



Sustainable Youth Canada Comments on the Draft Implementation Framework for the Right to a Healthy Environment under the Canadian Environmental Protection Act, 1999

Written as part of the Consultation on the CEPA Right to a Healthy Environment Draft Implementation Framework



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Introduction

Sustainable Youth Canada (SYC) is a 100% youth-led non-profit with members aged 14 to 26 from across Canada. Together we reviewed the [Draft Implementation Framework for the Right to a Healthy Environment under the Canadian Environmental Protection Act, 1999](#), hereby referred to as “the framework”, and have compiled our feedback and suggestions as youth. This report was written as part of the public consultation period for the framework, and was supported by Environment and Climate Change Canada (ECCC) and Health Canada (HC). In this report we will refer to the Canadian Environmental Protection Act, 1999, as CEPA. We will make reference to this Act as well as others that are closely related and provide additional environmental protections in Canada. The right to a healthy environment under CEPA will also hereby be referred to as “the right”. Our feedback and suggestions are sorted by priority. Throughout this report, real case studies throughout Canada are used to highlight the issues faced by the public when it comes to their right to a healthy environment.

Methods

To create this report, SYC hired two members part time during the fall of 2024 to develop a comprehensive consultation workshop for youth (ages 14-30), breaking down information about CEPA and the right. They conducted a literature review and held internal review sessions to understand the policy, then coordinated with existing SYC chapters, partner organisations, and highschools to host the workshop, along with local field trips to ground these concepts with real examples.

Our workshops emphasized being informative, accessible, age-appropriate and entertaining. HC and ECCC employees met with the SYC team to help work through some of our questions in the development of our workshop. We held sixteen workshops online, in highschools, and in community centers, engaging youth from 9 provinces (Newfoundland and Labrador, Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Ontario, Saskatchewan, Alberta, and British Columbia). In tandem, our team held three internal review sessions between October and December, where twelve SYC and two Break the Divide members were asked to read sections of the framework, and add any feedback or questions about its contents.

Seven workshops were in-person in Quebec, five were in Ontario (two of which were online), one was in Atlantic Canada online, and our partner Break the Divide led one workshop in Saskatchewan and one with participants online from across Canada. Montreal’s SYC chapter led a local field trip to explore a new proposed industrial development called Northvolt to accompany their workshop activity. In total 294 youth were engaged in our consultations. This report is complemented by a workshop report highlighting the main findings from our highschool workshop consultations. The workshop material is accessible online for educators on Sustainable Youth Canada’s website.

This work was made possible with funding from ECCC and HC.



1.0 Major Feedback and Suggestions

1.1 Access to information

Throughout this consultation process, we have found it hard to access and interpret information on the current levels of pollution and environmental health in our communities. Despite being aided by government officials from ECCC and HC during this process, there was still information and documents that we knew existed, yet we could not find published online.

In particular, it was hard to access and understand information on how pollutants were being controlled or managed under CEPA. We suggest 1) verifying and updating current information on the CEPA Registry while making it more accessible, 2) creating new avenues of public communication, 3) adding guidelines to ensure the new right to a healthy environment portal is accessible, 4) improving the accessibility of research on the right, and 5) making the National Pollutant Release Inventory (NPRI) and Canadian Environmental Sustainability Indices (CESI) dashboards more accessible. In order for the right to a healthy environment to be respected, it is crucial that **all people in Canada can quickly and easily access this information on their own.**

Case Study | Horne Smelter in Rouyn-Noranda, Quebec

Rouyn-Noranda, Quebec is home to the Horne Smelter (Glencore Canada), where old materials are recycled to extract copper. This process emits chemicals such as arsenic, nickel, sulfur dioxide, lead and cadmium into the air. In 2021, the Government of Quebec permitted the Horne Smelter to release arsenic emissions of 100 nanograms per cubic meter, despite the provincewide standard being 3 nanograms per cubic meter.

After outcry from the community, the Government of Quebec announced new regulations to reduce their arsenic emissions to 15 nanograms per cubic meter by 2027, still three times the provincial limit. There is an [ongoing class action lawsuit](#) claiming that the “toxic soup” emitted by the Horne Smelter is a violation of the fundamental rights of the people living in the area. Now down to 45 nanograms per cubic meter from March 2023 to 2024, there is [still uncertainty to Glencore’s self-reported progress](#).

Arsenic is a Schedule 1 toxic substance and is thus managed under CEPA. Despite the Horne Smelter being managed mostly by the Government of Quebec, the people of Rouyn-Noranda should still be protected by the right to a healthy environment.

When we were interested in finding information on what regulations may apply to the arsenic emissions from the Horne Smelter under CEPA, we faced many roadblocks:

- The [base metal smelters sector: environmental performance agreement](#), the main piece of CEPA legislation that currently applies to the Horne Smelter, was not easily found on



the CEPA Registry, as it's only linked under "Environmental performance" in the "Find a document" tab, and not under the substances list. This also does not cover arsenic directly, only sulfur dioxide and particulate matter. The [base metal smelters \(Glencore\): environmental agreement](#) does not appear to be linked anywhere else, and again has no information about arsenic.

