



**Invasive Alien Species Legislative Review and Gap Analysis  
Phase 1: Terrestrial Plants and Insects**

A report prepared for the  
Invasive Species Alliance of Nova Scotia  
by  
LJM Environmental Law and Consulting  
May 2010

Funded by the Invasive Alien Species Partnership Program,  
a Government of Canada Initiative



# LJM Environmental Law & Consulting Report

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ON    Invasive Alien Species Legislative Review and Gap  
   Analysis  
   Phase I: Terrestrial Plants and Insects

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28 May 2010

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The legislative provisions in this Report and the Appendices are for general information purposes only. The document is not legal advice and does not replace official government publications or expert legal advice.

If a discrepancy occurs between government policies, statutes or regulations and this document, the government-authorized documents will apply.

For official legislative provisions, consult the relevant federal and provincial statutes and regulations.

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## I. Introduction

The Invasive Alien Species Legislative Review and Gap Analysis Phase I: Terrestrial Plants and Insects was completed in May 2010 by LJM Environmental Law for the Invasive Species Alliance of Nova Scotia. Formed as an ad-hoc group in 2007, the Invasive Species Alliance of Nova Scotia (ISANS) has grown into a non-profit group of individuals and organizations focused on improved communication and information sharing to better address the threat of invasive alien species at the provincial level.

LJM Environmental Law was established in 1995 as one of the first law practices in Nova Scotia devoted exclusively to environmental law and policy. Lisa Mitchell, the principal of LJM and author of this Report has a degree in law and a Masters in Environmental Studies, along with over fifteen years of experience working in the field of environmental law.

The Invasive Alien Species Legislative Review and Gap Analysis Phase I: Terrestrial Plants and Insects Report (the “Report”) provides a summary overview of federal and provincial (Nova Scotia) statutes and regulations which contain direct or indirect authorities to prevent the introduction of, control and eradication of invasive alien species (terrestrial plants and insects) in Nova Scotia. The Report is supported by two appendices that specifically identify the legislative provisions referenced in the Report. A third appendix to the Report identifies the statutes and regulations that may be used to manage invasive alien species in Nova Scotia and sets out the constitutional basis for the legislation, the area regulated, the Minister responsible and a brief summary of its purpose.

Funding for this Report was provided by the Invasive Alien Species Partnership Program (IASPP), a Government of Canada Initiative.

## II. Background

The ISANS Steering Committee has repeatedly identified a provincial legislative review as a high priority. With the exception of the Chief Inspector under the *Weed Control Act*, the government of Nova Scotia does not currently have any staff officially responsible for the identification and management of invasive alien species (IAS). The responsibilities of individual government departments related to IAS are unclear to the public, as well as to other government departments. ISANS sees a number of benefits resulting from this legislative review, including:

- clarification of roles of government agencies and private landowners with respect to IAS management;
- provision of a tool for governments and landowners to understand and comply with existing legislation;
- informing stakeholders and the public about government and citizen roles related to IAS;
- identification of how existing legislation could be used more effectively to manage IAS;
- compilation of all related information in one document/location;
- contribution to early detection and rapid response (EDRR) of new IAS; and
- provision of a tool for informing provincial policy related to IAS.

The Report was developed to assist ISANS, provincial and municipal governments, private landowners, and the public in identifying the primary legislative authorities and responsibilities of federal and provincial (Nova Scotia) government departments in the management of IAS (terrestrial plants and insects).

In 1992, Canada became a signatory to the *Convention on Biological Diversity* (CBD). Article 8(h) of the Convention states:

Each Contracting Party shall, as far as possible and as appropriate:  
(h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species.

Commitments made in the CBD together with commitments made by Canada as a signatory to the *International Plant Protection Convention* (IPPC) provide a mandate to the federal government to prevent the introduction and spread of IAS in Canada.

In 2004, the federal government introduced *An Invasive Alien Species Strategy for Canada* (the “Strategy”). The scope of the Strategy is broad and inclusive, covering all IAS regardless of species type, where they originated, or how they were introduced into Canada.

The Invasive Alien Species Strategy for Canada seeks to protect Canada’s aquatic and terrestrial ecosystems, and their native biological diversity and domestic plants and animals, from the risks of invasive alien species.<sup>1</sup>

The definitions of “alien species” and “invasive alien species” in the Strategy reflect these broad intentions.

Alien species are species of plants, animals (including fish), and micro-organisms introduced by human action outside their natural past or present distribution.<sup>2</sup>

Invasive alien species are those harmful alien species whose introduction or spread threatens the environment, the economy, or society, including human health. Alien bacteria, viruses and fungi, and aquatic and terrestrial plants, mammals, birds, reptiles, amphibians, fish and invertebrates (including insects and mollusks) can all become invaders.<sup>3</sup>

In an effort to incorporate the Strategy into policy, planning and legislation at the federal and provincial levels, two key initiatives were undertaken. The *Action Plan for Terrestrial Plants and Plant Pests* (the “Terrestrial Action Plan”) and the *Canadian Action Plan to Address the Threat of Aquatic Invasive Alien Species* (the “Aquatic Action Plan”) were both completed in 2004.

The Terrestrial Action Plan was supported by a baseline policy analysis of federal legislation, completed by Environment Canada in 2004. This analysis is provided in Appendix 3 of the Terrestrial Action Plan and its focus is on the legislative framework for import control of IAS.<sup>4</sup>

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<sup>1</sup> An Invasive Alien Species Strategy for Canada, 2004 at page 7.

<sup>2</sup> An Invasive Alien Species Strategy for Canada, 2004 at page 5; see also Decision VI/23 of the Convention on Biological Diversity.

<sup>3</sup> An Invasive Alien Species Strategy for Canada, 2004 at page 5; see also United States National Invasive Alien Species Council Management Plan, 2001.

