



# What We Heard Report

Discussion Document on the  
Implementation Framework for a Right to a  
Healthy Environment under the *Canadian  
Environmental Protection Act, 1999*



Government  
of Canada

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du Canada

Canada 

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## Disclaimer

The points included in this report summarize the diverse perspectives and what was heard during engagement activities on the Discussion Document on the Implementation Framework for a Right to a Healthy Environment under CEPA, and do not necessarily reflect the views or planned actions of the Government of Canada. Every effort has been made to summarize the feedback and ideas received, however not every comment from every submission is reflected in detail in this report. All contributions have been read and input received through engagement on the discussion document has been used to inform the development of the draft implementation framework.

This report is based on what was shared on the Discussion Document. The Government of Canada has made every effort not to alter or interpret the meaning of what was shared from the submissions. Concepts, wording and definitions in this report align with those proposed in the Discussion Document.

## Introduction

This report provides an overview of input and comments received by Environment and Climate Change Canada (ECCC) and Health Canada (HC) during the consultations and engagement in early 2024 on the [Discussion Document on the Implementation Framework for a Right to a Healthy Environment under the Canadian Environmental Protection Act, 1999](#) (“the discussion document”).

From workshops to written submissions, public engagement enriched the work to develop a draft implementation framework (“the framework”).

Indigenous perspectives have also been included in this process, as submissions from Indigenous organizations were received, and various Indigenous organizations led their own distinctions-based<sup>1</sup> engagement sessions within their own communities. This report provides an overall picture of the sentiments, solutions and challenges learned during the comment period.

## Background

On June 13, 2023, Bill S-5, *Strengthening Environmental Protection for a Healthier Canada Act* became law. With these amendments to CEPA, the Government of Canada recognizes that every individual in Canada has a right to a healthy environment as provided under the Act and that the Government of Canada has a duty to protect this right when making decisions under CEPA, subject to any reasonable limits. An implementation framework will set out how the right under CEPA will be considered by the Minister of Environment and Climate Change and the Minister of Health in the administration of the Act. It must be developed by June 2025, and consultations with any interested persons must be undertaken.

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<sup>1</sup> A distinctions-based approach acknowledges that each community has a unique culture, territory, history, and relationship with the Government of Canada, as well as unique strengths to build on and challenges to face. A distinctions-based approach means working independently with First Nations, Inuit, and Métis in recognition of their unique attributes.

The amendments also align with the Government of Canada's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples.

In early 2024, the Government of Canada published a discussion document that was posted online for public comment from February 8 to April 8, 2024. Publication was announced through a [news release](#), social media posts, and emails to individuals and organizations that subscribe to the [Latest News about the Chemicals Management Plan](#) or self-identified as interested parties or were identified through publicly available information. The [Right to a Healthy Environment under CEPA web page](#), the [CEPA Registry](#) and an [engagement platform](#) provided information and opportunities to participate. The discussion document aimed to stimulate dialogue and elicit comments on key concepts and elements pertinent to the framework and to seek views on its design and potential application.

Engagement activities during this period included:

- Workshops with stakeholders and partners;
- Creating and sharing an [Engagement platform on a right to a healthy environment under the CEPA](#);
- Written submissions responding to questions posed within the discussion document; and
- Indigenous-led engagement activities, including distinctions-based workshops hosted by Indigenous peoples, Nations, organizations and communities.

In the engagements to date, Indigenous nations including Modern Treaty Partners, First Nations, Métis, and National and Regional Indigenous Organizations have participated. While Inuit perspectives and/or submissions were not received on the discussion document, efforts will be made so that their voices can inform the framework before it is finalized.

## Engagement on the discussion document

The objective of the engagement on the discussion document was to provide opportunities:

- To build awareness and dialogue on the right to a healthy environment under CEPA; and
- For interested persons to provide early input into the development of the framework.

Input, comments and perspectives on the discussion document were sought from:

- Indigenous Nations, organizations and communities;
- Individuals from the general public, including youth;
- Non-governmental organizations (NGOs) and civil-society organizations (CSO) and associations;
- Academia;
- Businesses and industry; and
- Other governments, such as provinces, territories and municipalities.

## Engagement approaches used

Method	Purpose	Activities	Outcomes
Online Tools	To receive broad and inclusive input from interested persons	Online engagement platform	1100 views on the platform
Workshops	To hear from a broad range of interested voices	Hosted 3 virtual workshops with representatives from industry, non-governmental organizations, academia, youth and Indigenous partners	Heard from representatives of 54 different organizations and individuals
Discussion Document Comments	To receive written input from interested persons on key questions	Published for a 60-day public comment period from February 8 to April 8, 2024	Received 135 submissions from various organizations and interested individuals <sup>2</sup>

Figure 1 demonstrates the sources of input received on the discussion document. Over 50% of the submissions were provided by individuals.