- Nowhere does it state that the environmental performance agreement is an unenforceable regulation. We felt that this information was important, but was unclear in the existing documentation.
- The environmental performance agreement states that companies in the performance agreement should work to implement the recommendations in the [environmental code of practice for base metal smelters and refineries](#), where arsenic is listed under Section 4.2.9 as having a suggested regulation of 0.3 nanograms per cubic meter every 24 hours, but no annual total is listed. The NPRI reports arsenic as an annual total, making it impossible to assess compliance. Management tools related to arsenic are not listed or recommended on the environmental performance agreement.
- The environmental performance agreement links to the [pollution prevention planning notice for base metals smelters and refineries and zinc plants](#), which is no longer in effect.
- The toxic substances list page for [inorganic arsenic compounds](#) has a broken link to the [Priority Substances List Assessment Report](#). This page also references the outdated pollution prevention planning notice.
- The only [toxicity assessment](#) done on arsenic is from 1993 (32 years ago), and is on an archived page, with the link in the Toxic Substance List broken. **No newer information has been considered by CEPA that could improve the current guidelines and there does not seem to be an intent in reviewing the toxicity assessment** in the near future.

In order to confirm all of the CEPA guidelines in place, we had to consult with experts at ECCC and HC, who themselves had to search for this information as it was not readily accessible. The general public does not have access to these internal resources, and would be even more lost on finding information about the Horne Smelter and risks of arsenic emissions. This is clear evidence that **the access to information must be improved to uphold the right.**

1.1.1 Verifying and updating current information on the CEPA Registry while making it more accessible

As outlined in the case study above, there are many problems with the CEPA Registry that make accessing information on pollutants, human health, and environmental health difficult. In the framework, we acknowledge efforts laid out in Section 2.2.1 that represent how the government could provide access to information under CEPA, **however these are not all currently applied**, as explored above. We would like to see the framework include a statement to acknowledge



existing shortfalls and areas for improvement, namely information not always being accessible or interpretable, and outline what steps will be taken to improve this.

In Annex 2, we feel that the listed suggestions for decision makers do not address many of the current shortfalls to accessing information under CEPA, like outdated information. We suggest adding **more guidance on how ECCC and HC can make information more accessible** and relevant for the average person, and would welcome the inclusion of our suggestions below. On the CEPA registry, we would like to see:

- Interpretation keys with the important scientific and policy information broken down in plain language for better understanding by the public, including information on public health and environmental health;
- A legend explaining of what the different kinds of legislative mechanisms are and whether they are enforceable or unenforceable (Environmental Performance Agreements, Codes of Practice, Performance Agreements, etc.);
- More streamlined substance search option, where the CEPA emissions guidelines are stated clearly without the need to go into the wordy documents;
- Information on potentially harmful chemicals that have not yet been reviewed being accessible from the toxic substance list, including the Plan of Priorities;
- Reference to external policies and acts clearly explained in plain language, including how those acts have potential to overlap or conflict with the jurisdiction of CEPA;
- Navigation guide for the Registry, so that a person who has never used the website before can easily navigate the different tabs and searches;
- Short, plain language summaries of all documents;
- Transparency and disclaimers on any documents that have not been updated in over 10 years;
- Human and environmental health concerns listed under each of the Schedule 1 toxic substances, including how the substance can spread in the environment, and what measures can be taken to avoid contamination;
- All current legislations in effect for each of the Schedule 1 toxic substances, including environmental performance agreements, and if the CEPA management plans are not enforceable, what the public can do to access justice or remedies if exposed;
- All links and document attachments reviewed so that there are no broken links, and all information is up to date with the most recent guidelines;
- Links to tools which track current environmental conditions such as NPRI and CESI.



1.1.2 Creating new avenues of public communication

We suggest that decision-makers always **meet people where they are at**. During our consultations, people assumed that if they were curious about hazards in their environment, they would find information relevant to them on their township or municipality websites, through traditional media, or on social media. For youth, finding this information can be particularly difficult if they lack knowledge of CEPA or other legislation. To address this, we suggest that if hazards are present, that ECCC and HC **communicate age-appropriate information** to schools in affected areas to have information dispersed to students, or through the other avenues mentioned above. This would also work to uphold intergenerational equity.

1.1.3 Adding guidelines to ensure the new right to a healthy environment portal is accessible

We are happy to see the inclusion of a new CEPA right to a healthy environment portal on the CEPA Registry. We see this as a large step forward to protecting the right to a healthy environment under CEPA. Beyond the improvements to the CEPA Registry outlined in Section 1.1.1, which should all also apply to the new portal, we would like to see Section 8.0 of the framework to **include more details on what the portal could look like and what information we can expect to see** on it. We suggest including the following information on environmental and health hazards directly on the portal:

- Links to existing databases such as the NPRI or CESI;
- What factors make a person more or less vulnerable to hazards, to uphold environmental justice;
- What can be expected to happen once you send an email to the new address on the portal (timeline for a response, how ECCC and HC use your data, etc.);
- Navigable, plain language information.

We would also like to see the portal be visually accessible, without long blocks of text, using interesting and informative colours, images, interactivity, and explaining all concepts in plain language. We define accessibility as thinking thoughtfully about how people with various disabilities can access information. We would also like to see Section 8.0 expand on how information will be accessible to people living in rural or northern communities without reliable or fast internet connection.

