# Environmental laws in Canada: Information for companies

**September 02, 2025**

*This article is part of a practical series written for international companies looking to establish, launch, operate or invest in a business Canada. Each article covers a major* area of law in Canada – everything from employment laws to taxes. Access all the *articles on the* "Doing business in Canada: A practical guide from 'Eh' to 'Zed'" page.

Canada has a well-developed regulatory regime for environmental protection over which federal and provincial governments have shared jurisdiction. Federal and provincial governments provide the primary source of environmental legislation, although territories, local, and Indigenous governments have environmental requirements of their own as well.

The federal, provincial, territorial, and local laws use a regulatory system to control (and, in some cases, eliminate) the adverse environmental effects resulting from industrial and commercial activities. The environmental laws apply to both new and existing businesses.

In recent years, federal and provincial environmental laws have been revised to require the consideration and involvement of Indigenous communities in impact assessments, permitting decisions, and monitoring of ongoing projects or activities. The federal and British Columbia governments have passed legislation to make their laws consistent with the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIP). As UNDRIP becomes further enmeshed in Canadian law, proponents can expect to see new requirements to seek the free, prior, and informed consent of Indigenous communities who may face environmental impacts from projects or activities.

Public concern for the environment, greater regulatory oversight, Indigenous rights, and the fact that environmental laws differ from jurisdiction to jurisdiction are just some of the factors that businesses must account for when investing in Canada.

When purchasing a property, developing a project, or investing in a business in Canada, ensure environmental risks are identified early with a thoroughly conducted due diligence. Seeking the advice of an environmental lawyer may help to reduce or avoid costly environmental liability, particularly if such professional advice is received early. An experienced lawyer can assist in navigating any permitting and regulatory processes

and in implementing relationship building strategies with Indigenous communities that may be impacted by your operations.

## Permits

The federal and provincial (and, to a lesser degree, territorial and local) laws require environmental permits to be obtained for many industrial and commercial activities. The permits are designed to restrict and control the discharge of pollutants into the environment. It is an offence under most of these laws to operate contrary to the terms of, or without having first obtained, an environmental permit. The monetary penalties for environmental offences are designed to deter violations and thus can be very severe. In recent years, the use and amounts of administrative penalties have increased. Several jurisdictions are moving toward "codes of practice", or similar regulatory mechanisms, replacing the requirement to obtain a waste discharge permit with requirements for registration and compliance with an industry-specific code of practice or regulation.

## Contaminated sites

Several provinces have enacted contaminated sites legislation and regulations that impose liability on parties connected to a contaminated site, even if those parties did not cause the contamination or do not presently own or operate on the site. Accordingly, anyone proposing to invest in an existing business should investigate whether the business and its assets, such as any real property holdings, are in compliance with the applicable environmental legislation. It is also advisable to have a reputable environmental consultant conduct appropriate studies to determine whether (and to what extent) any real estate holdings contain contamination.

There are evolving provincial regulations for the relocation and reuse of soil, even where a site is not contaminated. For example, in British Columbia, subject to some exceptions, a person cannot remove soil from a site that has been used for a specified industrial or commercial use unless the person has analyzed the quality of the soil and completed a Soil Relocation Notification Form. Ontario has enacted regulations to govern the excavation and movement of excess soils between properties. When considering whether to operate on a site in Canada, particularly in British Columbia and Ontario, investors should ensure that they are prepared to meet ongoing soil management requirements.

## Environmental impact assessments

The federal, provincial and territorial laws require environmental assessments of certain types of industrial and commercial projects and activities before they are undertaken. These assessments generally require environmental studies and consideration of the effect of the project or activity on air and water quality, fisheries, wildlife, recreational land use, and nearby communities.

The impact of the project or activity on Indigenous communities is also a key factor taken into consideration. The Crown may owe one or more Indigenous communities the duty to consult. The Crown may delegate procedural aspects of consultation to the project's proponent, but ultimately the duty to consult rests with the Crown. Proponents

are strongly encouraged, and increasingly required, to engage Indigenous communities who may be impacted by a proposed project. Proponents in Canada often enter into joint ventures or partnerships with Indigenous entities to co-develop projects. Further, support of Indigenous communities may be secured through negotiation, the outcome of which is often a mutual benefits agreement or revenue-sharing arrangement.

