



Legislative Review of the Canadian Environmental Protection Act

Evidence-based Legislation Always Better

CPCA ISSUE BACKGROUNDER

Canada Context

Passed in 1999, the Canadian Environmental Protection Act (CEPA) establishes the government's authority respecting pollution prevention and the protection of human health and the environment in the context of sustainable development: economic, environmental and social.

This legislation impacts the paint and coatings industry in many areas including regulations on the chemicals in thousands of products used in the three primary business categories: decorative, automotive and industrial. Regulations and other risk management measures seek to mitigate negative impacts on human health and prevent air, water and soil contamination in the environment. Under CEPA and other legislation there are many such enforceable measures including regulations for low-level Volatile Organic Compound (VOC) content; regulations or specific restrictions of new uses related to the assessment of all chemicals of concern in commerce; emergency and pollution prevention planning regulations; and much more.

CPCA, along with other associations, provided a formal industry submission to the federal government, and identified 14 recommendations or groups of recommendations of concern for the paint and coatings industry including measures such as: mandatory substitution for substances of concern, a reverse burden of proof on industry for hazardous substances of very high concern, mandatory hazard labelling of products regardless of risk, limiting protection of confidential business information, and other administrative burden, which could negatively impact the paint and coatings business in Canada.

CPCA submitted comments to the Minister of Environment and Climate Change Canada (ECCC) stating that despite the most challenging data on reporting requirements, the industry remains committed to the evidence-based assessment of chemicals based on the weight of evidence. CPCA cannot support the Committee's recommendation to adopt a 'hazard-based'

approach to chemical assessment in the European Union. Such an approach is widely believed to be less effective and prone to long delays and creates very high costs for SMEs. Such a move would not improve protection for human health or the environment and would further undermine Canadian manufacturing and trade. Several Committee recommendations would also create regulatory misalignment with the U.S., disrupt cross-border supply chains, and weaken intellectual property rights. Such changes would be detrimental to Canada as multinational companies continue to close plants in Canada and move production to the United States.

Current Legislative Review

Parliament is required to conduct a legislative review of the Act every five years. However, it had been delayed several years. In 2016, the House of Commons designated the Standing Committee on Environment and Sustainable Development (ENVI) to undertake a comprehensive review of CEPA. Formal testimony and comprehensive submissions were presented by government officials, industry, academia and Environmental NGOs. In June 2017, the Committee tabled its report with 87 recommendations for possible amendments to CEPA. While CPCA supports many of the recommendations that would improve CEPA's efficiency and flexibility, over a dozen of the recommendations put forward by environmental NGOs and academics would negatively impact CPCA members, while providing little or no tangible environmental benefits. The Committee also recommended drastic changes to Canada's established practice of assessing substances in commerce under the Chemicals Management Plan, which has been widely recognized internationally as a model of efficiency, based on sound science and evidence-based decision-making. In fact, such an approach is exactly what the government's Cabinet directive on regulatory policy demands.

Government Response

In June 2018, the federal Government published a



comprehensive response to the Parliamentary Committee's 87 recommendations. The Government's report was measured and addressed many of the concerns raised by industry over the previous year. The government confirmed that it would not consider amendments to CEPA in its current mandate. It also noted that it would proceed on a number of recommendations under the current legislation using administrative and program approaches under CEPA. Many of these have already begun and will continue beyond 2020, after the current phase of the CMP concludes. CPCA and other associations continue to actively engage with officials in conducting chemical assessments. This includes more than 500 chemicals used by CPCA member companies, of the total 1550 substances now being assessed under the CMP.

While the legislative agenda will not accommodate a Bill proposing formal amendments to CEPA during the current parliamentary session, the government remains committed to introducing a Bill to reform CEPA as soon as possible in future sessions of Parliament. In the meantime, officials will continue their discussions with stakeholders on ways to improve the Act, and will consider the Committee's recommendations throughout this engagement process.

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Regulations and other risk management measures seek to mitigate negative impacts on human health

Recommendation

CPCA remains hopeful that any future action taken with respect to CEPA amendments or other administrative adjustments to the CMP conforms with the federal government's regulatory policy as stated verbatim below:

- Protect and advance the public interest in health, safety and security, the quality of the environment, and the social and economic well-being of Canadians, as reflected in legislation
- Promote a fair and competitive market economy that encourages entrepreneurship, investment, and innovation
- Make decisions based on evidence and the best available knowledge and science in Canada and worldwide, while recognizing that the application of precaution may be necessary when there is an absence of full scientific certainty and a risk of serious or irreversible harm
- Create accessible, understandable, and responsive regulation through inclusiveness, transparency, accountability, and public scrutiny
- Advance the efficiency and effectiveness of regulation by ascertaining that the benefits of regulation justify the costs, by focusing human and financial resources where they can do the most good, and by demonstrating tangible results for Canadians
- Require timeliness, policy coherence, and minimal duplication throughout the regulatory process by consulting, coordinating, and cooperating across the federal government, with other governments in Canada and abroad, and with businesses and Canadians

Source: Federal Cabinet Directive on Streamlining Regulation, Treasury Board of Canada



CANADIAN PAINT
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About CPCA

Since 1913, the Canadian Paint and Coatings Association has represented Canada's major paint and coatings manufacturers, and their industry suppliers and distributors in three primary product categories: architectural paints, industrial products and automotive coatings. In Canada, CPCA members have more than 261 paint manufacturing establishments, own more than 3,000 retail outlets, supply products to another 5,000 retail stores and more than 7,500 auto body shops. This represents annual retail sales of more than \$12.3 billion, employing directly and indirectly 86,300 employees.