An example of a user-friendly website is the Canadian Council of Ministers of the Environment's [Canada's Air website](#). The interactive maps allow people to see information relevant to their communities, and the website combines information on management and hazards, with plain language explanations and a human health focus. During our consultations with 294 youth from across Canada, this was a consistently important priority they often mentioned (see our combined workshop report with Break the Divide for details).



1.1.4 Improving the accessibility of research on the right

In Annex 1, we are pleased to see the inclusion of new research and monitoring mechanisms to support access to information. However, it is not clear how the addition of a question related to the right in the research proposal templates will help to implement the right. We suggest that this be accompanied by a **commitment to fund projects that clearly support the right and its principals, so that this research makes up at least 10% of total research project funding undertaken by CEPA**. Priority should be given to projects that focus on environmental justice, to address the current gap in scientific knowledge about marginalized communities. To support reporting and access to information, we suggest that it be a requirement of all approved research projects related to the right to communicate their results in plain, accessible language to the public. This could be done through the new proposed portal on the CEPA Registry.

1.1.5 Making the NPRI and CESI dashboards more accessible

The NPRI and CESI dashboards are two of the best currently available resources for the public that provide information on environmental health. We view these as a key area that the framework can outline **improvements to existing access to information mechanisms**, and were pleased to see improvements to the NPRI dashboard included in Annex 1 of the framework. In particular, the interactive maps [Map of NPRI Facilities](#) and [Interactive Indicator Maps](#) are intuitive to use and provide information relevant to concerned members of the public. We suggest the following be added to both the NPRI and CESI dashboards:

- Units which include how the indicators are calculated and collected (for example, yearly average or total, reported by industry or collected by ECCC);
- Units harmonized to the ones used in CEPA guidelines, so that the public can better understand the levels of pollution in relation to CEPA legislation;
 - For example, both the NPRI and CESI maps have lead emissions to air measured in kg, while CEPA legislation like the [Secondary Lead Smelter Release Regulations](#) have lead release guidelines in grams per normal cubic meter; it would be helpful if these were the same units.
- Consistent colour categories that are representative of the legislation in place, with the explanations of the categories provided;
 - The CESI map has six colour categories (purple, blue, green, yellow, orange, and red) to represent the severity of the given indicator. We suggest that the colour categories represent levels of compliance with guidelines in place through CEPA, for example, red exceeds guidelines for a certain indicator, orange is at the guideline, yellow is 10% below the guideline, etc.). Currently there is no legend explaining what the colors are based off, making their interpretation difficult. The same colour categories should be used in the NPRI dashboard to provide context on the values reported.



- Regulations or guidelines in place for each indicator;
 - We would like to see the current release CEPA guidelines or regulations directly in the dashboards. For example, when lead is clicked on either map, the current levels suggested by CEPA to be satisfactory should pop up, as well as a link to the full legislation in place.
- Any and all controlled substances which have the potential to be pollutants;
 - Some substances, such as arsenic, are not included on the CESI dashboard despite posing an environmental and public health risk.
- Census tract data (average household income, racial identities, etc.);
 - The inclusion of these socio-economic indicators to the current interactive maps would support access to information for environmental justice to be upheld.

Additionally, we suggest that more granular data be collected and made accessible for the NPRI. Currently, the data is reported yearly by polluting industries, which itself poses a conflict of interest. We would like to see information on large releases that occur more frequently (daily, weekly, or monthly). For example, if a refinery released large amounts of toxic air over 24 hours, this would be concerning for nearby communities, but would be unnoticeable on the maps due to it being hidden within a yearly average where most days do not have any releases.

1.2 Access to effective remedies in the event of environmental harm

In order **for remedies to be equitable, they should consider if environmental harm is done to populations who may be disproportionately impacted by pollution.** We would like to see more guidance in how the right and its accompanying principles can be interpreted while creating pathways to effective remedies. We suggest including 1) non-legal remedies accessible to harmed members of the public, 2) transparent policy to address public concerns through the new right to a healthy environment email, 3) the creation of a third-party mediary for crisis response, and 4) more guidelines to enforce Administrative Monetary Penalties (AMPs) to polluting industries, with benefits going to those impacted.

Case Study | Irving Oil Refinery in Saint John, New Brunswick

The Irving Oil Refinery in Saint John, New Brunswick is Canada's largest oil refinery. It is also one of the biggest polluters ([NPRI ID 4101](#)) reporting significant releases to the air of greenhouse gasses, carbon monoxide, fine particulate matter, respirable particulate matter, nitrogen oxides, total particulate matter, sulfur oxides, and volatile organic compounds, as well as significant releases to the water of lead, among other pollutants. In the past eight years alone it has been responsible for a [butane leak](#), an [explosion and fire](#), [large releases of particulate](#)



[matter](#), and the [release of a mystery substance](#) into nearby neighbourhoods. After improperly treated effluent was released into the nearby Saint John River by Irving Pulp and Paper between 2014 and 2016, they were handed one of the [largest AMPs in Canadian history](#) for three Fisheries Act offences. **Irving has not recently been fined for any violations under CEPA, and no impacted communities were remediated through the Act.**

On the CEPA Registry, the link to information on the Schedule 1 toxic substance [particulate matter containing metals that is released in emissions from copper smelters or refineries, or from both](#), is broken. The [Canada-wide standards for particulate matter and ground-level ozone](#) link is also broken. This highlights the above mentioned issues with access to information.

