**Federal and Provincial Laws**

Before an Operational First Nation considers drafting laws and regulations dealing with fish and wildlife, it should recognize that several federal acts remain in effect on reserves, namely the Migratory Birds Convention Act, Species at Risk Act, and Fisheries Act. Other federal laws that continue to apply on Operational First Nation land include, among others, the Indian Oil and Gas Act, Emergencies Act, Nuclear Safety and Control Act, and Nuclear Energy Act, the Canadian Environmental Assessment Act and the Canadian Environmental Protection Act.

Questions/Comments/Notes

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The **Canadian Environmental Protection Act,** 1999 (CEPA, 1999) is an Act of the Parliament of Canada, whose goal is to contribute to sustainable development through pollution prevention and to protect the environment, human life and health from the risks associated with toxic substances. It covers a diversity of activities that can affect human health and the environment, and acts to address any pollution issues not covered by other federal laws. As such, the Act is a "catch all" piece of legislation that ensures potentially toxic substances are not inadvertently exempt from federal oversight as a result of unforeseen legislative loopholes.

The Act also recognizes the contribution of pollution prevention and the management and control of toxic substances and hazardous waste to reducing threats to Canada's ecosystems and biological diversity.

It acknowledges, for the first time, the need to virtually eliminate the most persistent toxic substances that remain in the environment for extended periods of time before breaking down and bioaccumulative toxic substances that accumulate within living organisms.

Health Canada works in partnership with Environment and Climate Change Canada to assess potentially toxic substances and to develop regulations to control toxic substances.

Section 93 of the Act provides the authority to the federal government to make regulations to restrict and manage pollution in Canada.

The **Canadian Environmental Assessment Act**, 2012 (CEAA 2012) (the Act) and its regulations establish the legislative basis for the federal practice of environmental assessment in most regions of Canada.

The purpose of CEAA 2012 is to:

* Protect components of the environment that are within federal legislative authority from significant adverse environmental effects caused by a designated project;
* Ensure that designated projects are considered and carried out in a careful and precautionary manner in order to avoid significant adverse environmental effects when a federal authority is exercising a power or performing a duty or function required for the project to proceed;
* Promote cooperation and coordination between federal and provincial governments;
* Promote communication and cooperation with Aboriginal peoples;
* Ensure that opportunities are provided for meaningful public participation;
* Ensure that environmental assessments are completed in a timely manner;
* Ensure that proposed projects on federal lands or that are outside Canada and carried out or financially supported by a federal authority, are considered in a careful and precautionary manner in order to avoid significant adverse environmental effects;
* Encourage federal authorities to take actions in a manner that promotes sustainable development in order to achieve or maintain a healthy environment and a healthy economy; and
* Encourage further studies of the cumulative effects of physical activities in a region and the consideration of the study results in environmental assessments.

The **Emergencies Act** is an Act of the Parliament of Canada to authorize the taking of special temporary measures to ensure safety and security during national emergencies and to amend other Acts in consequence thereof. It received royal assent on July 21, 1988, replacing the War Measures Act.

The Emergencies Act differs from the War Measures Act in two important ways:

* A declaration of an emergency by the Cabinet must be reviewed by Parliament.
* Any temporary laws made under the Act are subject to the Charter of Rights and Freedoms. Thus any attempt by the government to suspend the civil rights of Canadians, even in an emergency, will be subject to the "reasonable and justified" test under section 1 of the Charter.

The **Species at Risk Act** (SARA) (the Act) is a piece of Canadian federal legislation which became law in Canada on December 12, 2002. It is designed to meet one of Canada's key commitments under the International Convention on Biological Diversity. The goal of the Act is to protect endangered or threatened organisms and their habitats. It also manages species which are not yet threatened, but whose existence or habitat is in jeopardy.

SARA defines a method to determine the steps that need to be taken in order to help protect existing relatively healthy environments, as well as recover threatened habitats, although timing and implementation of recovery plans have limitations. It identifies ways in which governments, organizations, and individuals can work together to preserve species at risk and establishes penalties for failure to obey the law.

Purpose of **Fisheries Act**

2.1 The purpose of this Act is to provide a framework for

(a) the proper management and control of fisheries; and

(b) the conservation and protection of fish and fish habitat, including by preventing pollution.

2.2 (1) This Act applies in Canada, and also to

(a) Canadian fisheries waters; and

(b) with respect to a sedentary species, any portion of the continental shelf of Canada that is beyond the limits of Canadian fisheries waters.

2.3 This Act is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the Constitution Act, 1982, and not as abrogating or derogating from them.

2.4 When making a decision under this Act, the Minister shall consider any adverse effects that the decision may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the Constitution Act, 1982.