

The new *Canadian Environmental Protection Act*

Public Participation in the new CEPA

Further information:

Internet:

Additional information on the *Canadian Environmental Protection Act, 1999* is available on Environment Canada's Green Lane on the Internet at: www.ec.gc.ca/cepa

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How are opportunities for public participation enhanced in CEPA 1999?

The renewed *Canadian Environmental Protection Act, 1999* (CEPA 1999) includes provisions that strengthen the Government of Canada's commitment to encourage and support public participation in environmental decision-making. The Act includes a section that specifically addresses enhanced opportunities for public participation, including:

- information-sharing through the Environmental Registry,
- the right to request that the Minister investigate an alleged violation of the Act,
- new citizen right-to-sue provisions, and
- enhanced whistle-blower protection.

CEPA 1999 also gives members of the public the opportunity to participate in many decisions taken on toxic substances, including:

- the right to request the addition of a substance to the Priority Substances List,
- the right to file a notice of objection and to request a Board of Review, and
- the right to provide comments on various initiatives.

What is the Environmental Registry?

The Environmental Registry, required under Section 12 of CEPA 1999, is a key instrument in fulfilling the government's commitment to

encourage public participation by providing timely and comprehensive access to public documents relating to the administration of the Act.

The Registry is a comprehensive on-line source of relevant documents, including policies, guidelines, regulations, orders, agreements, notices, and permits. It provides up-to-date versions of current CEPA 1999 instruments and enables the public to monitor the progress of instruments, including Regulations and Orders, from their proposal stage to final publication in Part II of the *Canada Gazette*. Finally, it provides a timely identification of opportunities for stakeholder input.

The Registry facilitates access, directly and through search capabilities, to documents and other information related to CEPA 1999. The Environmental Registry increases opportunities for the Canadian public to find out about and understand federal activities in the administration of CEPA 1999 and to participate in consultation and decision making under the Act.

How can the Environmental Registry be accessed?

The Environmental Registry is an on-line resource that will be accessible to the public upon proclamation of the Act. It can be found on the Green Lane, Environment Canada's Internet site, at:

www.ec.gc.ca/CEPARRegistry

The content and structure of the Registry will continue to evolve as new documents are added and as improvements to facilitating access are identified and implemented.

What are the whistle-blower protection provisions?

CEPA has always included provisions to protect individuals voluntarily reporting possible offences or violations of the Act; however, this protection was previously restricted to employees who are regulated under federal law. CEPA 1999 now expands this protection to all employees. It also contains a provision allowing a person who reports an alleged infraction under CEPA 1999 to request that his/her identity not be disclosed. The Act states that it is an offence for an employer to discipline, harass or dismiss an employee who, in good faith:

- reports an alleged offence under the Act,
- refuses to conduct activities that would be illegal under the Act, or
- declares his or her intention to comply with the Act.

What are the provisions that allow for investigation of offences?

Section 17 of CEPA 1999 allows any resident of Canada who is over 18 to request that the Minister of the Environment investigate an alleged violation under the Act. This is an improvement over a similar provision in CEPA 1988 that required a complaint to be signed by two people before an investigation would be initiated. The Minister is compelled to carry out that investigation and to report on its progress to the person who reports the alleged infraction.

What if the person is not satisfied with the response to his/her request for an investigation of an offence?

Should the Minister fail to conduct an investigation, or respond unreasonably, and if there has been significant harm to the environment, then the individual may proceed with a civil law suit called an “environmental protection action.” In such cases, action under right-to-sue provisions of the Act would be launched against the person that allegedly committed the offence. An individual who launches an environmental protection action may ask the court to:

- declare how the law governs the matter;
- require the defendant to stop the action that caused the alleged offence or to take steps to prevent a continuation of an offence;
- order the parties to negotiate a plan to correct or reduce the harm to the environment; and
- grant appropriate relief such as costs that the individual incurred in bringing the suit forward, but not damages.

If the court is not satisfied with the first attempt to develop a plan to correct or reduce the harm, it may order the parties to negotiate another plan, or may appoint a person to draft a plan.