Saint John is also one of the poorest cities in Canada, with [32.4% of its children living in poverty](#). Many of the [poorest neighbourhoods are the ones most affected](#) by Irvings operations, both from the Irving Oil Refinery and Irving Pulp and Paper. Remedies are not often given to those experiencing environmental harm. Although [Irving bought some homes affected by the 2018 butane leak](#), relocation is not always welcome, and others in the neighbourhood were not even given the option.

Complicating matters further, Irving and its related companies [employ 1 in 12 people in New Brunswick](#). Employees may not want to speak out about the hazards created by Irving Oil Refinery in fear of retaliation. This is a problem when the burden of proof for environmental injustice and harms is on the public. Despite a lack of complaints directly to CEPA, remedies should still be made available when there is a clear pattern of environmental damage evidence.

1.2.1 Non-legal remedies accessible to harmed members of the public

Despite being a major concept in the framework, it is **still hard to see a clear pathway for how a member of the public may access remedies in the case of environmental harm, outside of legal action**. Since there has only ever been [one successful legal case under CEPA](#), and the barriers to accessing legal representation are often high, we suggest that the framework outline non-legal remedies available to the public. These could include:

- Access to emergency short-term and long-term medical care in the case of impacts to human health;
- Funding for legal representation;
- Assistance in navigating options for justice from someone familiar with CEPA legislation;
- Access to environmental or health testing kits or other resources so that concerned members of the public can gather evidence of environmental and human health harm in a timely manner.

Unacceptably, in Annex 2, access to effective remedies in the case of environmental harm is not mentioned. We suggest that guiding considerations for this procedural element be added:



- Considering immediate remedies to go alongside long-term justice processes;
- Increased remedies for populations who may be disproportionately impacted by pollution;
- Reducing risk of harm for future generations.

After a substance is added to the Toxic Substances List, it could still take over two years for any management instrument to be put in place. We suggest that the framework add physical support mechanisms that CEPA could make available to impacted people within this intermediary period where they are still at risk of exposure.

1.2.2 Transparent policy to address public concerns through the new email

Although the proposed new email address for the right mentioned in Section 8.0 of the framework is welcomed, it is **not clear what will happen if you write to express that your right is being violated**. We suggest adding:

- An automatic response to any submission including an outline of what can be expected in response and other options immediately available to the submitter;
- Strictly enforced mandatory response written by a member of ECCC or HC within 30 days;
- Clear timelines for escalation measures if an email expresses that the right has been violated;
- Policies to bring an issue to the front of CEPA priorities after a certain number of emails regarding it are submitted;
- Transparency in how the submissions will be addressed (first come first serve, based on urgency, or another process);
- The option to submit complaints anonymously to avoid retaliation by industry, with whistleblower protection.

To facilitate the swift response of CEPA managers when there is public concern about environmental health, we suggest that the framework **commit to mapping areas of highest concern** where pollution is a known problem (for example, the locations mentioned in the above case studies). If an email comes from one of these high risk areas, it would be prioritized for response. Additionally, these high risk areas could include areas containing populations who may be disproportionately impacted by pollution, to promote environmental justice. High risk areas could also be monitored more frequently for compliance, to avoid any conflicts of interest or external factors that lead to a low public reporting rate.



1.2.3 A third-party intermediary for crisis response

Especially for youth, the barriers to accessing remedies are very high, especially due to unfamiliarity with CEPA legislation or navigating government websites in general. If the right has been violated, there often needs to be an immediate response that is not possible with the current remedy mechanisms. We suggest that as part of CEPA's enforcement mechanisms (Annex 2 of the framework), **a third-party organization is funded to give unbiased, accessible responses to those affected by environmental crises, promoting access to justice and access to information about the right.** These third-party crisis responders could provide non-legal remedies as mentioned in Section 1.2.1 of this report, or could work in tandem with CEPA enforcement officers to explore management and remedy opportunities. We suggest that the framework could consider actionable items such as the mapping of existing local organizations which could provide support, a commitment to funding these organizations, or a promise to create an independent group in this vein.

1.2.4 Guidelines to enforce AMPs

The framework currently does not mention the Environmental Violations Administrative Monetary Penalties Act. We suggest that in Section 6.1 and Annex 2 of the framework, that there be an **explicit mention of how the right will impact AMPs.** Although this is an act external to CEPA, we believe it is within the scope of the framework to give guiding considerations to enforcement officers on how violations of the right be incorporated into AMPs. **This would help equip AMP officers with the new concepts outlined in the framework rather than leaving it up to their interpretation.** We suggest:

- Violators of the right be fined regardless of if they have exceeded other CEPA regulations;
- Violators of environmental justice, intergenerational equity, and non-regression be given higher penalties;
- Violations that impact populations who are disproportionately impacted by pollution be given higher penalties;
- A percentage of the penalty be given to those impacted by the violation, to access remedies without the need for legal action;
- The size of the penalty should be determined as a function of the violator's profits during the time of violation and the impact to the community.

