



# Government of Canada Delivers on Commitment to Strengthen the *Canadian Environmental Protection Act, 1999* and Recognizes a Right to a Healthy Environment

From: [Environment and Climate Change Canada](#) and [Health Canada](#)

## Background

Today, the Government of Canada delivered on its commitment to amend the *Canadian Environmental Protection Act, 1999* (CEPA) and recognized that Canadians have a right to a healthy environment.

The amendments will enable the Government to respond effectively to new science, which is pointing to harms that were unanticipated in the past and to enable the use of new tools and sources of information that are now available to assess those risks. The amendments include:

### A Right to a Healthy Environment

The Government of Canada is proposing to recognize that every individual in Canada has a right to a healthy environment, and would recognize that the Government has a duty to protect that right when administering CEPA.

The Government would be required to develop an implementation framework, which would set out how that right will be considered in the administration of the Act. The framework would detail, among other things, how principles such as environmental justice and non-regression would be considered in implementing the Act, as well as how the right would be balanced with relevant factors, such as social, health, economic and scientific considerations.

The amendments also include requirements on the Ministers of Environment and Climate Change and Health to consider available information regarding vulnerable populations and cumulative effects of substances when assessing risks posed by substances, and to conduct research, studies or monitoring activities to support the Government in protecting Canadians' right to a healthy environment.

The framework will be developed through robust consultations and can be continuously improved with experience and as views evolve. Ministers will report on the implementation of the framework annually.

The implementation framework would set out a path for continuous improvement in environmental protection. It is expected that applying the lens of a right to a healthy environment will support strong environmental and health standards, incent robust engagement and the collection of data and analysis to identify populations that are particularly vulnerable to environmental and health risks. This will also support new thinking about how to manage risks so they address the disproportionate impacts of substances on certain populations.



The proposed amendments to the preamble will also confirm the Government's commitment to implementing the United Nations Declaration on the Rights of Indigenous Peoples.

### **Protecting vulnerable populations**

CEPA amendments will also require that the Government exercise its powers in ways that minimize risks to the health of vulnerable populations.

The amendments define vulnerable population as “a group of individuals within the Canadian population who, due to greater susceptibility or greater exposure, may be at an increased risk of experiencing adverse health effects from exposure to substances.” Those with a greater susceptibility may include, for example, children and those in poor health. Those with greater exposure may include workers and those living in areas where levels of pollution are particularly high.

To better protect people and communities in these situations, changes to CEPA would provide that the Government's duty under the Act to protect the environment and human health includes protecting vulnerable populations. They would also require the Ministers to consider available information regarding vulnerable populations in risk assessments. In addition, amendments would also require the Government to conduct research and studies, including biomonitoring surveys, specifically in relation to the role of substances in illnesses or in health problems, which may relate to vulnerable populations. And they would enable geographically targeted regulations to better enable the protection of communities at risk from local sources of pollution.

### **Assessing real life exposures**

Amendments to CEPA will require that the Government consider available information about the cumulative effects that may result from exposure to the substance in combination with exposure to other substances when conducting and interpreting the results of risk assessments.

Generally, a substance-by-substance approach has been taken when assessing the risks posed by substances – that is, substances are often assessed for risks in isolation. However, in real life we are exposed daily to multiple substances from many different sources often at the same time and over a lifetime.

Recognizing that the science of assessing cumulative effects is still evolving, and data is not always available to support decisions made on this basis, amendments to CEPA will require the Government to consider information that is available with respect to the cumulative effects that may result from exposure to the substance being assessed in combination with other substances.



## **A Stronger Regime for Substances that are Toxic under CEPA and of the Highest Risk**

Amendments to CEPA will create a stronger regime for controlling certain substances found to be toxic under CEPA that pose the highest risk to human health or the environment.

The new regime will retain the risk-based approach in the current Act. For substances assessed as meeting the criteria to be considered toxic under CEPA, the amendments would then require that the Ministers give priority to prohibiting activities in relation to said toxic substances of the highest risk. The criteria for substances of the highest risk would be set out in regulations, and would include persistence and bioaccumulation as well as criteria for such things as carcinogenicity, mutagenicity, and reproductive toxicity. These regulations will be developed in consultation with stakeholders.

In some cases, giving priority to prohibition will involve requiring the substances to be phased-out entirely. In others, it means activities or releases of concern will be prohibited, and in others it may mean that all new uses will be prohibited unless it can be shown that there are no safer alternatives and the use can be undertaken safely.

To reflect this new approach, Schedule 1 will be divided into two parts. Part 1 will contain substances of the highest risk, for which the Act will prioritize the prohibition of activities and releases of concern, and Part 2 will contain all other CEPA-toxic substances. The Government is also proposing to change the title of Schedule 1: List of Toxic Substances to Schedule 1.

### **Supporting the shift to safer chemicals**

In order to support the shift to safer chemicals, the Government will recognize, in the Preamble, the importance of encouraging the progressive substitution of substances with alternatives that are safer for the environment or human health.

