



Survey Backgrounder

Right to a Healthy Environment Implementation Framework Consultation
under the *Canadian Environmental Protection Act, 1999* (CEPA)
February 2024

Introduction:

The Manitoba Eco-Network has created a survey to help us gather feedback from the environmental community on the development of the federal implementation framework on the right to a healthy environment under the *Canadian Environmental Protection Act, 1999* (CEPA).

Access the Survey here:

<https://mbeconetwork.org/help-us-gather-feedback-on-the-right-to-a-healthy-environment/>

The feedback collected from this survey will be presented by the Manitoba Eco-Network at an online consultation event being hosted on March 27, 2024, and will be used to help us develop a written submission. We will anonymize the results and will not share any of your personal information (e.g., name, organizational affiliations, contact information).

If you are interested in attending the webinar to hear the results or make a brief presentation of your own and/or ask further questions to Environment and Climate Change Canada/Health Canada, you can [register here](#).

1) Environmental Justice

The changes made to the Canadian Environmental Protection Act (CEPA) by Bill S-5, included the addition of new legal principles to be applied when decisions are made and other actions are taken under CEPA. One of these new principles is “environmental justice”.

One of the requirements of the new implementation framework being developed is to provide more information about the principle of environmental justice and identify how this principle will influence decisions made and actions taken by the government under CEPA.

In the Discussion Paper, environmental justice is described as being focused on preventing: “the procedural and geographic discrimination of specific communities, which could include Indigenous, Black and other racialized people, 2SLGBTQI+ people, women, persons with disabilities, and other marginalized people such as the very young, older adults, or people who experience structural inequity, poverty, or isolation.”

The principle of environmental justice is also identified as being directly connected to the protection of populations who may be disproportionately impacted by pollution or chemical exposures (i.e. “vulnerable populations”).

The Discussion Paper describes three areas where an environmental justice approach can create improvements with respect to environmental processes and outcomes under CEPA:

- Procedural justice and Recognitional justice: seek to improve the ways in which decisions are made so that those who are affected by environmental injustice are reflected and represented in decision-making spaces.
- Distributive justice: involves examining why certain populations face disproportionate environmental burdens, like pollution, and seeks to improve environmental benefits and reduce the environmental burden for those communities.

Please see pages [13-15] of the Discussion Paper for more information about the proposed definition and application of the principle of “environmental justice” under CEPA.

2) Intergenerational Equity

Another new legal principle under CEPA that the framework will elaborate on is “intergenerational equity”.

In the Discussion Paper, the principle of intergenerational equity is described as emphasizing that it is “important to meet the needs of the present generation without compromising the ability of future generations to meet their own needs”. The principle is viewed as being fundamental to the concept of sustainable development.

There are also linkages made to the “teachings originating with the [Haudenosaunee Confederacy](#), and adopted by many First Nations, about respecting and protecting the needs of and impacts on people seven generations in the future ([AFN 2022](#)).”

The Discussion Paper goes on to propose a number of considerations that could be made under CEPA related to intergenerational equity:

- A substance’s potential to persist in the environment,
- Potential endocrine-related effects of substances that could impact fertility and reproductive success, and cause irreversible damage to genetic material, and
- Cumulative effects from exposure to multiple chemicals.

Please see pages [16-17] of the Discussion Paper for more information about the proposed definition and application of the principle of “intergenerational equity” under CEPA.

3) Substantive Elements of the Right to a Healthy Environment

The main focus of the implementation framework is to determine how the newly recognized right to a healthy environment will influence the processes and actions made under CEPA.

In CEPA, a “healthy environment” is defined as being “clean, healthy, and sustainable”. The implementation framework will elaborate on the meaning of these terms.

As noted in the Discussion Paper, there is no agreed upon definition (in Canada or globally) for “the right to a healthy environment”. This means that the federal government has flexibility in how they determine the right to a healthy environment will be interpreted and applied under CEPA.

Please see pages [10-11] of the Discussion Paper for more information about the definition and scope of the right to a healthy environment.

4) Procedural Elements of the Right to a Healthy Environment

The implementation framework will also elaborate on the procedural elements of the right and the corresponding procedural duties of the federal government that would support protection of the right.

The Discussion Paper identifies three procedural duties, which also align with academic and legal discussion of the procedural elements of the right:

- Access to information
- Participation in decision-making (i.e., public participation)
- Access to effective remedies in the event of harm to the environment and human health (i.e., access to justice)

The Discussion Paper identifies a range of mechanisms within CEPA and other potential opportunities that could be expanded and further considered in the implementation framework. This includes potential improvements or new opportunities related to:

- Existing public registries, required reports, and other databases.
- Current opportunities for public engagement (e.g., public comment periods).
- Available supports for impacted citizens and communities (e.g., new funding opportunities, longer term contribution agreements to help build capacity).
- Citizen science.
- Access to more effective remedies (e.g., investigations, lawsuits, injunctions).

Please see pages [18-21] of the Discussion Paper for more information about the procedural elements of the right and potential opportunities for improvement.

Contact Us:

If you have questions about the survey or other Manitoba Eco-Network activities related to this consultation, please contact:

Heather Fast, Policy Advocacy Director
policy@mbeconetwork.org