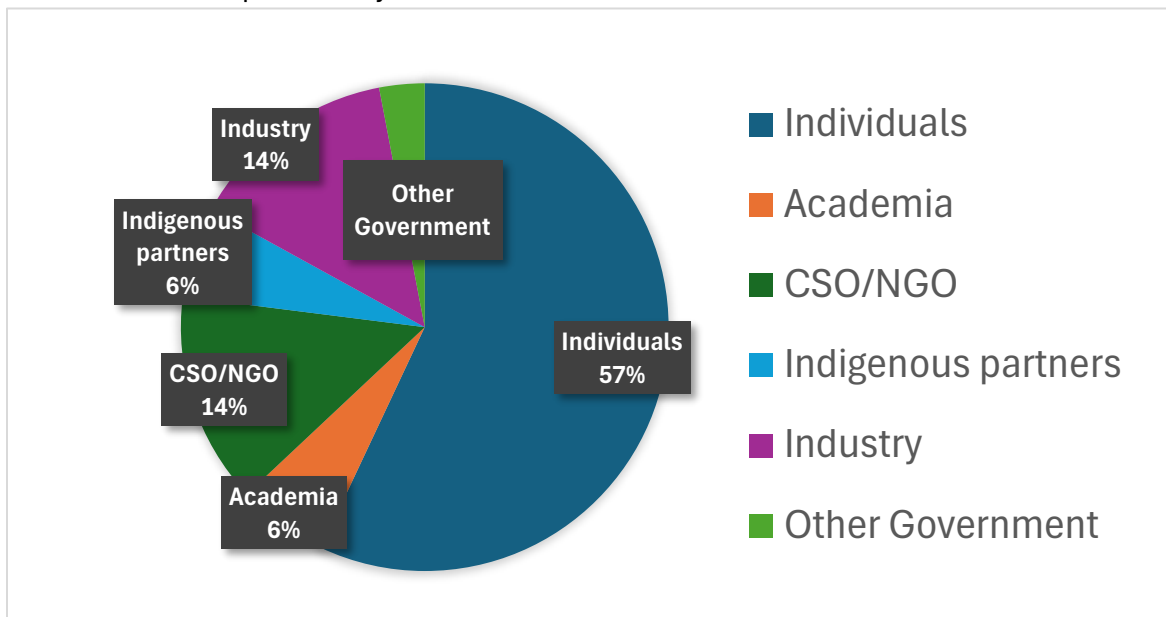


Figure 1: Written submissions received on the discussion document by organization type

<sup>2</sup> Many submissions were made concerning electromagnetic radiation. Electromagnetic radiation is a form of energy travelling through space rather than being dispersed in the environment. As such, it does not meet the definition of a substance under CEPA and these submissions have not been counted or described in this report.

## Key themes heard

Throughout the submissions and engagement activities on the discussion document, several common themes for consideration in the development of the implementation framework were raised.

### Balancing flexibility and predictability

Many submissions emphasized the need to have a flexible approach to ensure the right is considered on a case-by-case basis, specifically as it relates to considering the factors (of economic, health, scientific and social) in protecting the right and when determining the reasonable limits to which it is subject. There should be opportunities to revisit risk assessment decisions and consider new, relevant information and science that may change how a decision is assessed.

It was also suggested that the meaning of the right to a healthy environment and the principles should be flexible and allow for updating over time, while also being sustainable and remaining resilient, to ensure improvements can occur.

Several submissions from industry representatives suggested that the framework should contribute to a predictable business environment by seeking consistency in its application and preventing undue legal challenges to business operations.

### Interconnectedness

Many submissions noted that the right, its factors, the principles and procedural duties are interrelated and mutually re-enforcing. Decisions need to look at all these elements and aim to balance them against one another.

It was suggested that determining vulnerability and disproportionately impacted populations should consider an intersectional approach as elements that impact identities overlap and are interdependent.

It was also highlighted that the First Nations' conceptualization of a healthy environment emphasizes holistic approaches, recognizing the interconnectedness of all living beings and the importance of maintaining balance and harmony within the environment. Indigenous knowledge and worldviews guide First Nations' interaction with the land, water, wildlife, natural world, ancestors, and every component of the environment.

Tackling the triple planetary crises of climate change, pollution, and biodiversity loss, was also seen as a challenge where an interconnected and a cross-sectoral approach to the right under CEPA will be essential.