<sup>4</sup> Action Plan for Invasive Alien Terrestrial Plants and Plant Pests, 2004, 4.3 Appendix 3: Strengthening Canada’s Federal Legislative Framework for Regulating the Importation of Alien Plants and Plant Pests – A Preliminary Analysis. <http://www.inspection.gc.ca/english/plaveg/invenv/action/phase1e.shtml#a4.2>

The Terrestrial Action Plan recommended that the preliminary work done by Environment Canada be developed into a comprehensive legal analysis to evaluate all existing legislative and regulatory coverage relating to invasive alien plants and plant pests in Canada. This analysis is to include an assessment of operational capabilities and recommend means by which gaps may be filled and by which a comprehensive, integrated federal/provincial legal framework be established.<sup>5</sup>

Research indicates that the only other province to produce an overview or analysis of legislation relevant to the management of IAS is British Columbia. The Invasive Plant Council of British Columbia prepared A Legislative Guidebook to Invasive Plant Management in British Columbia in 2007. The Guidebook provides an excellent summary overview of the federal and provincial (British Columbia) legislative frameworks for invasive plants. As noted in the title, the information is limited to invasive plants only and it includes only a narrative overview of the relevant statutes and regulations. Specific provisions of the statutes and regulations are not identified or analyzed.<sup>6</sup>

### III. Scope

This Report (Invasive Alien Species Legislative Review and Gap Analysis Phase I: Terrestrial Plants and Insects), provides the most comprehensive overview and analysis of federal and provincial (Nova Scotia) legislation on the management of IAS to date. It is the only initiative to cover the regulatory framework in Nova Scotia and it builds extensively on previous work in the federal sphere by including a more detailed presentation and analysis of federal legislation.

Phase I of this Report focuses on terrestrial plants and insects. Phase II of this Report will focus on aquatic organisms.

Due to a lack of clarity surrounding some pieces of legislation, and the potential for the introduction of new or amended legislation, this Report should be considered a living document, itself subject to revision.

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<sup>5</sup> Action Plan for Invasive Alien Terrestrial Plants and Plant Pests, 2004, Phase 1 – Key Initiatives, Section 3.2.2 Legislation and Regulation. <http://www.inspection.gc.ca/english/plaveg/invenv/action/phase1e.shtml>

<sup>6</sup> Invasive Plant Council of BC, Report # 3, December 2007, A Legislative Guidebook to Invasive Plant Management in BC. <http://invasiveplantcouncilbc.ca/publications/ipcbc-reports/IPC3-Legislative-Guidebook.pdf>

## Part A

### Provincial Overview of Legislative Authorities and Responsibilities for Invasive Alien Species (Terrestrial Plants and Insects)

The following summary provides an overview of the legislative authorities and responsibilities for invasive alien species (terrestrial plants and insects) provided to provincial Ministers. The goal of this summary is to clarify the role that each of the Ministers may play in the management of invasive alien species in Nova Scotia. Appendix A, entitled Jurisdictional Tables, provides a more detailed overview of ministerial authorities and responsibilities identified in this part.

This part is divided into two sections. Section 1.0 identifies: (1.1) which Ministers have direct or indirect responsibility for invasive alien species in the province; (1.2) under what circumstances the provincial government has relatively broad regulatory control of invasive alien species; (1.3) the geographical areas in the province where the government can control invasive alien species; and (1.4) which plant and animal species the government can protect from invasive alien species.

Section 2.0 is a brief narrative overview of each of the relevant provincial statutes, including a preliminary assessment of authorities that support management of invasive alien species and limitations on those authorities.

#### 1.0 Provincial Authorities and Responsibilities

##### 1.1 Responsible Ministers

The following provincial Ministers have direct or indirect responsibility for invasive alien species:

###### 1.1.1 Minister of Natural Resources

The Minister of Natural Resources is responsible for six statutes that may be used to control and/or eradicate invasive alien species in Nova Scotia. In each case the authority of the Minister is limited to a specific area (forests, provincial parks, beaches) or to specific species (wildlife, endangered species). Within these limitations the Minister has fairly broad authority to control and/or eradicate invasive alien species when they are identified. In some cases the Minister is required by legislation to implement management plans that could prevent the introduction of invasive alien species.

###### 1.1.2 Minister of Agriculture

The Minister of Agriculture is responsible for six statutes that may be used to manage invasive alien species. Four of the six statutes are very specific, intended to protect only a narrow group of agricultural industries (bees, cattle, potato, agricultural marshland). The Minister's authority under the *Weed Control Act*, although narrow in its application (designated noxious weeds only), can be applied to ensure that action is taken to prevent the spread of noxious weeds that may spread to agricultural land or inflict economic harm or ill health on Nova Scotians.

### 1.1.3 Minister of Environment

The Minister of Environment is responsible for two statutes that may be used to prevent the introduction of, control or eradicate invasive alien species. The protection of biodiversity is a recognized theme in both statutes and therefore provides a strong foundation for invasive alien species management. The umbrella statute, *Environment Act*, has been used to manage invasive alien species through the approval process, and includes many additional opportunities for regulatory development in this regard.

### 1.1.4 Minister of Service Nova Scotia and Municipal Relations

The Minister of Service Nova Scotia and Municipal Relations is responsible for the *Municipal Government Act*. The role of the Minister in the management of invasive alien species under this Act is merely as an oversight to municipal by-law making authorities on weed control. This Report does not examine municipal by-laws.

### 1.1.5 Minister of Transportation

The Minister of Transportation is responsible for one statute, *Public Highways Act* that may be used to eradicate or control invasive alien species in a narrow context. Although the mandate of the Minister is limited to public highways, the Department has been active in establishing programs to manage invasive alien species within this mandate. These activities have also contributed to the identification and monitoring of invasive alien species on a broader scale.

## 1.2 General Areas of Regulation

A review of the legislation indicates that the provincial government has relatively broad authority to regulate invasive alien species (terrestrial plants and insects) in the following circumstances:

- Any undertaking that requires an environmental impact assessment (*Environment Act*)
- Any designated activity that requires an approval (*Environment Act*)
- Any invasive alien species that is part of a municipal weed control program (*Municipal Government Act*)
- Any invasive alien species designated as a noxious weed (*Weed Control Act*)
- Any invasive alien species deemed to be an “injurious agent” to a forest (*Forests Act*)

## 1.3 Geographical Areas of Protection

A review of the legislation indicates that the provincial government has the authority to regulate and manage invasive alien species in the following areas:

- Crown forests
- Provincial parks
- Beaches
- Designated wilderness areas
- Agricultural land, including designated marshland (dyke land)
- Rights of way associated with public highways

## 1.4 Species Protected by Regulation

A review of the legislation indicates that the provincial government has the authority to protect the following plants and animals from invasive alien species:

- Wildlife and wildlife habitat
- Listed endangered species and their habitat
- Flora and fauna in designated areas (as described in Section 1.3)
- Bees
- Cattle
- Potatoes
- Apples

## 2.0 Provincial Legislative Summaries by Ministry

The following section provides a brief narrative on each of the relevant statutes, including a summary of pros and limitations. Details of each of the statutes described in this section can be found in Appendix B, entitled Provincial Legislative Tables.