1.2.5 Remedies for substances with non-enforceable instruments

During the process of this consultation, we were surprised to see how few enforceable instruments CEPA applies. In cases where non-enforceable instruments (performance agreements, codes of practice, guidelines, etc.) are chosen, and there are no measures in the case of environmental damage beyond what is agreed, we suggest that the framework clearly



outline how the right will be upheld and remedies will be given for affected members of the public. We suggest that these include mechanisms that directly support the impacted communities.

1.3 The CEPA management cycle

An important part of this implementation framework is to ensure that having **the right to a healthy environment under CEPA makes a concrete difference in the lives of people in Canada by providing new protections for their health and the environment**, and does not leave loop-holes for existing policies to simply be repackaged under a new name. We suggest including 1) stronger wording in guidelines for the CEPA management cycle, 2) a new cost-benefit analysis (CBA) guide specifically for the right within CEPA, and 3) improved cross-jurisdictional communication and collaboration in enforcement. Although some environmental justice components and elements of the right have been implicitly been considered in the CEPA management cycle by officers and officials before, we would like to see these much more clearly laid out, to **not leave room for the right to be brushed aside** in decision-making processes.

Case Study | Planned Northvolt battery plant in McMasterville, Quebec

New plans for a [multi-billion-dollar electric vehicle battery plant](#) near Saint-Basile-le-Grand and McMasterville, Quebec is causing a conflict of environmental interests in the province. The 170 hectare development will provide jobs and add to the emerging green economy. However, local public opposition is highlighting that [investments from the federal and provincial governments](#) propelled the project forward [without a proper environmental impact assessment and public hearing before the Bureau of Environmental Public Hearings](#).

Although these are processes through the Government of Quebec, the people nearby the development site still have the right to a healthy environment under CEPA. Since CEPA is the baseline environmental protection that applies in all provinces and territories, it is the **responsibility of CEPA lawmakers to ensure that the right is being upheld if provincial governments act improperly**. There has been a failure in this case to uphold local communities' participation in decision-making.

Residents in nearby communities have [many environmental and health concerns](#) about the development. They are concerned about the destruction of wetlands to build the Northvolt battery plant, the potential of soil contamination from production activities, and the use of water from the nearby Richelieu River to cool facilities and then be released back to the environment. The river is home to endangered species such as the copper redhorse, and leads to the St. Lawrence river, home to the endangered St. Lawrence belugas. Additionally, it also provides drinking water for residents. [Previous industrial contamination](#) at the site is also still affecting run-off to the Richelieu River today, and has not been remediated.



There has also been a [lawsuit against the Government of Quebec](#) filed for their failure to create a public register for environmental information which was promised in 2017. Without access to information through this proposed provincial portal, and an overall lack of information on the site and proposed activities through CEPA, concerned members of the public were forced to make requests for access to information. These were still incomplete, and represent a real example of when an accessible right to a healthy environment portal would be crucial to upholding the right. Information about the development is still inaccessible through any CEPA databases.

1.3.1 Stronger wording in guidelines for the CEPA management cycle

Much of the wording in the framework, especially in Annex 1, alludes only to where the right *could be* implemented. **This leaves open the possibility of the right never truly being considered**, especially if there is ambiguity in the guidelines. We would like to see the framework be clear on when the right *has to be* considered in the CEPA management cycle (we believe this should be at every step of the cycle). Although we acknowledge that CEPA has its limitations in its enforceability, we see the CEPA management cycle as an area that can and should be heavily implicated with the right.

Additionally, we would like to see Annex 1 include more examples of how the right will be considered in the CEPA management cycle. However, **many areas of the framework say that the right should be considered, but not how it could be**. We suggest that the following be added to Annex 1 or throughout the framework for clarity:

- Research and monitoring:
 - What types of new question or questions will be added to the research proposal templates;
 - Increased research on environmental baselines to ensure that all environmental damage can be accounted for and the right can be upheld if regression occurs;
 - More emphasis on preventing environmental damage so that the right is never violated, instead of dealing with the impacts after a violation;
 - Clear guidelines on what is considered a reasonable limit to spending on additional but necessary research and monitoring to uphold the right;
 - A commitment to increase long-term studies to address cumulative effects of a substance on future generations.
- Risk assessment:



- Allow the public to request for the reassessment of substances which were added to the toxic substance list over 20 years ago and have not been updated since (for example, arsenic);
- Allow the public to request that additional research be done into cumulative effects or effects on populations disproportionately affected by pollution, if they were not considered when a substance was originally assessed.
- Risk management:
 - Clear examples of how the right will be considered in the Instrument Choice Framework;
 - Publishing [Regulatory Impact Analysis Statements](#) in the new right to a healthy environmental portal for better access to information;
 - A new pathway for already assessed substances to have their management plans evaluated for compliance with the right and adjusted if necessary.
- Compliance promotion:
 - Explicit suggestions for increased consequences if the right is violated;
 - Increased compliance promotion tools for offenders of environmental justice, non-regression, or intergenerational equity.
- Enforcement:
 - Remove barriers for members of the public to bring forward lawsuits when their right has been violated, such as providing funding for legal costs or a dedicated legal team;
 - Clear framework for applying the right to enforceable mechanisms.
- Performance measurement, evaluation, and reporting:
 - Explicit ways in which the Performance Measurement Evaluation Strategy will consider the right and its principles;
 - Guidelines to measure if the right is being upheld by CEPA policies.