### Transparency

Transparency was another key theme, with many submissions stating that they would like to see a consistent and transparent approach applied in the consideration of the relevant factors (i.e., of economic, health, scientific and social) used in determining reasonable limits of the right, the data used to justify a decision, and if there are influences from corporate lobbying on decisions. To support this, many submissions suggested that annual reports on the implementation of the framework should be readily available and provide a transparent account of how the right was

considered and how it impacted decisions. Increased transparency related to when and how remedies are being used as well as results of monitoring programs were also highlighted.

A range of views were received relating to confidential business information and transparency, with some perspectives highlighting that confidential business information should never limit access to information, while others recognized a need to balance protection of confidential business information with making more information available.

## Reconciliation

Many submissions stressed that the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples Act* in the context of the right to a healthy environment as provided under CEPA is key and that the right should be responsive to the United Nations Declaration on the Rights of Indigenous Peoples, specifically with Article 5, which states: *Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.* In the context of CEPA, this could mean respecting Indigenous governance structures and traditional practices calendars when arranging engagement timelines.

Upholding First Nations' Inherent and Treaty Rights and acknowledging the unique and sacred relation First Nations have with the environment in the implementation framework was felt to be crucial. Suggestions to do so include incorporating Indigenous knowledge and perspectives into the design, implementation and administration of the framework. It was stressed that the framework should explicitly outline how First Nations peoples, communities, rights and overall interests will be protected with the right.

It was noted that many historical and unresolved cases of regression and environmental injustice have occurred, especially towards Indigenous communities.

## Representation and inclusion

Many submissions highlighted the need for representation from populations that are currently not involved in decision-making processes or feel that they are not properly represented therein. These comments often relate to upholding environmental justice and intergenerational equity, and supporting participation in decision-making. Input received stressed the importance of including youth and other diverse age groups, Indigenous partners and those with lived experiences who faced or are facing disproportionate exposure or risks from pollution throughout CEPA decision-making processes. A need to balance industry and non-industry representatives and ensuring Indigenous representation at multi-stakeholder/partner meetings was highlighted.

Suggestions to increase representation include proactively and meaningfully creating space in decision-making for those most impacted or adversely affected, amplifying the voices of those with lived experiences, creating a public governance structure with community representatives and creating a youth advisory council to support prioritizing matters to consider relating to intergenerational equity.

## Accountability

Many respondents felt that by having this right in CEPA, there needed to be ways to hold the Government of Canada accountable for upholding and protecting the right, such as through publication of documents on how decisions under CEPA align with and uphold the principles and protect the right, including detailing major assumptions and knowledge gaps with implications clearly communicated and a timeline for addressing them. It was also suggested that an oversight mechanism could be created, which could include an independent, scientific agency or stakeholder advisory council with representation from NGOs, government, industry and Indigenous partners to develop tools to address accountability in CEPA decision-making. Another suggestion included creating a mechanism to audit the effectiveness of the framework in upholding the right, with a focus on Indigenous partners and reconciliation.

## Comments on the right and the approach to the implementation framework

Comments received expressed various expectations for how the right would be interpreted. Many respondents were looking to see evidence of commitment to implementation in the framework, including strategies that would illustrate that the principles are being upheld. Some sought new administrative mechanisms to support implementation, such as service standards for decision-making timelines for CEPA activities. Others suggested that the framework should clarify how this right will impact people in Canada.

Many submissions highlighted the importance of applying a human-rights approach throughout the framework, including having clear processes and timeline guarantees, focusing special attention to addressing and preventing inequities and considering those harmed by pollution and environmental degradation.

Some respondents emphasized the need to be aware of and to respect interjurisdictional authorities during implementation of the framework, including other federal Acts, provinces, territories, municipalities and Indigenous Nations, as they also have roles in the protection of the environment and health.

Many respondents indicated the framework should incorporate Indigenous knowledge and should seek out available literature on knowledge braiding, Two-Eyed Seeing, pluralism, and meaningful consideration of Indigenous knowledge through deep engagement.

Overall, there were mixed views on how well existing CEPA activities support the protection of the right. Some submissions felt that CEPA currently considers the new principles and supports the procedural duties outlined in the discussion document, while others felt that significant improvements are needed to support the protection of the right. There were also mixed views with respect to the risk-based approach of CEPA, with some respondents seeing the right as an opportunity to expand into a hazard-based approach and others highlighting the importance of continuing to operate within a risk-based approach.

A number of submissions highlighted concerns that were beyond the scope of the development of the framework. For example, many submissions stated they would like the right to a healthy environment enshrined in the Constitution or for the right to be applicable to other federal Acts that



have a role in protecting the environment. Many also pointed to a need for further legislative reform to have clear and accessible pathways to remedy violations.

