inspections and fines, the Environmental Commissioner's report found several gaps:**

- "[M]ost toxic substance regulations received few inspections and enforcement measures"
- "Environment and Climate Change Canada did not evaluate whether the majority of regulations and codes of practice were effective"
- "...a regulation prohibiting 26 toxic substances from being manufactured, used, sold, or imported in Canada (the Prohibition of Certain Toxic Substances Regulations, 2012) had no inspections."

## **THE ENVIRONMENTAL COMMISSIONER'S REPORT OFFERS TWO IMPORTANT RECOMMENDATIONS:**

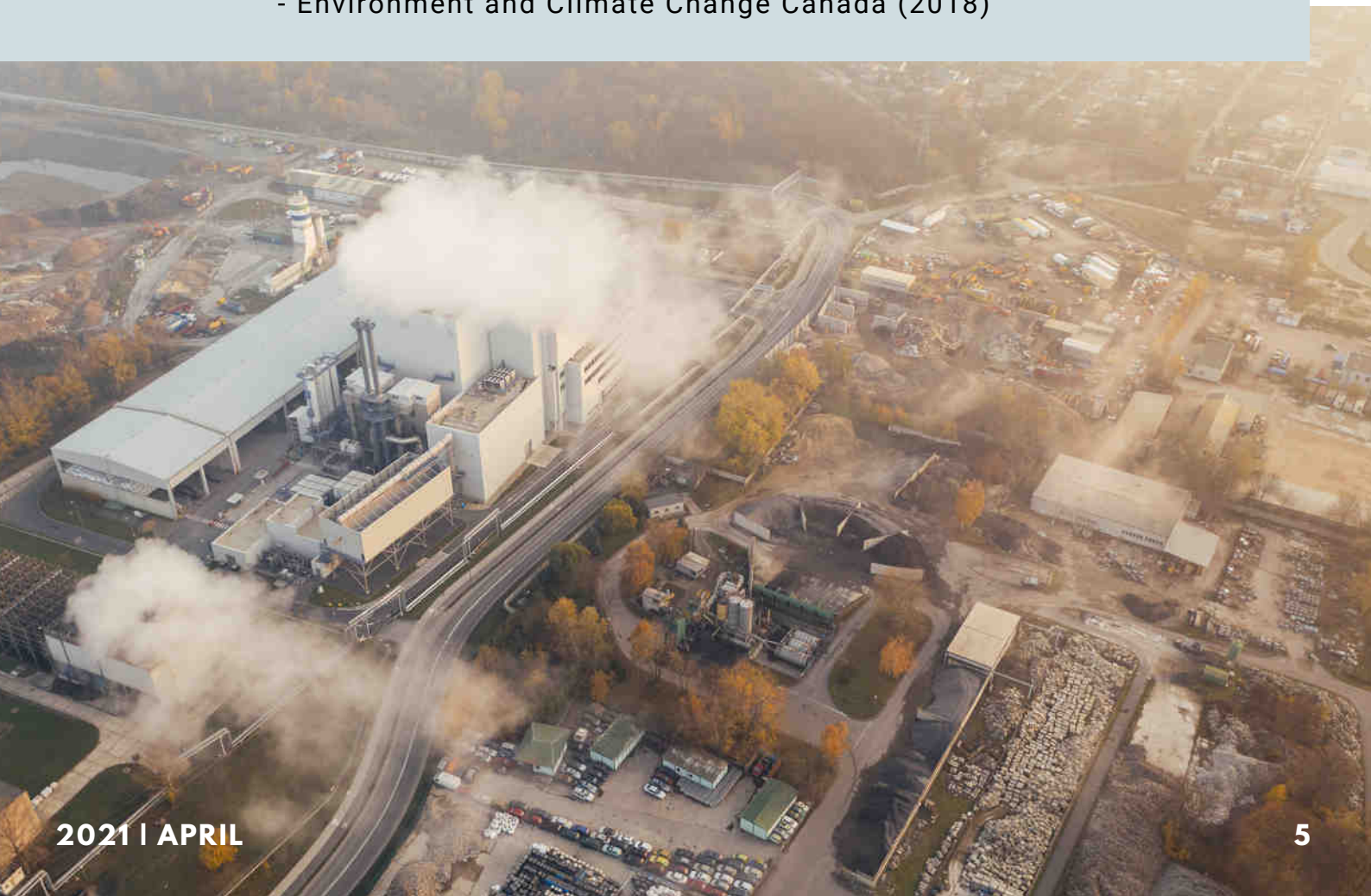
1. "Environment and Climate Change Canada should ensure that risks to human health and the environment are taken into account when prioritizing its enforcement activities."
2. "Environment and Climate Change Canada and Health Canada should establish a long-term, systematic approach to evaluate how effective their actions are in controlling toxic substances, including setting measurable objectives, monitoring the achievement of these objectives, and setting timelines for completion."