We would like to also acknowledge that Section 7.2 of the framework is thorough in its explanation of how the right will be applied to CEPA research and studies. We are thrilled to see that bioaccumulation is included here as it promotes intergenerational equity. We would like to see other areas of the CEPA management cycle similarly considered, particularly enforcement and compliance measures.



1.3.2 A new CBA guide for CEPA

It is clear that the introduction of the right has created a new lens by which enforcement officers must work under CEPA to weigh the costs and benefits of activities in Canada. To facilitate this transition and ensure that the right is always interpreted in the same way, we suggest the creation of a CBA guide for the right, similar to the current [economic CBA guide](#) that is used to consider relevant economic factors under CEPA. **This should take into consideration the intrinsic value of ecosystems and health, both environmental and human, that economic factors often exclude.** Considering not all destroyed or contaminated environments can be rehabilitated after harm occurs, it is crucial that the right is administered in a way that protects humans and the environment.

1.3.3 Cross-jurisdiction communication and collaboration in enforcement

One of the shortfalls of the right only being considered under CEPA is that other federal legislation often supersedes CEPAs in certain contexts (for example, the Fisheries Act takes precedence when there are releases of a CEPA Schedule 1 toxic substance to water). Additionally, provinces and territories have their own environmental laws that work in tandem to CEPA. In each of the case studies mentioned above, the provincial and territorial governments play a large role in overseeing pollution prevention and management, as well as in project planning. However, even in these cases, we would like to see the framework clearly express that the right to a healthy environment is still applicable, and allow members of the public to access justice. We suggest that the framework include a new element under intergovernmental cooperation that allows CEPA lawmakers to collaboratively work with enforcement officers from other federal, provincial, or territorial departments to ensure that the right is respected in all areas where CEPA could be invoked. This would allow CEPA officials to step in and uphold the right even when other departments are undertaking the management in other areas.

1.4 Intergenerational equity mechanisms

As youth, we are strongly encouraged by the inclusion of intergenerational equity as a key principle under the right. We suggest 1) strengthening the definition of intergenerational equity, 2) including youth leadership and decision-making in CEPA mechanisms, 3) adding avenues for future generations to access justice, and 4) explicitly including mental health throughout the framework.

1.4.1 The definition of intergenerational equity

In Section 4.2 of the framework, we would like to see the definition of intergenerational equity strengthened. In particular, we would like to see **the right of future generations to have a healthy environment be explicitly added** to the end of the current definition. Beyond meeting their own needs, they should have all the same rights as current generations to a healthy environment.



We suggest including examples of the compromise between the needs of the current generations and the rights of future generations, and explaining any reasonable limits that may come up while weighing the costs and benefits of actions to current and future generations. In many ways, even the needs of the current generation are not clear. We suggest that these be explicitly mentioned so that enforcement officers can interpret intergenerational equity without ambiguity. Additionally, when the costs and burdens of pollution attributable to the current generation are shifted on to future generations, we would like clarity in how these future costs are measured and discounted. For example, if this includes the cumulative effect of a toxic substance, this should be mentioned.

In Section 6.1.1 of the framework, we are pleased to see the inclusion of the precautionary principle in CEPA risk assessments. Especially for emerging pollutants, including endocrine-disrupting chemicals, we feel this has large implications for intergenerational equity. We suggest including the precautionary principle directly in Section 4.2 of the framework to support this, particularly in the risk assessment and management sections of the CEPA management cycle. Regulations and guidelines about toxic substances should be continually updated to reflect the dynamic nature of scientific knowledge and to ensure that future generations are always protected.

Greenhouse gases are also an important substance to consider specially for intergenerational equity. Emissions that propel us into worsening climate change are an environmental injustice, and will disproportionately burden future generations while current generations benefit from continued development. We suggest that the consequences of governmental inaction on fossil fuel emissions be well considered in the framework.

We are encouraged by the inclusion of the Seven Generations Principle in the definition of intergenerational equity. However, we would like the framework to include how this approach will be used to uphold intergenerational equity. In particular, we suggest that Indigenous elders and youth be consulted on how this be done.

1.4.2 Youth leadership and decision-making

For intergenerational equity to truly be upheld within the right, it is crucial that there are **explicit mechanisms for meaningful youth leadership and decision-making power within CEPA legislation**, not just youth participation. We suggest that the framework outline commitments to:

- Creating youth representative seats on advisory boards;
- Dedicated youth consultation processes;
- Youth-led research and monitoring initiatives (on topics including psychological uncertainty about the future for youth);
- Transparent reporting on how youth input directly influences CEPA policy.



In Section 4.2 of the framework, opportunities for children and youth “to participate in CEPA decision-making processes” is mentioned. Although we are strong proponents of this, we would like to see the wording be strengthened by mentioning that youth need to be able to meaningfully participate and engage in decision-making. Often youth are given a seat at the table, but are not given the tools necessary to make meaningful contributions. Our experience working with representatives for the right at ECCC and HC throughout this consultation was extremely positive, and represents a way that youth can be supported while collaborating with governments.