## What is the right to a healthy environment under CEPA

*In CEPA, the term “healthy environment” is defined as an environment that is clean, healthy, and sustainable. The substantive meaning of the right in the context of CEPA will be elaborated on in the implementation framework.*

Many submissions spoke about what they understood to be a healthy environment, and responses varied as to what elements should be a part of a healthy environment and what it means to have a right to a healthy environment, including that:

- There is an interdependent and harmonious relationship between humans and the environment, and it can be viewed through subjective and observable elements, such as aesthetics and visual cues for pollution.
- It should move beyond harm mitigation and include an environment that supports the ability of communities to thrive, and not simply to survive.
- It should reinforce the role of CEPA in preventing pollution and protecting human health and the environment.
- It should be framed in the context of well-being, and not only physical space.
- It should be informed by international developments that position the right to a clean, healthy and sustainable environment as a human right, such as the 2022 UNGA A/RES/76/300, including substantive and procedural dimensions, and to equity and non-discrimination.
- The understanding of a healthy environment is a process, rather than a single measurable answer, as what is understood as a healthy environment today, may not be considered as healthy as science continues to evolve and new impacts are uncovered.
- It should apply to all people in Canada, including non-citizens, such as migrants, refugees, immigrants, seasonal labourers, regardless of socioeconomic factors.

**Several submissions recommended that the meaning of the right to a healthy environment under CEPA be clear and broad. Recommendations included:**

- All living things, including **Mother Earth, plants, animals, microbes, suns, moons, spirit beings, ancestors and Sacred Places**
- Broader health impacts of extreme weather events caused by **climate change**
- **Environments where people live, learn, work, travel and play**, including both **indoors and outdoors**
- **Biodiversity and healthy ecosystems**
- Pollution should also include **noise**
- **Mental health impacts**
- Reflections of **Indigenous cultural identity** and **spiritual beliefs**
- Elements from the United Nations' [Information Note on What is the Right to a Healthy Environment](#), including **safe climate, clean air, healthy ecosystems and biodiversity**,

## safe and sufficient water, healthy and sustainably produced food and a non-toxic environment

### Reasonable limits

*As the right under CEPA will be considered in the administration of the Act, it is important to note that this right is not absolute and is subject to reasonable limits. CEPA requires that the framework elaborate on relevant factors to be considered in interpreting and applying the right and in determining the reasonable limits to which it is subject, including social, health, scientific, and economic factors that apply in the context of the different types of decisions made under CEPA.*

### Overarching messages

Many submissions expressed concerns with the fact that the right is subject to reasonable limits according to the Act, and worried that this could stall environmental progress. Another submission concerned about this fact questioned how reasonable limits would impact First Nation's right to a healthy environment, including their Inherent and Treaty Rights, and it was highlighted that taking an Indigenous (w)holistic perspective would not place limitations on addressing environmental or health risks. In addition, it was suggested that any costs associated with upholding the right (i.e., conducting research and data collection, facilitating public participation) should not be a limiting factor and that limits should not be used to excuse non-compliance with other provisions of CEPA.

In terms of determining if a limit is reasonable, many submissions recommended that the framework create a process modelled after section 1 of the Charter, as developed by the Supreme Court through what is known as the *Oakes* test.

Several submissions highlighted that some factors (health, safety, security, social and economic) are already considered in CEPA decision-making and documented through the Regulatory Impact Analysis process, as per the [Cabinet Directive on Regulation](#) Principle 1, which states: *Regulations protect and advance the public interest and support good government: Regulations are justified by a clear rationale in terms of protecting the health, safety, security, social and economic well-being of Canadians, and the environment.* Others suggested a lesser emphasis on the use of cost-benefit analysis which they perceived to create situations of "paralysis by analysis".

### When considering relevant factors

Several submissions noted that the factors to be considered may also support protecting the right. When considering the relevant factors, some respondents suggested that science should be a central factor in decision-making and should include peer-reviewed science, while others highlighted that Indigenous knowledge, alongside western science and lived experience of affected communities, should be the foundation of decision-making.

There was a range of views expressed on the balancing of factors, for example comments that human health and scientific factors need to be placed above economic factors; that environmental rights need to be balanced with economic realities; and that biases favouring human interests over those of animals need to be avoided.

It was also highlighted that economic factors could weigh in favour of public gain, rather than solely for private gain which may give undue advantage and power to corporations at the expense of a healthy environment. For example, economic factor analysis could consider the potential cost savings and benefits to future generations, such as reductions in future healthcare costs.