Proposed amendments will require the Minister of Environment and Climate Change to publish and maintain a “Watch List” – a list of substances that have been determined to be capable of becoming toxic under CEPA if, for example, exposure increased. The Watch List will help importers, manufacturers and Canadian consumers to select safer alternatives and avoid regrettable substitutions – replacing one problem chemical with another that in turn becomes a problem.

### **A New Plan of Chemicals Management Priorities**

The Government will develop a new Plan of Chemicals Management Priorities for the assessment of substances to better understand and protect Canadians and the environment from substances of concern.

In 1999, CEPA set as a priority the categorization of 23,000 substances already in commerce based on bioaccumulation, persistence, inherent toxicity and the greatest potential for exposure. The work to address the close to 4,300 substances that were then identified as priorities through this process has largely been completed. For this reason, a new process for prioritizing and assessing substances is needed. The

amendments set out the process for this new plan to be developed that will reflect the constantly evolving science and input from Canadians. The plan will include information-gathering, monitoring, and research to support these assessments. It will also consider ways to provide meaningful information to the public through labelling and other means.

### **Increased transparency in decision-making**

Proposed amendments to CEPA will provide Canadians with a means to formally request that a chemical be assessed, requiring Ministers to consider and respond to any such request.

They will also require that the Government communicate anticipated timelines for completing all the risk management actions proposed when a substance is found to be toxic under CEPA.

Industry will also be required to provide to the Government a rationale to support requests for confidentiality for business information. In addition, the Government will establish the circumstances under which the Ministers may disclose the names of masked substances or living organisms. This proposal is consistent with the approach taken by the US EPA based on similar requirements under the *Toxic Substances Control Act* (TSCA).

### **Reducing Reliance on Animal Testing**

Amendments to the preamble of CEPA will recognize the need to reduce reliance on animal testing when assessing the risks that substances may pose on human health and the environment. These amendments will encourage federal government departments to promote the development and timely use of alternative methods and strategies, as science permits.

### **Changes to the *Food and Drugs Act* (FDA) to strengthen the environmental risk assessment and risk management of drugs**

The Government is also proposing to make amendments to the FDA that will enable it to create an environmental notification, risk assessment and risk management framework for drugs under the FDA. Currently, the safety, efficacy and quality of drugs are assessed under the FDA and the environmental risks of the drug ingredients are assessed under CEPA. The proposed amendments would streamline the regulatory process for industry, while strengthening the environmental risk assessment and risk management of drugs.

### **Additional Measures**

In addition to proposed legislative changes, the Government is also moving forward with the following new measures that will further protect Canadians' health and their environment:

#### ***Labeling and information for Consumers***

Canadians want and deserve to know when chemicals that may have impacts on their health or the environment are in the products they buy and use in their homes. That is



why over the next year, the Government will consult with stakeholders on mandatory labelling requirements, including how to make information on chemicals in products available to consumers. This will be part of national consultations focusing on new approaches for enhancing the availability of information regarding chemicals in products for Canadian consumers and businesses, with a focus on digital data to support regulatory compliance, sustainability and informed consumer decision making.

Several acts already provide authorities to regulate the labelling of harmful substances in products, including CEPA, the *Food and Drugs Act*, and the *Canada Consumer Product Safety Act*. That is why the Government will develop a discussion paper and launch consultations by fall 2021 on ways to use existing authorities to inform consumers when chemicals that may be harmful are in products on store shelves, with a focus on cosmetics, cleaning products, and flame-retardants in upholstered furniture. Such information could be provided, for example, through labeling of the products themselves or via links to on-line information. These consultations will allow the Government to propose regulatory changes or other equally effective actions beginning in 2022.

In addition, the Government will propose requiring information about fragrances known to be allergens to be on cosmetic product labels. To that end, the Government will consult Canadians in late spring 2021 on proposed changes to the Cosmetic Regulations under the *Food and Drugs Act*, which will inform a planned regulatory proposal targeted for 2022.

### ***Updating the regulatory framework for products of biotechnology***

To keep pace with the rapidly evolving biotechnology sector, the Government of Canada will undertake a full and comprehensive review of the *New Substances Notification Regulations (Organisms)*, which provide for the assessment of risks posed by new living organisms prior to their being introduced into the Canadian marketplace.

The objectives are to amend the regulations to respond effectively to advances in biotechnology to ensure that Canadians and the environment continue to be protected; and increase public participation and transparency when assessing and managing the risks associated with living organisms, particularly with respect to higher living organisms (e.g., genetically modified plants and animals).

Moving forward, CEPA will continue to maintain its fundamental structure including the “risk-based” approach, which considers a substance’s properties as well as exposure to the substance. Furthermore, the criteria for determining whether a substance is toxic under CEPA have not changed, which provides continued certainty and predictability for industry. The proposed amendments to CEPA represent the first major reform to the Act since it was updated more than 20 years ago. Taken together, the steps announced today will further support a healthier environment and economy for decades to come.