### 2.1 Minister of Natural Resources

#### 2.1.1 *Forests Act*

Under the *Forests Act* the Minister has broad authority to study and undertake activities to protect forests, including research on the control of competing vegetation. Section 21 of the Act requires the Minister to take steps to protect forests on Crown and private lands from all “injurious agents” including insects and disease (e.g. Dutch Elm Disease Regulations). The term “injurious agent” is not defined.

Pros:

- (1) Applies to Crown and private land.
- (2) Requires the Minister to monitor forests for insects and diseases.
- (3) Requires the Minister to take action to protect forests from all “injurious agents”.

Limitations:

- (1) Applies to forests only.
- (2) Does not refer to invasive alien species specifically.
- (3) Focus is on insects and diseases.
- (4) Does not define “injurious agent”.

#### 2.1.2 *Forest Enhancement Act*

The *Forest Enhancement Act* requires the Minister to develop forest management programs that account for insects, diseases and competing vegetation. The Minister must use forest management techniques on Crown land and recommend such techniques on private land.

Pros:

- (1) Requires forest management programs which could facilitate planning to identify and manage invasive alien species.

Limitations:

- (1) Applies to forests only.

- (2) Requirements apply to Crown forest land only (recommendations for private land).
- (3) Does not refer to invasive alien species specifically.

### 2.1.3 *Wildlife Act*

The *Wildlife Act* vests all wildlife in the Crown, and the Minister has the responsibility of overseeing the protection of wildlife. The Minister may develop policies and programs to protect wildlife, including policies and programs that protect wildlife and wildlife habitats. The Minister has the authority to undertake studies and carry out programs on wildlife and wildlife habitats to promote the long-term productivity, diversity and stability of forest and wetlands systems.

- Pros:
- (1) Makes the Minister responsible to oversee the protection of wildlife.
  - (2) The application of the Act is not limited to Crown land.
  - (3) There is no requirement to identify/list a species before action is taken.
  - (4) Supports diversity and stability in forest and wetland systems.

- Limitations:
- (1) Does not refer to invasive alien species specifically.
  - (2) The Minister is not required to take any action.
  - (3) The Minister's authority is limited to protection of wildlife and wildlife habitat.

### 2.1.4 *Provincial Parks Act*

The *Provincial Parks Act* provides the Minister with the authority to take steps to protect flora and fauna in provincial parks.

- Pros:
- (1) The Minister has broad authority to take whatever steps deemed necessary to protect flora and fauna in any provincial park.
  - (2) There is no requirement to identify/list a species before action is taken.

- Limitations:
- (1) The Minister's authority applies only within provincial parks.
  - (2) Does not refer to invasive alien species specifically.
  - (3) The Minister is not required to take any action.

### 2.1.5 *Endangered Species Act*

The *Endangered Species Act* requires the Minister to take steps to protect and recover species listed under the Act. The protection of species specifically includes habitat protection. The Act places the conservation of species at risk within a broader strategy to maintain biodiversity and to use biological resources in a sustainable manner. The Act also recognizes the precautionary principle and its value in taking action to minimize threats to species at risk.

- Pros:
- (1) Specifically recognizes the importance of biodiversity.
  - (2) Recovery/management plans for listed species must be prepared.
  - (3) Recovery/management plans must include identification of habitat.
  - (4) Recovery/management plans are monitored and subject to a five year review.

- Limitations:
- (1) The requirements only apply to species at risk (listed under the Act) and their habitat.

- (2) Most of the Minister's authority relating to habitat is limited to core habitat, as defined by the Act.
- (2) The authority of the Minister to take or require actions to be taken on private land is limited.

### 2.1.6 *Beaches Act*

The *Beaches Act* dedicates all beaches to the present and future generations of Nova Scotians. The Act enables the creation of regulations for the preservation, control and management of beaches, and the preservation and protection of flora and fauna located on a beach. No such regulations currently exist.

- Pros: (1) The regulatory authority to protect flora and fauna on beaches is broad and could include protection from invasive alien species.
- Limitations: (1) The authority to protect flora and fauna can only be effected through regulation.
- (2) Does not refer to invasive alien species specifically.
  - (3) The application of the Act is limited to beaches.

## 2.2 Minister of Agriculture

### 2.2.1 *Agriculture and Marketing Act*

The *Agriculture and Marketing Act* provides the Governor in Council (i.e. Cabinet) with broad regulation-making authority to eradicate, control or prevent the introduction into the Province or the dissemination of plant disease, insect or pest that have been declared by the Governor in Council (GIC) to be subject to the Act. Currently the apple maggot, San Jose scale and certain contagious bee diseases have been declared.

- Pros: (1) The regulation-making authorities to deal with plant disease, insects and pests are very broad and include application on private land.
- Limitations: (1) Applies to plant diseases, insects and pests that are declared by the GIC under the Act.
- (2) Action will only be taken via regulation.
  - (3) Does not refer to invasive alien species specifically.
  - (4) Focused on the protection of commercial agriculture.

### 2.2.2 *Bee Industry Act*

The *Bee Industry Act* regulates the beekeeping industry. Under the Act, Inspectors are granted powers to treat or disinfect bees and beekeeping equipment and power to keep bees or beekeeping equipment at a specified location where a disease or pest is discovered. The Act is specific to beekeeping and only diseases, insects and parasites designated by the Bee Industry Regulations are subject to the Act.

- Pros: (1) Provides broad powers to Inspectors to take action to prevent the spread of disease or pests.
- (2) Requires actions to be taken by any beekeeper.
  - (3) Beekeepers are required to report any designated pest or disease.

- Limitations:
- (1) Only diseases and pests designated by Regulation are subject to the Act.
  - (2) Limited to the beekeeping industry.
  - (3) Does not refer to invasive alien species specifically.

### 2.2.3 *Cattle Pest Control Act*

The *Cattle Pest Control Act* provides the Livestock Health Services Board with the power to formulate and implement treatment programs for the warble fly.