## Principles

*The framework will describe how considering certain principles in CEPA decision-making can be relevant in fulfilling the Government of Canada's duty to protect the right under CEPA.*

*CEPA specifies that the framework must, at a minimum, elaborate on the principles of environmental justice, non-regression, and intergenerational equity.*

### Overarching messages

Many respondents wanted to ensure that the principles have a clear definition and draw on existing work by scholars, activists and community members.

Other CEPA principles that were highlighted as relevant to consider in protecting the right include sustainable development, pollution prevention, polluter pays, and the precautionary principle. The precautionary principle was highlighted in many submissions, stating that it should be applied in the absence of scientific certainty until the necessary data becomes available, and that to uphold the principle, exposure must be prevented until proven safe. It was also suggested that incorporating Indigenous knowledge could be included within this principle to prevent environmental degradation.

Indigenous cooperation was also identified as a new principle to consider, as was the proximity principle, which was explained to mean that local knowledge and lived experience can be used to strengthen protection of the right, that decision-makers should be locally or regionally based and focus on using local and Indigenous knowledge.

### Environmental justice

*While there is no universally established definition, it was broadly proposed in the discussion document to refer to considering (within environmental contexts) 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.*

*Note: Many of the ideas submitted in relation to environmental justice also align with ideas on the procedural duties described later in this report.*

### Overarching messages

Many submissions included recommendations that the framework should be consistent with Bill C-226, [An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice](#), with respect to defining and understanding environmental justice. This also includes a definition that speaks to restorative justice, recognition justice and distributive justice. It was suggested to include historical justice as an essential component of this principle, given the historical and ongoing environmental

injustice that Indigenous peoples and other disproportionately impacted groups and communities have faced due to colonialism and industrial activities.

It was also recommended that the framework set out means to address the gap in regulatory protections for First Nations on reserves, that lead to disproportionate exposure and resultant health outcomes experienced by many First Nations.

**Suggestions of populations that may be disproportionately impacted by pollution included:**

- Animals
- 2SLGBTQI+ populations
- Women
- Pregnant people and women of reproductive age
- Black, Indigenous and People of Colour (BIPOC) and other racialized communities
- Persons with disabilities
- People experiencing poverty, isolation or other forms of marginalization
- Children
- Youth and young adults
- Occupations such as those in farming, food production, construction and housework
- Those with multiple chemical sensitivities or who are chemically injured
- Indigenous urban and rural communities
- Indigenous women
- Elderly population
- Northern and Arctic populations
- Rural communities

**Operationalizing this principle**

Many submissions offered suggestions on how best to operationalize this principle, including:

- Prioritizing actions towards those with significant potential adverse effects, such as hot spot communities and known toxic chemicals (such as PFAS, toxic flame retardants, endocrine disrupters).
- Pursuing geographically focused regulations that prevent environmental degradation, or, alternatively using national baseline standards and regulations and not implementing geographically targeted regulations to avoid creating regional inequities.
- Determining new opportunities to further disaggregate existing data to allow analysis of certain disproportionately impacted populations.
- Supporting the framework with a well-defined program to provide data and demonstrate that environmental justice is available to all people living in Canada and having health benchmarks to assess achievement.

**Intergenerational equity**

*As proposed in the discussion document, the principle of intergenerational equity in the context of CEPA emphasizes that it is “important to meet the needs of the present generation without compromising the ability of future generations to meet their own needs.”*

## Overarching messages

Although the right to a healthy environment under CEPA applies to individuals in Canada, many submissions highlighted the importance of considering the rights of future generations, and that actions taken under CEPA should effectively protect people now and in the future. It was suggested that incorporating Indigenous knowledge into CEPA decision-making processes can help uphold this principle, including looking towards long-term solutions. The Seven Grandfather Teachings, the cultural decision-making practice of Seven Generations, and passing on knowledge and perspectives to future generations, were highlighted as examples that support this principle. It was suggested that the cumulative impacts of colonialism and intergenerational trauma must be considered within the context of this principle.

It was noted that science-based decision-making also supports this principle, and is inherent in how the Chemicals Management Plan (CMP) was established and is implemented. It was suggested that increasing public awareness of existing programs, such as work on the effects of endocrine-disrupting chemicals and impacts of exposure to persistent or bio-accumulative substances, would enhance understanding of how the application of this principle is supported.

Many submissions provided considerations when elaborating on this principle, including:

- All children, including those yet to be born, should be protected.
- Future generations should have a healthier environment than current generations
- Decision-makers should consider the socio-economic opportunities of future generations.
- The long-term well-being and conservation of ecosystems, communities, and of the natural and cultural resource base should be preserved.
- The needs of future generations should be addressed while respecting the will of previous generations<sup>3</sup>.
- Long-term chemical exposures that extend beyond a single generation should be addressed.