The outcome of the environmental assessment may result in the regulators imposing conditions to limit or remediate the effect of the project or activity on the environment before work on the project or activity may proceed. The project or activity may also be prohibited from proceeding altogether. Investors contemplating a new venture, particularly in the manufacturing, processing or natural resource sectors, should consider carefully the applicable environmental legislation. Projects may trigger both provincial and federal environmental reviews. In such cases, the reviews can be conducted concurrently and then reviewed by a panel composed of representatives from federal and provincial levels of government. Reviews may also include processes for Indigenous governments to evaluate the impacts of a proposed project or activity, with an increasing emphasis on seeking consent from affected Indigenous communities.

## Species protection

Legislation at both the federal and provincial levels has been enacted with the intention of protecting animal and plant species from adverse effects caused by human intervention.

The federal *Species at Risk Act* aims to prevent wildlife species from becoming extinct and to secure the necessary actions for their recovery. The Act applies to all federal lands in Canada, all wildlife species listed as being at risk, and their critical habitats. Another example of species protection legislation is the federal *Fisheries Act*, which protects fish and fish habitats that are part of a commercial, recreational or Indigenous fishery. No person may carry on any work, undertaking or activity that results in serious harm to fish that are a part of these types of fisheries. Further, the federal *Migratory Birds Convention Act* provides for the protection of migratory birds, including a prohibition on the deposit of substances harmful to migratory birds in any waters or areas frequented by migratory birds, unless authorized by regulation.

Provincial legislation may also address species protection in matters within provincial jurisdiction, such as the designation of sensitive streams and riparian setback regulations. Legislation designed to protect species is used both to prohibit certain activities and to provide certain exceptions in the form of permits. When purchasing property or investing in a business with plans to redevelop, it is important to ensure that due diligence is exercised to identify any relevant species or habitat (for example, streams) that may trigger a government environmental assessment and thus might impede the project.

## Transporting hazardous materials and other dangerous goods

The movement of hazardous materials and other dangerous goods domestically and across international borders is another major focus of environmental regulation. Both

federal and provincial laws prescribe standards of care, as well as the content, form, and substance by which the importing and exporting of hazardous wastes and the local movement of hazardous goods must be undertaken. Generally, transportation of dangerous goods laws apply to carriers, shippers and transportation intermediaries (including freight forwarders, warehouses and customs brokers), although other businesses may also be subject to regulatory requirements in certain circumstances.

The *Canadian Environmental Protection Act*, 1999 (CEPA) and the Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations set out requirements for movement of waste internationally and within Canada. Movement across international boundaries of hazardous waste and movement of hazardous materials to be recycled require mandatory notification to the proposed importing country before shipment. Waste may only be imported into Canada if not prohibited by federal and applicable provincial laws.

## Management of toxic substances

The federal government enjoys primary jurisdiction over the identification and regulation of chemical substances in Canada, including those identified as "toxic substances". The principal legislation governing the regulation of toxic substances is CEPA, which is administered and enforced by Environment and Climate Change Canada. CEPA contains various inventories of substances, including a Domestic Substances List (an inventory of substances manufactured in, or imported into, Canada, for the purposes of commercial sale) and a List of Toxic Substances (for which stricter restrictions and controls apply).

Pursuant to the New Substances Notification Regulations (Chemicals and Polymers), new substances must be reported and assessed for potential risks to human health and the environment, and if necessary, made subject to proper control measures, before they may enter the Canadian marketplace. Similar reporting requirements apply where a person is proposing to use, import or manufacture a substance for a significant new activity (i.e., different quantity, concentration, or circumstances which could affect environmental or human exposure to the substance).

In 2006, the federal government created a Chemicals Management Plan to identify, assess and manage the risks posed by chemical substances. A key element of the Chemicals Management Plan is gathering information on the chemical substances used in Canada for the purposes of identifying substances that may be toxic, or the need for regulation. Environment and Climate Change Canada frequently issues mandatory information gathering notices pursuant to its authority under CEPA, which require certain producers, importers or users of chemicals (or products containing chemicals) to provide the requested information. These information gathering notices are often broad in scope, covering thousands of chemicals, and therefore can represent a significant administrative burden on businesses.

In recent years, the federal government has shown a renewed and heightened focus on the Chemicals Management Plan. In June 2023, CEPA was substantively amended for the first time in approximately two decades. The amendments place an increased priority on the prohibition of high-risk toxic substances, requiring the federal government to establish both a "plan of chemical management priorities" and a "watch list" for substances that are not presently considered toxic, but which may pose a risk if uses

change or exposure increases. The federal government has recently announced new regulations relating to toxic substances, including additional labelling and warning requirements for products containing substances on the List of Toxic Substances, as well as the proposed designation of additional substances as toxic (most notably, the entire class of per- and polyfluoroalkyl substances also known as “PFAS” or the “Forever Chemicals”).