- Pros:
- (1) Ensures treatment programs for the warble fly.

- Limitations:
- (1) Applies only to the warble fly in cattle.

### 2.2.4 *Potato Industry Act*

The *Potato Industry Act* provides the Minister the authority to order steps to be taken to prevent the spread of insects, pests and diseases that are destructive or injurious to potatoes. The Governor in Council may make regulations to prevent the introduction and spread of any insect, pest or disease. The Potato Industry Regulations exercise this authority for bacterial ring rot.

- Pros:
- (1) Applies to any insect, pest or disease that is injurious to potatoes, designation of a specific insect, pest or disease is not required.
  - (2) The Minister has broad authority to order any person who owns potatoes infested with an insect, pest or disease to take steps to prevent spread of such.

- Limitations:
- (1) The application of the Act is limited to the potato industry.

### 2.2.5 *Weed Control Act*

Under the *Weed Control Act*, Inspectors are granted powers to order noxious weeds and seeds to be destroyed on any land, and may undertake the destruction where the occupant of the land does not comply with the order. The Act only applies to noxious weeds and seeds that have been listed in Weed Control Regulations. The Act is intended to protect agricultural land, however application is not limited to agricultural properties and may be invoked to prevent economic harm or ill health.

- Pros:
- (1) Inspectors have broad powers to ensure that designated noxious weeds and weed seeds are destroyed anywhere in the province including on private land.
  - (2) Inspectors have authority to require noxious weeds to be controlled along public highways.
  - (3) Any occupant of land is required to destroy noxious weeds in accordance with the Act.
  - (4) The Minister is required to have a weed control advisory committee in place.

- Limitations:
- (1) Applies to noxious weeds that have been designated by regulation.

- (2) The intent of the Act is limited to preserving the quality of agricultural land, and providing protection from weeds which can inflict economic harm or ill health on humans and animals.
- (3) Does not specifically reference invasive alien species or biodiversity.

### 2.2.6 *Agricultural Marshland Conservation Act*

The *Agricultural Marshland Conservation Act* includes broad Ministerial authority relating to “works” on marshlands used for agricultural purposes. “Works” include “...facilities for the conservation, development, improvement or protection of marshland...”

- Pros: (1) The Minister’s authority to protect agricultural marshland is broad.
- Limitations: (1) The application of the Act is limited to marshland designated under the *Marshland Reclamation Act*.
- (2) Does not refer to invasive alien species specifically and its application to the control of invasive alien species is not clear.

## 2.3 Minister of Environment

### 2.3.1 *Environment Act*

The *Environment Act* is an umbrella statute which has as its goal the protection, enhancement and prudent use of the environment. The Act recognizes the principle of ecological value, ensuring the maintenance and restoration of essential ecological processes and the preservation and prevention of loss of biological diversity. Although the term invasive alien species is not referenced in the statute, the language contained in the purpose section of the Act facilitates the use of the Act as a tool to manage invasive alien species. The Minister has a number of authorities under the Act that have been or may be used to prevent, control and/or eradicate invasive alien species.

- The Minister has the authority to sponsor or undertake research on anything the Minister considers necessary to achieve the purpose of the Act. This could include research on the impact of invasive alien species on biological diversity.
- The Minister has the authority to take action against any person who releases a substance that causes or may cause an adverse effect to the environment. The definition of substance is very broad and could arguably include invasive alien species.
- The Minister has the authority to require remedial measures be taken to prevent, reduce or remedy the adverse effects of a substance.
- The Minister regulates the handling, storage, etc of pest control products (Pesticide Regulations).
- The Minister can assess the potential environmental effects of invasive alien species in the context of an environmental impact assessment (EIA) and can include conditions in EIA approvals to address any concerns (Environmental Assessment Regulations).
- The Minister can include terms and conditions in approvals required for a variety of activities (e.g. alteration of a wetland) to prevent the introduction of invasive alien species or mitigate the impacts of invasive alien species (Activities Designation Regulations).

- Pros: (1) The purpose section of the Act specifically recognizes the preservation of biodiversity as a goal.

- (2) The Minister has broad authority to consider any thing that has or may have an adverse effect on the environment.
  - (3) Includes numerous opportunities to implement programs to manage invasive alien species.
- Limitations:
- (1) Does not refer to or define invasive alien species specifically.
  - (2) Provisions that may be used to address invasive alien species are discretionary to the Minister; specific actions are not required.
  - (3) In some instances the authorities provided to the Minister may not be deemed appropriate for invasive alien species management.

### 2.3.2 *Wilderness Areas Protection Act*

The *Wilderness Areas Protection Act* enables the Minister of Environment to maintain and restore the integrity of natural processes and biodiversity within protected areas. The Minister has broad authority to establish committees, programs, policies, etc., and is required to produce a management plan to guide “protection” of the designated wilderness area.

- Pros:
- (1) Recognizes protection of biodiversity.
  - (2) The Minister’s authority to protect biodiversity is not limited to specific species or actions.
  - (3) The Minister is required to establish a plan.

- Limitations:
- (1) Applies to designated wilderness areas only.
  - (2) Does not refer to invasive alien species specifically.

## 2.4 Minister of Service Nova Scotia and Municipal Relations

### 2.4.1 *Municipal Government Act*

The *Municipal Government Act* grants municipalities the authority to create by-laws to address nuisance activities, including control of “weeds”. The Act does not include a definition of “weeds”.

- Pros:
- (1) The by-law making authority is not limited to designated “weeds”.
  - (2) Enabling municipal governments to manage weed control provides more opportunities for monitoring and management of invasive alien species.

- Limitations:
- (1) The by-law making authority is set in the context of nuisance activities, which may limit application.
  - (2) The by-law making authority is limited to weeds.
  - (3) Does not specifically reference invasive alien species or biodiversity.
  - (4) Does not define “weeds”.

## 2.5 Minister of Transportation

### 2.5.1 *Public Highways Act*

The *Public Highways Act* vests every common and public highway, together with the land within the highways boundaries in the Crown. The Act states that every road now open and used as a public road or highway is deemed to be a public highway. The Minister is granted broad

authority to preserve and maintain public highways. Guidance materials produced by the Department of Transportation indicate that the shoulder area, ditch area and buffer zone all exist within the right of way of the public highway and are subject to maintenance under the Act.

Pros: (1) The Minister has broad authority to control any unwanted vegetation along a public highway.