We were given funding to engage with a larger audience of youth who are usually excluded from decision making, and the ability to personally discuss questions and concerns with ECCC and HC officials. Our connections within the Government of Canada were thoughtful to our needs and considerations as youth. We were also paid for our work, which we believe should always be mandatory when engaging youth in consultations. We suggest making this sort of support for youth explicit in the framework.

ECCC and HC can also engage youth in research and monitoring mechanisms through the support of a federal [Youth Climate Corps](#), to give young people access to long-term, sustainable jobs with living wages. Youth are often already participating in the kinds of research and monitoring activities mentioned throughout the framework, either through underpaid low-level jobs (internships, unpaid summer jobs, etc.) or through educational institutions. We suggest that the framework take advantage of this providing a livable wage to youth researchers through CEPA research and monitoring programs, either independently or in association with educational institutions.

Young researchers should also be prioritized to do work in their own communities to lower the risk of damage done by CEPA monitoring efforts, especially to marginalized populations. Some of the topics that would be especially relevant for youth to research include:

- Long term impacts of substances on health;
- Mental health impacts of environmental damage;
- Environmental baseline monitoring.

1.4.3 Avenues for future generations to access justice

The framework **lacks actionable mechanisms to hold CEPA decision-makers accountable for impacts on future generations**. For future generations to access justice, they need avenues of legal and non-legal protection. We suggest that the framework:

- Commit to creating legal protections of future generations’ rights;
- Explicitly state that delays in action will result in stronger consequences for polluters;



- Outline clear metrics to measure delayed or insufficient action and its long-term impact on youth and future generations;
- Include accountability measures for each stage of the CEPA management cycle.

We acknowledge that Section 4.2 of the framework does mention delays to action as an intergenerational concern. However, we would like to see measures in place to reduce these delays and avoid intergenerational inequity from occurring. We would also like to see the framework outline a clear pathway for future generations to pursue legal action against CEPA decision-makers and polluting industries if their right has been violated.

1.4.4 Explicit inclusion of mental health

Mental health is only mentioned twice in the framework, once in reference to Indigenous populations, and once as a relevant health factor to be taken into account when applying the right. We believe this is not enough for the framework to consider the [worsening mental health of young people as a result of climate change and environmental degradation](#) throughout the country. A 2023 study reported that [78% of Canadian youth feel that climate change is impacting their overall mental health](#). Considering the psychological impacts of environmental uncertainty on younger generations, this is an intergenerational equity issue. We suggest that mental health thus be mentioned in Section 4.2 of the framework, along with other health concerns for young people and future generations, including endocrine-related effects and reproductive toxicity.

1.5 Stronger language throughout the framework

Throughout the framework, **vague and nonspecific language is used**. To ensure that the right is always upheld to the highest standards, we would like to see 1) clarity in the definition of a healthy environment, 2) examples of reasonable limits, and 3) stronger enforceable language used in all sections of the framework. Although we acknowledge the right's principles will be implemented on a case-by-case basis, we believe that stronger language will reduce conflicting enforcement measures and ambiguity for enforcement officers.

1.5.1 The definition of a healthy environment

The definition of the right includes that actions taken under CEPA should contribute to “clean and healthy air and water”, “a sustainable climate”, and “healthy ecosystems and biodiversity”. However, these elements together are **never explicitly stated as defining a healthy environment**. We suggest adjusting the wording of Section 2.1 of the framework, and support adding:

- Considerations of healthy soil;
- Definition of “healthy” in this context;



- Definition of “sustainable” in this context;
- Definition of “clean” in this context.

We would encourage ECCC and HC to take a precautionary approach to defining these terms, especially considering the colonial history of the concept of cleanliness and how it has been used to perpetuate systemic racism against Black and Indigenous communities.

When the framework mentions “clean and healthy” water, we suggest that a disclaimer be made that CEPA is not the forefront legislation to protect water. The Fisheries Act in many cases supersedes CEPA when there are releases of pollution to natural waterways, oceans, or lakes. However, we would like to see that the right still protects the inherent ability of these water bodies to exist, regardless of if they are being used by humans for resource extraction or recreation. If drinking water is what is meant when the framework mentions water, this should be specified. We suggest that drinking water be mentioned explicitly in Section 2.1 regardless, due to environmental injustice and the prevalence of non-potable water in Indigenous communities.

1.5.2 Reasonable limits

Although we understand that reasonable limits are determined on a case by case basis, it would be helpful to include examples or a guiding framework to follow when thinking about the application of reasonable limits to the right. We want to ensure that reasonable limits are not able to be manipulated by industries to allow them to continue polluting at the detriment to human and environmental health. We believe that in its current form, the Section 5.0 of the framework does not elaborate or provide enough guidance on what should be considered a reasonable limit, despite the introduction to the section stating that “ the framework elaborate on relevant factors to be taken into account in interpreting and applying the right and in determining the reasonable limits to which it is subject”. The only current example in the framework of an unreasonable limit is a limit of no pollution or greenhouse gas emission. We suggest that Section 5.0 give more examples of hypothetical situations and what would be considered reasonable and unreasonable limits in administering the right. Having updated tools such as the Cost-Benefit Analysis mentioned in section 1.3.2 could help clarify how scientific, economic, health and other considerations making up “reasonable limits” should be weighed in the context of the right.