## Circular economy

Waste management falls primarily within the jurisdiction of the provinces and territories, with each having its own waste permitting regime and related controls. Generally speaking, these regimes require operators to obtain appropriate permits or approvals before undertaking commercial activities relating to the discharge, transport or disposal of waste. The federal government also exercises jurisdiction with respect to interprovincial and imported waste and recyclable material.

The past several years have seen an increased focus on waste diversion through reusing, repairing, refurbishing, remanufacturing, repurposing or recycling products, to support what is often referred to as a “circular economy.” Several provinces have enacted legislation introducing extended producer responsibility, under which producers of certain materials are deemed solely responsible for producers the cost of, and operational responsibility for, recycling their products. Certain provinces and local governments have also introduced, or are contemplating, single-use plastic bans.

At the federal level, “plastic manufactured items” were added to the List of Toxic Substances under CEPA in 2021, while regulations prohibiting the manufacture, import, sale and export of six types of single-use plastics were enacted in 2022. The federal government is also proposing to implement a federal plastics registry to better track and understand plastic waste, value recovery and pollution across Canada, as well as minimum recycled content and recyclability labelling rules in the near future. Businesses operating in Canada can expect to see all levels of government adopting further measures to further the circular economy in the coming years.

## Climate change

Federal and provincial governments each regulate greenhouse gas (GHG) and other specific types of air emissions. Particularly since Canada signed the Paris Agreement on April 22, 2016, regulations of air emissions have increased at both the provincial and federal level.

The federal government also specific types of emissions through the CEPA, as part of a national target to reduce GHG emissions by 30% from 2005 levels by 2030. Regulations under the CEPA include requirements for reductions in GHG emissions from passenger vehicles and heavy-duty vehicles. The Clean Fuel Regulations require suppliers of liquid fossil fuels to reduce the carbon intensity of the fuels that they produce.

The federal government has also enacted the *Greenhouse Gas Pollution Pricing Act*, which provides a framework for federal GHG emissions pricing and offset credit systems. The Act is divided into two parts. Part 1 of the Act applies a fuel charge on specific types of fuel and combustible waste. Part 2 sets out an output-based pricing

system for large industrial facilities emitters of GHG. The fuel charge and output-based pricing system entail extensive reporting and filing requirements on certain businesses.

To maintain a minimum national standard for GHG pricing, the fuel charge, output-based pricing system, or both, in the *Greenhouse Gas Pollution Pricing Act* will apply to provinces and territories that do not meet the federal benchmark for GHG pricing. Provinces and territories have flexibility in how they meet the minimum national standard for GHG pricing. Measures at the provincial and territorial level may include carbon taxes, cap-and-trade systems, limits on emissions, clean energy standards and other regulatory measures. In light of this, investors will need to carefully review the regulatory requirements that may apply to emissions from their facilities or products in Canada.

# Water

The constitutional division of responsibility for water is complex, being shared between the federal and provincial governments, with the involvement of Indigenous governments.

The federal government has jurisdiction over some matters that bear on water management, including fisheries, navigation, international relations, federal lands and Indigenous people. The *Canada Water Act* provides a framework for joint federal-provincial management of Canada's water resources. The *Canada Water Act* provides for cooperative agreements with the provinces to develop and implement plans for the management of water resources. The International *Boundary Waters Treaty Act* and related regulations prohibit the bulk removal of boundary waters from Canadian basins for any purpose, including export. All provinces also have in place legislation, regulations or policies prohibiting the bulk removal of water (defined as the removal and transfer of water out of its basin of origin by man-made diversions, tanker ships or trucks, or pipelines).

Provinces manage water resources through laws that generally include a requirement to obtain a licence or other form of authorization for surface water and/or groundwater use, as well as the regulation of discharges into water. In some jurisdictions, certain provincial regulatory powers over water are delegated to local governments. Drinking water quality is also of primary importance to legislators, particularly given several high-profile health incidents related to drinking water, and all provinces have enacted measures to protect drinking water quality and to regulate those constructing and operating drinking water systems.

## BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

**blg.com**

## BLG Offices


**Calgary**

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

**Ottawa**

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

**Vancouver**

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

**Montréal**

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

**Toronto**

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749