Limitations: (1) The Minister's authority is limited to the public highway and associated right of way.  
(2) Does not specifically reference invasive alien species or biodiversity.

## Part B

### Federal Overview of Legislative Authorities and Responsibilities for Invasive Alien Species (Terrestrial Plants and Insects)

The following summary provides an overview of the legislative authorities and responsibilities for invasive alien species (terrestrial plants and insects) provided to federal Ministers. The goal of this summary is to clarify the role that each of the Ministers may play in the management of invasive alien species in Nova Scotia. Appendix A, entitled Jurisdictional Tables, provides a more detailed overview of ministerial authorities and responsibilities identified in this part.

This part is divided into two sections. Section 1.0 identifies: (1.1) which Ministers have direct or indirect responsibility for invasive alien species; (1.2) under what circumstances the federal government has relatively broad regulatory control over invasive alien species; (1.3) the geographical areas where the government can control invasive alien species; and (1.4) which plant and animal species the government can protect from invasive alien species.

Section 2.0 is a brief narrative overview of each of the relevant federal statutes, including a preliminary assessment of authorities that support management of invasive alien species and limitations on those authorities.

#### 1.0 Federal Authorities and Responsibilities

##### 1.1 Responsible Ministers

The following federal Ministers have direct or indirect responsibility for invasive alien species:

###### 1.1.1 Minister of Environment

The Minister of Environment is responsible for six statutes with a wide ranging impact on the management of invasive alien species. Four of the six statutes are focused specifically on the protection of wildlife species and their habitats. Each of the four statutes has a slightly different means of exercising that protection, but in all cases the Minister's authority is intended to ensure that important Canadian species and spaces are protected. The other two statutes provide a more general protection for the environment from undertakings or substances that may be harmful. Within the context of these statutes, invasive alien species, though not specifically addressed, may be captured because of their potential to cause an adverse effect to the environment.

###### 1.1.2 Minister of Natural Resources

The Minister of Natural Resources is responsible for two statutes that may play a role in the management of invasive alien species. Both of these statutes provide opportunities for the Minister to engage in research related to the protection and management of Canada's natural resources. Neither of the statutes contain any direct responsibilities for the identification, control or eradication of invasive alien species.

###### 1.1.3 Minister of Agriculture

The Minister of Agriculture is responsible for two statutes relevant to the management of invasive alien species. The Canadian Food Inspection Agency (CFIA) plays a leadership role in the

implementation of *An Invasive Alien Species Strategy for Canada* as it relates to plants and plant pests. The primary objectives of the CFIA in this regard are to prevent the introduction and spread of plant pests of “quarantine significance”, to detect and control or eradicate “designated” plant pests and to certify plant and plant products for domestic and export trade.<sup>7</sup>

#### 1.1.4 Minister of Health

The Minister of Health does not have any direct responsibility for the management of invasive species. The Health Canada Pest Management Regulatory Agency (PMRA) is responsible for pesticide regulation in Canada. Any pest control products considered for use in the control of invasive alien species must be evaluated and registered by the PMRA.

### 1.2 General Areas of Regulation

A review of the legislation indicates that the federal government has relatively broad authority to regulate invasive alien species (terrestrial plants and insects) in the following circumstances:

- Any invasive alien species designated as toxic substance under the *Canadian Environmental Protection Act*
- Any invasive alien species to be imported into Canada (*Plant Protection Act, Canadian Environmental Protection Act, Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act*)
- Any invasive alien species designated as a noxious weed seed (*Seeds Act*)
- Any invasive alien species that is injurious to plants and has the potential to spread (*Plant Protection Act*)

### 1.3 Geographical Areas of Protection

A review of the legislation indicates that the federal government has the authority to regulate and manage invasive alien species in the following areas:

- National wildlife areas
- National parks
- Crown forests
- Federally owned land

### 1.4 Species Protected by Regulation

A review of the legislation indicates that the federal government has the authority to protect the following plants and animals from invasive alien species:

- Federally listed species at risk
- All plants
- All wild plants and animals subject to international or interprovincial movement

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<sup>7</sup> Summary of Plant Quarantine Pest and Disease Situations in Canada.  
[www.inspection.gc.ca/english/plaveg/pestrava/surv/obje.shtml](http://www.inspection.gc.ca/english/plaveg/pestrava/surv/obje.shtml)

## 2.0 Federal Legislative Summaries by Ministry

The following section provides a brief narrative on each of the relevant statutes, including a summary of pros and limitations. Details of each of the statutes described in this section can be found in Appendix C, entitled Federal Legislative Tables.

### 2.1 Minister of Environment

#### 2.1.1 *Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act*

The *Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act* (WAPPRITA) provides the Minister with the authority to regulate the import, export and interprovincial movement of certain plants and animals in order to protect these species of animals and plants. One of the goals of the Act is to protect Canadian ecosystems from wild species whose introduction would be harmful to indigenous species. To that end, the Act provides the Minister with the authority to urgently recommend to the Governor in Council that a certain specimen not be imported into Canada because it would be harmful to Canadian ecosystems or to any species in Canada. These species are listed under Schedule II of the Regulations and are few in number.

Pros: (1) Provides a tool to control the introduction and interprovincial movement of species that may prove to be invasive alien species.

Limitations: (1) Limited to international and inter-provincial trade.  
(2) Regulates the movement of listed species only.

#### 2.1.2 *Canada Wildlife Act*

The *Canada Wildlife Act* grants the Minister authority to undertake conservation activities in wildlife areas assigned to the Minister. The activities must not be inconsistent with the laws of the province or territory where the wildlife area exists. The authority of the Minister to take action to protect species in wildlife areas appears to be broad, although specific actions are not noted in the legislation.

Pros: (1) The Minister has broad authority to undertake activities in wildlife areas.

Limitations: (1) The authority of the Minister does not extend outside of the wildlife area.  
(2) Does not specifically reference invasive alien species or biodiversity.  
(3) The Minister's authority is subject to provincial law.  
(4) The Minister is not required to take any action.

#### 2.1.3 *Canada National Parks Act*

Under the *Canada National Parks Act* the Minister is responsible for the maintenance and management of all national parks. Included in this responsibility is a requirement to make the maintenance or restoration of ecological integrity, through the protection of natural resources and natural processes, the first priority of park management. Within five years after a park is established, the Minister is required to prepare a park management plan that must include a long-term ecological vision for the park, a set of ecological integrity objectives and indicators, and provisions for resource protection and restoration.