Enforcement is not nearly adequate among regulated entities, as “[i]n 2017-18, less than 2% of the regulated community was inspected” (ECCC, 2018). In addition, enforcement activities have substantially decreased in recent years. CBC News reports that, in response to a February 2020 House of Commons question on CEPA enforcement, ECCC notes that it had investigated 43 companies for violations of the Canadian Environmental Protection Act in 2015-16, but that these investigations had dropped to 12 companies in 2018-19 (Rabson, 2020).

**In 2017-18, less than 2% of the “regulated community” was inspected.**

- Environment and Climate Change Canada (2018)





**These racialized health inequities have human rights implications, as witnessed in Indigenous and Black communities.**

Gaps in regulatory enforcement translate into significant health inequities for Canada's vulnerable populations, whose demographics are largely racialized, low-income, and Indigenous.

In his 2020 report to the UN Human Rights Council regarding Canada, the Special Rapporteur on toxics, Baskut Tuncak shared his findings and recommendations from his 2019 official country visit:

*"The Canadian Human Rights Commission recently raised concerns of "environmental racism" to the UN Human Rights Council citing "landfills, waste dumps and other environmentally hazardous activities [that] are disproportionately situated near neighbourhoods of people of African descent, creating serious health risks."*

This can be understood in the context of landfills, industrial pollution and the The African Nova Scotian communities of Shelburne and Lincolnville, with their exposure burden visualized by the ENRICH Project (Waldron, nd).

The UN report also noted:

*"Over 1 million low-income Canadians live within 1 km of a major source of industrialized pollution, resulting in elevated risks of hospitalization for respiratory and cardiovascular illnesses. Considering the fact that, in Canada, approximately 20.8% of racialized people are low-income compared to 12.2% of non-racialized people, and about 81% of reserves had median incomes below the low-income measure in 2016, this inequity is inherently racial in addition to economic in nature."*



## CHEMICAL VALLEY

Chemical Valley, one of Canada's most polluted communities, is surrounded by over 60 refinery and other industries and is home to the Aamjiwnaang First Nation. A 2017 report by the Environmental Commissioner of Ontario found that people in Aamjiwnaang are particularly affected by the pollution in the area, stating that "there is strong evidence that the pollution is causing adverse health effects, which neither the federal nor provincial government have properly investigated."

Air quality monitors show that the region, including the nearby city of Sarnia, has the highest benzene levels in Ontario – double the Ontario standard, with monitoring around the refinery's property lines showing levels as much as 55 times above the air-quality standard. Exposure to benzene is associated with acute myeloid leukemia, and research shows that Sarnia is a hot spot for this type of cancer. (Ghazawi et al, 2019).

The Ecojustice report, *Return to Chemical Valley*, shows that Sarnia-area facilities released about 45,357 tonnes of air pollution in 2016, which represents 10% of the total emissions in Ontario. (McDonald, 2019)

The UN Rapporteur found a "pervasive trend of inaction of the Canadian Government in the face of existing health threats from decades of historical and current environmental injustices and the cumulative impacts of toxic exposures by indigenous peoples," and described Chemical Valley in particular as "deeply unsettling," calling what the Aamjiwnaang First Nation faces an "environmental injustice [that] is an ongoing tragedy."

**Recommendation 1:** CEPA enforcement prioritization and focus must be targeted to 'hotspot' communities of Indigenous, racialized and low-income communities, in collaboration with Canada's environmental health sector.



