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ANNOTATED GUIDE TO THE CANADIAN ENVIRONMENTAL PROTECTION ACT

Joseph F. Castrilli Release No. 5, September 2025

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 and the Regulation of Substances in the Environment.

Highlights:

- § CEPA:17—The International Situation—In May 2025, it was reported that a Dutch environmental group have promised to take an energy company to court for a second time to force it to stop developing new oil and gas projects. The reasons given are that the company has 700 oil and gas projects in development that will continue to drive up carbon emissions despite international efforts to slow global warming. In the first court proceeding, the energy company successfully overturned on appeal a lower court ruling that called for the company to reduce its greenhouse gas emissions. The appeals court ruling has itself been appealed to the Netherlands Supreme Court. In its original suit the environmental group argued that the company should reduce its emissions by 45 percent in line with the 2015 Paris climate agreement. The appeals court had held that a company could be compelled to take measures to protect the environment that go beyond current domestic legislation. It added, however, that demanding a specific percentage reduction in emissions was not realistic. In the group's anticipated lawsuit, it is expected to argue for a ban on new oil and gas fields rather than the setting of an emissions target (See Jillian Ambrose, "Dutch climate campaigners vow to take Shell to court again", The Guardian (13 May 2025)).
- § A71:1—Commentary—The purpose of the Clean Electricity Regulations is to protect the environment and human health from the threat of climate change by establishing a regime that prohibits excessive carbon dioxide emissions from the use of fossil fuel to generate electricity. Commencing in 2025, the regulations will set limits on carbon dioxide pollution from almost all electricity generation units that use fossil fuels. The regulations cover fossil fuel burning units with a capacity of 25 megawatts or greater connected to an electricity system subject to North American Electric Reliability Corporation standards. The regulations are viewed by the federal government as integral to its strategy to meet electricity demand while setting Canada on a path to net-zero carbon emissions by 2050. The regulations have several complementary objectives, including: (1) enabling significant greenhouse gas reductions to ensure a net-zero electricity grid by 2050; (2) enabling provinces and territories to maintain affordable

electricity for the public and the business community; and (3) allowing provinces and territories to maintain a reliable grid system as electricity needs grow. The regulations were developed recognizing that with the significant increase in electricity generation projected over the next several decades, greenhouse gas emissions from the electricity sector could increase substantially in the absence of regulatory measures. With this in mind, the regulations were developed in conjunction with an array of investments to support the development of grids that increasingly will operate primarily on low and non-emitting electricity sources. The government's expectation is that the regulations will reduce approximately 180 megatonnes of cumulative greenhouse gas emissions between 2024 and 2050 from Canada's electricity generation sector.