- Pros: (1) The Minister has both the authority and responsibility to protect ecological integrity in the parks.  
 (2) The Minister is required to undertake management planning and monitoring within a specified timeframe.
- Limitations: (1) Applies to designated National Parks only.  
 (2) Does not specifically reference invasive alien species.

#### 2.1.4 *Species at Risk Act*

The *Species at Risk Act* requires that once a species has been listed as extirpated, endangered or threatened, the competent Minister must follow a series of steps to assess and hopefully recover the species. Included in this is an assessment of any threats against the species or its critical habitat. The Act further requires all recovery strategies, action plans and management plans to consider the commitment of the Government of Canada to conserving biological diversity.

- Pros: (1) Requires assessment of threats, which could include invasive alien species, to a wildlife species or its critical habitat.  
 (2) Management and action plans are a required part of the assessment and recovery process.  
 (3) Recognizes conservation of biological diversity.
- Limitations: (1) Supports protection of listed species only, and some of their habitat.  
 (2) Does not reference invasive alien species specifically.  
 (3) Application of the Act to habitat is very limited.

#### 2.1.5 *Canadian Environmental Assessment Act*

The *Canadian Environmental Assessment Act* requires that the environmental effects of any project which triggers the Act be considered before the project is undertaken. All aspects of the project and its interaction with the environment may be considered in the environmental impact assessment (EIA). These assessments may lead to new information on potential environmental effects, including invasive alien species, and may require changes to the project to prevent or mitigate such effects. An environmental effect includes any change that the project may cause in the environment, including any change it may cause to a listed wildlife species or its critical habitat.

- Pros: (1) Provides an opportunity for consideration of invasive alien species as an environmental effect.  
 (2) Includes a tool for assessment, planning and management.  
 (3) Is not limited to specific species.
- Limitations: (1) The requirement for an EIA only applies when the Act is triggered.  
 (2) Assessment for invasive alien species is not specifically mentioned and therefore may be missed.

#### 2.1.6 *Canadian Environmental Protection Act*

The *Canadian Environment Protection Act* is a broad statute that includes as its focus preventive and remedial measures to protect, enhance and restore the environment. The protection of biological diversity from the use or release of toxic substances is specifically addressed in the

Act. The Minister has the authority to regulate substances that meet the definition of toxic under the Act and have been listed as a toxic substance in Schedule 1. The definition of toxic substance is very broad and includes any substance that may have an immediate or long-term harmful effect on the environment or its biological diversity. The Act also recognizes the precautionary principle. The Act authorizes the assessment of substances new to Canada, including living organisms, and the New Substance Notification Regulations require an environmental risk assessment that includes invasiveness as an adverse ecological effect.

- Pros:
- (1) Provides broad authority to the Minister to prevent harmful effects to the environment.
  - (2) The need to protect biological diversity is specifically mentioned.
  - (3) The precautionary principle is specifically referenced.
  - (4) The Minister may assess any new substances manufactured or imported into Canada, including living organisms.

- Limitations:
- (1) The Minister only has the authority to regulate toxic substances that are designated under the Act.
  - (2) The assessment of living organisms is confined to animate products of biotechnology.

## 2.2 Minister of Natural Resources

### 2.2.1 *Forestry Act*

The *Forestry Act* requires the Minister to conduct research relating to the protection, management and utilization of the forest resources of Canada. The Act authorizes the development of regulations to protect flora and fauna on any lands for which the Minister is responsible.

- Pros:
- (1) Requires the Minister to undertake related research; is not discretionary.

- Limitations:
- (1) The Minister is not required to take any action.
  - (2) The application of the Act is limited to lands for which the Minister is responsible.
  - (3) Does not specifically reference invasive alien species or biodiversity.

### 2.2.2 *Department of Natural Resources Act*

The *Department of Natural Resources Act* provides the Minister with authority over all natural resources within the jurisdiction of the federal government and not otherwise assigned to another Minister. The Act requires the Minister to always consider sustainable development and integrated management of Canada's natural resources.

- Pros:
- (1) Provides opportunities for research in areas that could include invasive alien species and requires the broad consideration of sustainable development.
  - (2) Clarifies that the Minister of Natural Resources is the Minister responsible for federal natural resources.

- Limitations:
- (1) Generally limited to research.
  - (2) Does not specifically reference invasive alien species or biodiversity.

## 2.3 Minister of Agriculture

### 2.3.1 *Plant Protection Act*

The *Plant Protection Act* is administered by the Canadian Food Inspection Agency (CFIA) and provides extensive authority to control the import, export and spread of “pests” in Canada. The definition of pest is very broad and includes any thing that is injurious or potentially injurious, directly or indirectly, to plants, and includes any plant prescribed as a pest. The CFIA uses a pest risk assessment to determine whether something is a pest, if it will have a significant adverse effect on the environment and to minimize degradation of Canadian flora. If following a pest risk assessment the thing is determined to be a pest, in accordance with the *Plant Protection Act*, actions may be taken to prevent the introduction of the pest and to control or eradicate the pest.

Although the implementation of the Act has been focused on import/export, the provisions of the Act are broad enough to address some aspects of domestic control of pests. For example, the Act includes a requirement for any person who has knowledge of a “new” pest to report it to the Minister.

Under the Plant Protection Regulations, Inspectors are granted broad powers to take steps to eradicate a pest or prevent its spread if, following a pest risk assessment, the Minister or the Inspector have a reasonable belief that the thing is a pest or is infested with a pest.

The preliminary legal analysis completed by Environment Canada under the Action Plan for Invasive Terrestrial Plants and Plant Pests concluded that the *Plant Protection Act* includes all of the authority necessary to regulate the introduction of invasive (terrestrial) alien plants and plant pests, and for considering their environmental impacts.<sup>8</sup>

- Pros:
- (1) There is extensive authority to prevent the introduction of certain invasive alien species into Canada.
  - (2) There is some authority to manage the spread of certain invasive alien species in Canada.
  - (3) Requires actions to be taken and includes strong enforcement authorities.
- Limitations:
- (1) Only applies following a determination via a pest risk assessment that the thing of concern is a pest.
  - (2) The focus of the Act is on the import and export of “pests” and not management and control of invasive alien species in Canada.
  - (3) Only applies to invasive alien species that are injurious to plants.
  - (4) Does not reference biodiversity and its implementation is focused on protection of the agriculture and forestry sectors only.