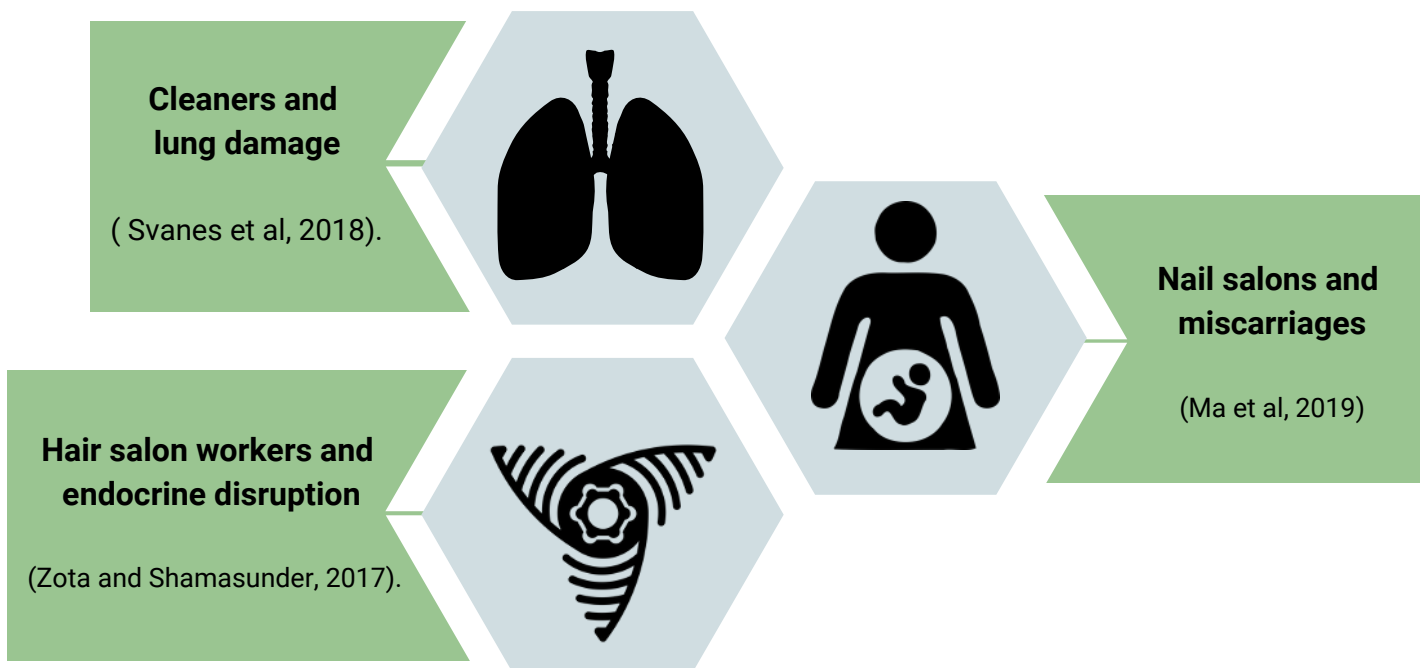
**Our work, and the products we use, also create gendered and racialized exposures - and toxic chemicals are not being regulated to prevent these occupational or product-based exposures.**

The UN Rapporteur found that, “[w]hen assessing the safety of chemicals, workers’ exposures are not taken into consideration. Therefore, many chemicals are given the green light because they do not pose a “high risk” to the general population.”

**These occupational hazards can result in significant health impacts for vulnerable workers.** These impacts can be seen in manufacturing contexts, such as plastics manufacturing workers and elevated breast cancer levels (deMatteo et al, 2012), and firefighters and non-Hodgkin’s lymphoma and prostate cancer (Brantom et al, 2018).

For occupations that fall outside of traditional manufacturing contexts, that lack formal structures such as unionization, or the safety data of MSDS and WHMIS, we see racialized women working with poorly-labelled products with inadequate safety, equipment and ventilation.

This translates into gendered and racialized health inequities, such as:



**Recommendation 2:** CEPA enforcement must take a more proactive approach to product testing, particularly for products with reproductive hazards, racially-targeted skin and hair products, and gendered occupational exposures, to address the unequal exposures and health outcomes found in vulnerable populations.



**We have the solutions needed to protect racialized communities and increase transparency and accountability - now we need progressive action.**

The ENVI report on CEPA reform produced 87 recommendations on CEPA reform, the majority of which have implications for enforcement, prosecutions, permits, inspections, testing and monitoring. Stakeholders, including the chemicals industry, agree that we must prioritize:

- 1. Protecting vulnerable populations**
- 2. Substituting harmful substances with safer alternatives**
- 3. Strengthening the timelines in the Act and accountability for risk management**
- 4. Taking into account aggregate, cumulative and synergistic effects of chemicals**
- 5. Ensuring we re-assess substances when there is new science or regulatory action in other jurisdictions**
- 6. Recognizing that all people in Canada have the right to a healthy environment**

In addition, the report pushes for national legally binding air quality standards, full disclosure of consumer product chemical ingredients, and prosecuting polluters - **these recommendations should be the floor, not the ceiling, of our ambitions on CEPA.**

**Recommendation 3:** CEPA must be modernized immediately to protect vulnerable populations; substitute harmful substances with safer alternatives; increase accountability for risk management; address aggregate, cumulative and synergistic effects of chemicals; re-assess substances when there is new science or regulatory action in other jurisdictions; and recognize that all people in Canada have the right to a healthy environment.

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