## Operationalizing this principle

Several submissions offered suggestions on how best to operationalize this principle, including:

- Creating a checklist to be used by decision-makers throughout the CEPA cycle that would consider youth and potential impacts on future generations.
- Encouraging longitudinal studies and long-term monitoring for environmental quality and health (*also see section on Research and Monitoring to Support Protection of the Right*) and independent, community-based research on cumulative and synergistic effects, and their intergenerational impact.

## Non-regression

*The principle of non-regression is not defined in CEPA. While there is no universally established definition, the discussion document proposed that it generally refers to the notion that current levels of protection must be maintained. It may also include the continuous improvement in environmental and health protection.*

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<sup>3</sup> This was a direct quote from Erin Dobbelsten that a submitter included in their submission

## Overarching messages

Many respondents had mixed views on the meaning of non-regression such that it should focus on environmental outcomes, or that it should focus on risk. On environmental outcomes, this would mean avoiding environmental degradation. In the latter understanding, the phrase “current levels of protection must be maintained” would clarify that this relates to level of risk, and that requirements could change based on evolving science.

Some submissions expressed the hope that the framework would clarify that when the principle is adopted, it would establish a baseline of protections that cannot be reduced moving forward.

Several submissions suggested considerations when elaborating on this principle, including:

- Preventing backsliding on environmental obligations/standards, human rights protections and goals.
- Ensuring existing regulations and standards are strengthened and not weakened.
- Improving the effectiveness of regulations over time, not only to increase stringency.
- Preventing regrettable substitutions.
- Acknowledging that progressive realization can support non-regression, and that they both work towards the goal of continuous improvement.
- Aligning with Article 24.5 of the Canada-EU Trade Agreement, where a country is unable to have a trade advantage by downgrading their environmental protection law.

## Operationalizing this principle

Many submissions offered suggestions on how best to operationalize this principle, including:

- Conducting performance measurement evaluations under the CMP could provide information on the effectiveness of risk management actions for substances listed on Schedule 1.
- Revising risk management measures to alleviate administrative impacts on businesses if there are no negative impacts on the environment or health.
- Improving research and monitoring of long-term trends to determine if/when regression has occurred, including through partnerships and collaboration, local capacity building and knowledge sharing (*see section on Research and Monitoring to Support Protection of the Right*).
- Providing guidance on how, and under which justifications, regressive measures may be permitted.

A number of submissions expressed expectations of how the framework could lead to addressing specific concerns related to non-regression, such as the ability to:

- Restrict or ban of hazardous substances until full scientific analysis can be undertaken. This includes when other OECD nations deem a substance to be of concern to human health or the environment, Canada should temporarily restrict or ban the substance until Canada has examined it.

- Conduct assessments of substances on a class-basis (rather than individual substances), proactively addressing risks of new, lower priority or currently unregulated sources of pollution, such as emerging contaminants of concern.

## Procedural duties

*The discussion document proposed that procedural duties could be viewed as being mechanisms of potential relevance to the protection of the right under CEPA. In the literature on the concept of a right to a healthy environment, they typically include access to information, participation in decision-making, and access to effective remedies in the event of harm to the environment and human health.*

*While these mechanisms already exist within CEPA processes, they were included in the discussion document to encourage discussion on whether these activities could be expanded and further considered in the framework.*

### Overarching messages

While many respondents felt procedural duties are already integrated into CEPA decision-making, others felt there was a need to make improvements especially on educating and communicating on CEPA, as well as the right, the CMP and environmental health issues.

### Access to information

*Access to information supports the public in being able to hold governments accountable, to participate and engage in health and environmental decision-making, and to make informed decisions about their own health and environment.*

### Overarching messages

Many submissions encouraged the use of plain language, and clear and accessible information in all public data, tools, registries, and the framework, while ensuring that technical materials maintain their purpose and integrity. Several submissions spoke to improving accessibility, navigability, reliability, translation, and promotion of existing information sources, with the suggestion to have one well-maintained, user-friendly platform, with consolidated CEPA information. It was suggested that improvements could be made to better contextualize information for Indigenous peoples, newcomer populations, and youth.

Suggestions to improve access also included having more publicly available examples, especially ones that include enforcing compliance and testing. In addition, it was suggested to make scientific data generated through research and monitoring under CEPA available to the public, and to prioritize the provision of environmental information to areas with poor health indicators (e.g., high rates of cancer or miscarriage).

Several submissions included suggestions to require labelling of toxic substances in consumer products and a call for improvements to hazard labelling. It was also suggested that more stringent action should be taken to prevent the presence of toxic substances in consumer products in the first place so that the onus is not on individual consumers. Another suggestion included improving access to information from industry on the proper use and safe disposal of their products, and release of pollutants.