### 2.3.2 *Seeds Act*

The *Seeds Act*, administered by the Canadian Food Inspection Agency (CFIA) provides the Minister with the authority to regulate the import, export and sale of seeds and control noxious weed seeds (Seeds Regulations). The Weed Seeds Order, 1986, identifies species of plants that are considered weed seeds and lists weed seeds that are prohibited in Canada.

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<sup>8</sup> Action Plan for Invasive Alien Terrestrial Plants and Plant Pests, Phase 2 – Proposed Implementation Plan, 3.0 Area of Delivery – Legislation and Regulation.  
<http://www.inspection.gc.ca/english/plaveg/invenv/action/phase2e.shtml>

- Pros: (1) Regulates the import of seed that may be invasive.  
(2) Includes solid enforcement provisions.

- Limitations: (1) Application of the Act is restricted to seeds.  
(2) Focus is on import, export and sale only.  
(3) Does not specifically reference invasive alien species or biodiversity.

## 2.4 Minister of Health

### 2.4.1 *Pest Control Products Act*

The *Pest Control Products Act*, administered by the Pest Management Regulatory Agency (PMRA) regulates the registration and sale of all pest control products in Canada. The term “pest” is broadly defined as an animal, a plant or other organism that is injurious, noxious or troublesome, whether directly or indirectly, and an injurious, noxious or troublesome condition or organic function of an animal, a plant or other organism. The primary objective of the Act is to prevent unacceptable risks to people and the environment from the use of pest control products.

- Pros: (1) Provides regulatory control over products that may be used to eradicate or control invasive alien species.  
(2) Recognizes the need to balance the risks associated with used of these products.  
(3) Specifically references biodiversity.

- Limitations: (1) Limited to the control of products.

## PART C

### Analysis and Recommendations

#### 1.0. Gap Analysis

Providing an overview of federal and provincial legislative authorities and responsibilities for invasive alien species (terrestrial plants and insects) in Nova Scotia has been challenging. Although there is along list of statutes that have the potential to address the invasive terrestrial plants and insects, the framework is confused and inconsistent. Invasive alien species exist in many forms and impact the environment, economy and society in a variety of ways. Many sectors of the economy including forestry, agriculture, transportation, parks, protected areas and other industries are affected by invasive alien species but seldom are they the primary focus of any regulatory framework. Without a dedicated statute, many aspects of their regulation fall between the cracks.

#### 1.1 The term “invasive alien species” is not legally defined

The term “invasive alien species” is not referenced or defined in any statute or regulation used to identify, prevent, control or eradicate these species.

The term is defined, as follows, in the 2004 *An Invasive Alien Species Strategy for Canada*:

Alien species are species of plants, animals (including fish), and micro-organisms introduced by human action outside their natural past or present distribution.<sup>9</sup>

Invasive alien species are those harmful alien species whose introduction or spread threatens the environment, the economy, or society, including human health. Alien bacteria, viruses and fungi, and aquatic terrestrial plants, mammals, birds, reptiles, amphibians, fish and invertebrates (including insects and mollusks) can all become invaders.<sup>10</sup>

There are numerous other terms defined in legislation that may include invasive alien species; however each of these has specific limitations.

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<sup>9</sup> An Invasive Alien Species Strategy for Canada, 2004 at page 5; see also Decision VI/23 of the Convention on Biological Diversity. [http://www.ec.gc.ca/eee-ias/98DB3ACF-94FE-4573-AE0F-95133A03C5E9/Final\\_IAS\\_Strategic\\_Plan\\_smaller\\_e.pdf](http://www.ec.gc.ca/eee-ias/98DB3ACF-94FE-4573-AE0F-95133A03C5E9/Final_IAS_Strategic_Plan_smaller_e.pdf),

<sup>10</sup> An Invasive Alien Species Strategy for Canada, 2004 at page 5; see also United States National Invasive Alien Species Council Management Plan, 2001.

Term	Definition	Statute	Limitation
pest	means any insect or parasite designated in the regulations as a pest;	Bee Industry Act	Must be designated. Bee industry only.
cattle pest	means the insect known as <i>Hypoderma bovis</i> or <i>Hypoderma lineatum</i> and commonly known as the warble fly;	Cattle Pest Control Act	Warble fly only. Cattle protection only.
insect, pest or disease	means any insect, pest or disease destructive or injurious to potatoes;	Potato Industry Act	Potato industry only.
noxious weed	means a plant that is designated under this Act as a noxious weed;	Weed Control Act	Must be designated. Plants only.
pest	means any plant, animal, micro-organism or any organic functions of a plant, animal, or micro-organism, including any insect, nematode, rodent, predatory animal, parasite, bacterium, fungus, weed, or other form of plant or animal life or virus, the Minister believes is or may be injurious, noxious or troublesome, but does not include a virus, parasite, bacterium or fungus in a living person or animal;	Environment Act Pesticide Regulations	Applies to pesticide regulation only.
pest	means any thing that is injurious or potentially injurious, whether directly or indirectly, to plants or to products or by-products of plants, and includes any plant prescribed as a pest;	Plant Protection Act	Applies to plant protection only. Used for import/export only.
quarantine pest	a pest of potential economic importance to the area endangered thereby and not yet present but not widely distributed and being officially controlled;	International Plant Protection Convention	Applies to plant protection only. Limited to listed species.
pest	means an animal, a plant or other organism that is injurious, noxious or troublesome, whether directly or indirectly, and an injurious, noxious or troublesome condition or organic function of an animal, a plant or other organism.	Pest Control Products Act	Applies to pesticide regulation only.

The lack of a consistent legal definition of invasive alien species creates confusion and makes it difficult to determine specifically which invasive alien species are addressed by a particular statute.

## 1.2 The regulation of invasive alien species is indirect and compartmentalized

There is no comprehensive federal or provincial legislative framework to identify, prevent, eradicate or control invasive alien species in Nova Scotia. There is a mishmash of authorities and responsibilities which seek to protect and maintain defined areas or things, such as forests, national or provincial parks, wildlife, endangered species, public highways, agricultural crops and livestock.

