

BACKGROUND LEGISLATIVE REVIEW OF CEPA 1999

The five-year review of CEPA 1999

The *Canadian Environmental Protection Act, 1999 (CEPA 1999)* includes a provision requiring that the Act be referred to Parliament for review five years after its entry into force. The review will cover both the operations and the provisions of the Act. Given that the Act came into force March 31, 2000, it must be referred to the House of Commons by March 31, 2005, and the review will begin sometime thereafter.

The Canadian Council of Ministers of the Environment (CCME) is the major intergovernmental forum in Canada for discussion and joint action on environmental issues of national and international concern. At their meeting in Victoria in November 2003, Ministers agreed that the CCME would serve as a forum for provincial and territorial government input into the five-year Parliamentary review of CEPA 1999.

While it is a Parliamentary committee which will undertake the review of the Act, the federal Ministers of Health and of the Environment intend to provide their advice to the committee, focusing on issues relevant to the legislation, and options to deal with these issues. Environment Canada and Health Canada are consulting broadly to gather the views of, provinces and territories, aboriginal governments, other federal government departments and stakeholders on CEPA 1999.

The Parliamentary committee will complete its review and submit a report to Parliament on the changes it recommends to the Act and/or its administration. From the point of tabling the report in Parliament, the Government of Canada will have 150 days to respond to the recommendations made by the Parliamentary committee. During the 150-day period, the federal government will consult with provinces and territories on the Parliamentary committee's recommendations.

If the report and government response call for changes to the legislation, the final phase will consist of either amendments or a new bill, which will follow the normal Parliamentary process. Given these timelines, a revised CEPA would not be expected to come into force before 2008 at the earliest.

Since January 2004, provincial and territorial officials have worked with Environment Canada and Health Canada to identify and analyze issues related to CEPA 1999 and its implementation, and possible options for addressing them. The two Departments have discussed with various groups their views on the experiences they have had with CEPA 1999 since its inception. The discussions have included federal departments, provinces and territories, aboriginal people and key industrial and non-governmental stakeholders. A discussion paper will be used to engage interested Canadians over the next few months to inform the advice that the Ministers will give to Parliament as they move for CEPA 1999 to be reviewed by committee.

CEPA 1999

The *Canadian Environmental Protection Act* was first created in 1988 and was a consolidation of various pieces of 1970s environmental legislation. Included in the consolidation were part of the *Clean Air Act*, the *Environmental Contaminants Act*, the *Ocean Dumping Act* and the *Canada Water Act*.

CEPA 1999 added many new Ministerial authorities and obligations, including:

- adding requirements for environmental quality research;
- placing new requirements on risk assessment and risk management of toxic substances (such as legislated deadlines);
- strengthening an approach for pollution prevention;
- introducing a number of new enforcement tools, such as Environmental Protection Compliance Orders (EPCOs);
- setting a federal benchmark for assessing and managing health and environmental risks for biotechnology;
- strengthening authorities for environmental action governing federal departments and agencies;
- assuming responsibility for authorities to set standards for vehicle and other small engine emissions;
- taking over authorities from the *Transport of Dangerous Goods Act* to manage the interprovincial movement of hazardous wastes; and
- requiring the establishment and maintenance of a public registry of information related to CEPA 1999.

In addition to these authorities, CEPA 1999's broad scope includes provisions for:

- controlling Canadian sources of international air and water pollution;
- controlling the international movement of hazardous wastes;
- regulating the disposal of wastes and other matter at sea;
- regulating environmental matters related to emergencies; and
- regulating the environmental effects of federal government operations and protecting the environment on federal and Aboriginal lands.