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<p>ANNOTATED GUIDE TO THE CANADIAN ENVIRONMENTAL PROTECTION ACT Joseph F. Castrilli Release No. 1, February 2025</p>

This work unravels the complications of the Canadian Environmental Protection Act, offering a practical explanation of how each of the Act’s more than 356 sections operate and relate to one another. This information is crucial for those charged with implementing the Act and for those who need to know how it can affect one’s clients or business. The only annotated resource on the subject, it includes:

- A section-by-section explanation of the entire *Act*
- An analysis of key reported case law
- A consolidation of the *Act*’s six schedules
- Annotations to the List of Toxic Substances
- The text of key regulations, with commentary

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What's New in this Update:

- This release features updates to the case law and commentary in Part II—Overview of Key Aspects of CEPA, 1999.

Highlights:

- **§ CEPA:17—The International Situation**—In October 2024, it was reported that the host of the Cop29 global climate summit, Azerbaijan, will see a large expansion of fossil gas production in the next decade, raising concerns about whether this year's negotiations should be overseen by a country with a vested interest in prolonging the use of fossil fuels. The Cop29 summit comes as scientists say that continued record carbon dioxide emissions risks future initiatives to prevent the worse impacts of climate change. In October 2024, it was reported by the United Nations that one year after world leaders made a landmark promise to move away from fossil fuels, countries have essentially made no progress in cutting greenhouse gas emissions and tackling global warming. Emissions soared to a record 57 gigatons in 2023 and are not on track to decline much, if at all, this decade, the report found. Collectively, nations have been so slow to curtail their use of oil, gas, and coal that it now looks unlikely that countries will be able to limit global warming to the levels they agreed to under the 2015 Paris climate agreement. The report comes a month before diplomats from around the world are scheduled to meet in Baku, Azerbaijan, for annual United Nations climate talks, where countries will discuss how they might step up efforts to address global warming.
- **§ CEPA:18—The Domestic Statutory Situation at the Federal Level in Canada**—In November 2024, it was reported that Alberta is taking the federal government to court, saying that Ottawa has failed to follow through on what the Alberta Premier calls necessary changes to the *Impact Assessment Act* ("IAA"), the federal law governing resource development in Canada. The IAA, enacted in 2019, determines whether certain major resource projects should be approved based on the environmental, social, or economic impact each project might have. The Premier stated that the province has asked the Alberta Court of Appeal to rule on the constitutionality of the Act, which was amended by Parliament earlier in 2024. The reference question referred by the Alberta Lieutenant Governor in Council to the Alberta Court of Appeal asks in part whether the 2024 IAA amendments are "unconstitutional in whole or in part, as being beyond the legislative authority of the Parliament of Canada under the Constitution of Canada, or inapplicable to the extent that their application

would impair the core of a provincial legislative power?” The amendments came after a 2023 advisory opinion from the Supreme Court of Canada found that the broad authority the *IAA* grants to the federal government needed to be scaled back, particularly regarding the authority to regulate projects otherwise falling under provincial jurisdiction. The opinion was widely seen as substantially narrowing the authority of the federal government to address greenhouse gas emissions under the national concern branch of the peace, order and good government clause of s. 91 of the *Constitution Act, 1867*. The Premier indicated that the amendments approved earlier this year did not go far enough to bring the *IAA* in line with the constitutional division of powers under the *Constitution Act, 1867*. The federal environment and natural resources ministers disagreed with Alberta and argued that the amendments did address the concerns of the Supreme Court (See Jack Farrell, “Alberta taking Ottawa to court over updated federal impact assessment law”, *CBC News* (28 November 2024); and Province of Alberta, Order in Council, O.C. 316/2024 (20 November 2024)).