1.5.3 Enforceable language

Although we are aware that the framework is not a strict set of enforceable metrics but rather a set of guiding principles for officials to apply the right to CEPA decisions, we still feel that there is a lack of certainty in the chosen writing conventions. As mentioned above in the above Section 1.3.1 of this report, throughout the framework we would like to see many of the conditional phrases such as “can be considered” be replaced with definite language like “must be considered”, or even “should be considered” when discussing the right. For example, changes could be made in the following areas:



- Page 3, Paragraph 3: “can be considered” replaced with “must be considered”
- Page 6, Paragraph 2: “can be considered” replaced with “must be considered”
- Page 7, Figure 1: “can be considered” replaced with “must be considered”
- Page 18, Paragraph 1: “can be relevant” replaced with “are relevant”

Additionally, we feel that **when stronger language cannot be applied due to limitations of the framework, this should be discussed transparently**. Consequences for not following the guidelines laid out in the framework should also be mentioned.

2.0 Minor Feedback and Suggestions

2.1 Relevant factors

We believe that scientific relevant factors should be taken into consideration for all CEPA decisions, and not only on a case-by-case basis as is defined in Section 5.0 of the framework, and suggest that the wording of this section be updated to reflect that. Science is also an ever-evolving field, and how to use the “best data, evidence, methods, and practices available” is not always obvious considering that new research is always being made available. We would like to see a specific timeline of how often decisions will be revisited when new evidence comes to light. For example, from the Horne Smelter case study mentioned above, new evidence has not been used to reassess arsenic for over 30 years.

Additionally, research on health impacts of substances and environmental damage is often not inclusive of marginalized communities and suffers from medical bias and racism. We suggest that guidelines be included in the framework as to how relevant health factors will address these shortcomings.

Economic relevant factors are not always correlated positively to environmental strength, depending on how you define economic strength. In particular, short term economic gain is often correlated with long-term environmental damage. We would like to see the framework address this in Section 5.0.

2.2 Indigenous rights and knowledge

It is not clear how Indigenous knowledge will be “bridged, braided, and waded” into CEPA decision making through the framework. We believe this implies that Indigenous communities will be at the forefront of all CEPA decisions, since settlers cannot claim to understand Indigenous knowledge to this level. We suggest the framework be explicit in how Indigenous knowledge will be used in tandem with western science to inform CEPA decision-making. Like similar comments



above, the framework should mention *how* this will be done (e.g. what kind of relationship building mechanisms will be prioritized in order to allow this to happen). We would also like to see reference to the Indian Act made in the framework to specify when CEPA and the right will and will not apply on reserve land, especially for the incredibly important case of clean drinking water.

2.3 Environmental justice

Section 4.1 of the framework does not make it clear how environmental justice considerations will be weighted in the prioritization of CEPA plans. We suggest that the framework elaborate on this. Additionally, now that the Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice has been passed, the framework should elaborate on opportunities for CEPA mechanisms to work hand in hand with this new legislation to uphold environmental justice.

Moreover, Canada is an important polluter not only locally, but also internationally. While this may be outside the scope of CEPA, environmental justice should consider the way Canada operates abroad with our supply chain and manufacturing leading to toxic substance releases worldwide. After all, as observed in the climate crisis, our impacts abroad will also impact Canada at-home.

Conclusion

We believe the Draft Implementation Framework for the Right to a Healthy Environment under the Canadian Environmental Protection Act, 1999 is an important step in the right direction to protect all people in Canada from risks to environmental and human health. It puts into law for the first time important concepts such as intergenerational equity and environmental justice, and highlights Indigenous rights and procedural elements essential to justice such as access to information, participation in decision making, and access to remedies.

We are encouraged by suggestions to build an online portal and provide an email address which will facilitate access to information and participation in decision making. Moreover, as a youth organisation, we felt that we were well supported to engage in this consultation process and create avenues to engage a larger audience of youth than normally. We hope such good practices can create a precedent for future consultations.

The framework presented holds promise, but we believe that stronger language and more developed examples are needed to reduce ambiguity and provide clearer direction. This report breaks down five sections necessitating major revision; access to information, access to effective remedies, the CEPA management cycle, intergenerational equity and the need for



stronger language. **The framework should not merely suggest actions, but offer a clear, actionable roadmap for policymakers.**

We hope this initiative is only the first step in the integration of the right into government policy. CEPA is only one of many federal environmental and health laws and these are shared jurisdictions with provinces and territories. There is a strong need for collaboration between actors to ensure this new right leads to positive and significant improvements in the lives of all people who call Canada home.



Glossary

AMP	Administrative Monetary Penalty
CBA	Cost-Benefit Analysis
CEPA	Canadian Environmental Protection Act, 1999
CESI	Canadian Environmental Sustainability Indicators
ECCC	Environment and Climate Change Canada
HC	Health Canada
NPRI	National Pollutant Release Inventory
SYC	Sustainable Youth Canada
the framework	The Draft Implementation Framework for the Right to a Healthy Environment under the Canadian Environmental Protection Act, 1999
the right	The right to a healthy environment under the Canadian Environmental Protection Act, 1999