## Participation in decision-making

*To be effective, participation in decision-making should occur early and allow sufficient time for members of the public to review material and provide responses.*

### Overarching messages

Many non-industry submissions noted that engagement opportunities are not as easily accessible to stakeholders, Indigenous peoples or individuals with less capacity. As such, proactive feedback and engagement in CEPA decision-making processes should be sought out actively from youth, Indigenous organizations, other diverse age and gender groups, and other populations disproportionately impacted by pollution. There was support for the current work of the CEPA National Advisory Committee to prevent regulatory duplication, however lack of First Nations representation was highlighted as a gap. Site-specific issues and engagement with local communities can also foster engagement and lived expertise.

It was suggested that there is a need to prioritize equity in engagement in decision-making, where all voices should be viewed as equal, and decisions should not be made to favour one group over another. Some comments highlighted considering and scrutinizing stakeholder participation to avoid potential conflicts of interest. It was felt that engagement activities should be available throughout the CEPA Cycle, for example, to nominate substances for research and monitoring projects.

Views on citizen science varied from it being an unsuitable approach for implementation of the right, to there being a need for more opportunities/funding for citizen science to inform CEPA decision-making.

Several submissions called on the framework to emphasize Indigenous engagement in CEPA decision-making and to hold separate space for Indigenous engagement beyond public participation. Continued collaboration with Elders, Knowledge Keepers, and self-governments is key to interweaving Indigenous knowledge and western science together.

### Barriers to participation

Many respondents submitted comments that spoke to the barriers of participation, including the lack of funding for accessing expert resources and the lack of plain language material readily available to the public. A lack of awareness of opportunities to participate in decision-making processes, as well as a lack of clarity of who can participate in the selection and design of risk management activities were noted. It was highlighted that youth lack environmental mentorship to build capacity, knowledge levels and access to environmental experts, which are all essential to being able to engage meaningfully in CEPA decision-making processes.

## Access to remedies

*Effective remedies refer to tools that are available for the public to use if they believe that environmental damages have occurred as a result of a contravention of CEPA.*



### Overarching messages

A range of views were received on the remedies available under CEPA. Some submissions noted that the remedy to request an investigation under Section 17<sup>4</sup> is effective but can be improved, while others stated it is ineffective. Many submissions highlighted how Environmental Protection Actions under Section 22<sup>5</sup> have multiple barriers that prevent citizens and organizations from accessing them. Suggestions to improve access to remedies include providing translation services for those seeking remedies and involving those impacted to help determine appropriate remedies. In addition, it was highlighted that the onus of proving the safety of a chemical should fall onto the manufacturer and not the people who may be potentially harmed.

While many respondents felt remedies should be focused on redressing and repairing environmental harms, it was suggested that the framework should also highlight how these scenarios are mitigated.

### Barriers to access to remedies

Many submissions spoke about how access to justice is a significant barrier to accessing remedies, including the court costs and how there is no platform for communities to seek enforcement and flag violations of the right. Some found the criteria to request the Environmental Protection Action challenging for a private citizen to meet, that the time limit of two years listed in CEPA to bring an action insufficient, and that the threshold of ‘significant harm’ is difficult to prove. It was felt that more information on accessing remedies under CEPA must be available to the public, and consider the language, social and cultural barriers that Indigenous peoples are faced with in order to request an investigation of an alleged offence to CEPA. Alternate ways to pursue a remedy should be provided, in a way that is accessible and consistent with Indigenous rights, knowledge and culture.

## Enforcement and compliance

Many submissions were concerned with the lack of mechanisms to enforce the right under CEPA, and emphasized the need for measurable criteria to know if the right has been breached. In addition, several submissions highlighted that the framework should lead to better enforcement of CEPA regulations and more significant penalties for violations.

## Research and monitoring to support the protection of the right

*The implementation framework must elaborate on research, studies, and monitoring activities in support of the right.*

### Overarching messages

Many submissions expressed a desire for the framework to be explicit about how information gaps will be addressed, and the key role of sound science, alongside Indigenous knowledge. It was

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<sup>4</sup> Section 17 allows any resident of Canada who is over 18 to request that the Minister of the Environment investigate an alleged violation under the Act.

<sup>5</sup> Section 22 provides that an individual may request an Environmental Protection Action if the Minister failed to conduct an investigation and report within a reasonable time or the Minister’s response was unreasonable. The action may be brought in any court of competent jurisdiction against a person who committed an offence under the Act that was alleged in the application for the investigation and caused significant harm to the environment.

highlighted that this should be the foundation of a healthy environment and should provide the basis for reporting under the framework.

Several submissions suggested viewing citizen science distinctly from peer-reviewed, published science as another available information source. As such, these submissions encouraged increasing access to funding and resources for community-based monitoring and community-based participatory research.

### Research areas of focus

Many submissions suggested potential research areas of focus, including:

- The need for robust and sustained longitudinal biomonitoring research, including expanding birth cohort studies like MIREC, which is inclusive of socio-economically marginalized and disproportionately exposed populations.
  - Other data sets to consider include: [CHILD Cohort Study](#), [Canadian Alliance for Healthy Hearts and Healthy Minds \(CAHHM\)](#), [TARGet Kids! Research Network](#), [Canadian Partnership for Tomorrow's Health](#).
- Conducting more gender and sex-specific research, also on men from racially and ethnically underrepresented groups.
- Enhancing human and environmental health data collection and monitoring activities on First Nations lands.
- Collecting data specific to Indigenous demographics, environmental concerns and socioeconomic indicators.
- Involving participation by the groups being targeted including:
  - Engaging disproportionately impacted populations to address community-identified needs.
  - Youth, who play an essential role in monitoring environmental conditions and participating in stewardship initiatives.

### Monitoring areas of focus

Several submissions suggested potential monitoring areas of focus, including:

- Implementing mandatory, continuous and transparently reported pollution monitoring at the source of pollutants/chemicals to be toxic (e.g. benzene).
- Increasing capacity for air quality monitoring for exposures for populations that may be vulnerable to air pollution impacts.
- Addressing the gap in environmental monitoring and reporting across Indigenous communities.

## Indigenous knowledge

It was shared throughout many submissions that Indigenous knowledge should be respected and considered in all parts of research, studies and monitoring to inform and enhance decision-making. Suggestions included:

- Including Indigenous communities from the onset to participate in monitoring programs and reporting environmental violations.

- Indigenous populations providing their own data, knowledge and insights pertaining to their traditional territory.
- Conducting longitudinal studies with Indigenous peoples, which can support serving communities.

It was highlighted that data collection must align with the principles of ownership, control, access, and possession (OCAP), utilize decolonial method, and integrate Indigenous ways of knowing. In addition to quantitative data, qualitative data collected through storytelling, foretelling, talking circles, and traditional knowledge should be gathered to inform decision-making. The integration of Indigenous knowledge data, and monitoring should utilize a distinctions-based approach.

## Measuring progress

Many submissions emphasized the importance of being able to measure progress as it relates to considering the right in the administration of CEPA. Suggestions included leading Indigenous consultations to measure effectiveness of the framework, and using indicators like the Canadian Environmental Sustainability Indicators and the Water Quality Index to establish baselines against which progress in protecting the right can be measured. It was also suggested that tailored metrics may be necessary for vulnerable environments of specific ecozones.

It was also suggested to create a supplementary annual public engagement report that could include an evaluation and analysis of the right.

## Annex A

The following questions were posed within the discussion document to gather feedback to help inform the draft implementation framework.

### Definition and scope of the right to a healthy environment in CEPA

1. What does a healthy environment mean to you in the context of the CEPA cycle?
2. How would you know if your environment is healthy?

### Reasonable limits

1. How would you see these factors to limit the consideration of the right being taken into account when making decisions under CEPA?

### Principles

1. Are any of these principles and the way in which they can contribute to the protection of the right to a healthy environment under CEPA unclear?
2. Are there other opportunities within the CEPA management cycle to consider these principles and strengthen the protection of the right?
3. Are there other principles within CEPA that could be considered as part of the framework?

### Procedural Duties

1. Are any of these procedural duties unclear?
2. Are there other opportunities within the CEPA management cycle to consider these procedural duties and strengthen the protection of the right?
3. Are there other procedural duties that could be considered as part of the framework?

### Proposed approach for the framework

1. Recognizing that implementation will be progressive and incremental, should the framework prioritize certain activities under CEPA or focus on more general improvement? What would you like to see prioritized?
2. Given that the framework will need to elaborate on research, studies and monitoring to support protection of the right, are there any particular areas of importance related to these activities that should be considered?
3. What information would you need to see to feel confident that the right set out in the framework is being protected in CEPA decision-making? Are there specific actions that should be taken to assess this?

### Indigenous rights

1. How can the right to a healthy environment under CEPA support the priorities of First Nations, Inuit, Métis, Modern Treaty Partners, and Self Governments?
2. How can the framework meaningfully consider Indigenous knowledge systems bring them together with western knowledge systems to inform science, policy, and program decision-making?
3. Are there specific distinctions-based elements you would like to see incorporated into the implementation framework?