The challenge of a regulatory framework that does not have as its goal the management of invasive alien species is that each individual statute defines the problem differently and takes a different approach to addressing the problem. For example, the goal of the provincial *Forests Act* is to increase the productivity of Nova Scotia forests. To that end the Minister has broad authority to protect the forests from any injurious agents (i.e. invasive alien species) and to take steps to plan for the future management of the forests. However, the focus of the statute is on forest production not maintaining biodiversity. The Minister is not required to develop management plans that incorporate the identification or control of invasive alien species that may have an impact on forest biodiversity. As well, the authority of the Minister, although broadly applied on Crown land, is limited on privately owned properties.

This is just one example of legislation that has some potential to manage invasive alien species but is limited in scope and application. The same is true of most of the legislation considered in this Report. Such a silo or compartmentalized approach to the management of invasive alien species has led to a weak regulatory framework.

It may be argued that the federal *Plant Protection Act* and the provincial *Weed Control Act* provide more direct authority to regulate invasive alien species. The authorities in the *Plant Protection Act* and *Weed Control Act* are sufficiently direct to regulate certain invasive alien species; however both statutes are limited in their scope. The *Plant Protection Act* provides authority to control pests that are injurious to plants. The provincial *Weed Control Act* is limited to noxious weeds and seeds; all other invasive alien species are not covered.

It should also be noted that many of the authorities described in the relevant federal and provincial statutes limit their application to Crown land, i.e. Crown forests, provincial/national parks, beaches, designated wilderness areas, etc. There are very few statutes that include the authority necessary to identify and manage invasive alien species on privately owned property. There are some limited exceptions in statutes such as the provincial *Agriculture and Marketing Act*, *Weed Control Act*, *Forests Act* and the federal *Plant Protection Act*.

The Nova Scotia *Environment Act* and the federal *Canadian Environmental Protection Act* are the only statutes that have a broad scope. These laws have the general protection of the environment as their goal and they recognize the protection of biodiversity and the precautionary principle. However neither of the statutes defines invasive alien species nor provides sufficient authority to ensure that these species are effectively identified or eradicated. There are tools within these statutes and their regulations that are useful (i.e. environmental impact assessment, new substances notification, approvals for designated activities) but the approach is far from comprehensive and the application far from clear.

## 1.3 The application of invasive alien species regulation is weak and inconsistent

The lack of consistency in approach to regulating invasive alien species exists primarily because the legislation was developed with for a purpose other than management of invasive alien species.

To that end, any management of invasive alien species that occurs is secondary to the purpose of the legislation.

As well, the statutes all have a different means by which they authorize the management of invasive alien species. In some instances the Minister has the authority to take action by virtue of the statute (*Provincial Parks Act*). In other cases the Minister's action is subject to the creation of a regulation (*Beaches Act*) or approval by the Governor in Council (*Weed Control Act*). In some cases the legislative authority extends to control invasive plants and insects (*Potato Industry Act*), in other instances the authority extends only to invasive plants (*Weed Control Act*) or insects (*Cattle Pest Act*). It is virtually impossible to keep track of the various approaches, let alone apply this mishmash of authorities to construct an effective management plan for invasive alien species.

It is likely that this failure to make the management of invasive alien species a legislated goal has led to many of the policy and resource challenges that are faced in trying to prevent, eradicate and control invasive alien species on the ground. For example, the provincial *Weed Control Act* provides the Minister of Agriculture with the authority to require any occupant of land to destroy a noxious weed that is designated as such. However the legislation only applies to weeds that have been designated by Cabinet (GIC). This is an involved process and has resulted in the designation of only ten weeds over time. Furthermore, the Act provides no means of removing weeds from the list once they are designated. This leads to confusion regarding which weeds continue to be a problem and which are no longer of concern.

The application of the *Weed Control Act* also suffers from a lack of resources for effective implementation. Policy decisions within the Department of Agriculture appear to have limited the application of the Act to areas where agricultural land may be directly impacted. The Act itself has much broader application.

The federal *Plant Protection Act* appears to suffer from many of the same challenges that exist for the provincial *Weed Control Act*. The provisions of the Act are fairly broad-ranging giving the appearance that the Act could be used to prevent the introduction, export and spread of any pest injurious to plants or any plant found to be a pest. The application of the Act, however, has been limited to preventing the introduction into Canada of plant quarantine pests, which are limited to pests of economic importance that have not yet spread widely in Canada. In that regard the Act is not used to its full potential to control invasive alien plants or their potential impact on biodiversity. This issue was recognized by the federal government in 2004, but there is no indication that a change to the policy approach or the interpretation of the Act is forthcoming.

## 2.0. Recommendations

*An Invasive Alien Species Strategy for Canada* refers to the different ways that invasive species can be introduced into Canada as “pathways”. One of the key roles of a comprehensive legislative framework is to prevent invasive species from reaching these pathways. There are two primary means of achieving this goal: (1) import controls and (2) prevention planning.

Once an invasive alien species has been introduced into Canada the role of the legislative framework is to provide the authority necessary to identify/detect the species, enable immediate mitigative action to eradicate the species, monitor the area following the action, and provide for remedial steps to be taken where mitigation has not been successful.

As described in the gap analysis, the federal and provincial legislation identified and analyzed for this report confirms that Canada does not have a comprehensive legislative framework to address the roles described above.

There are three general approaches that may be considered to create a more consistent and effective legislative framework for the management of invasive alien species in Nova Scotia:

1. working within the current legislative framework;
2. minor amendments to the current legislative framework to improve effectiveness; or
3. major amendments/replacing the current legislative framework.

These approaches are not mutually exclusive.

### 2.1 Working within the current legislative framework

#### 2.1.1 Integrate invasive alien species into policies, programs and management plans

There are several federal and provincial statutes that include a mandate to the responsible Minister to undertake studies or develop policies, programs and management plans that could include invasive alien species. In many instances the purpose of the enabling statute includes protection of biodiversity.

Provincial statutes: *Forests Act, Forest Enhancement Act, Wildlife Act, Endangered Species Act, Environment Act, and Wilderness Areas Protection Act.*

Federal statutes: *Canada Wildlife Act, Canada National Parks Act, Species at Risk Act, Canadian Environmental Protection Act, Forestry Act.*

See legislative tables found in Appendices B and C for more detail.

There may be an opportunity for ISANS to identify these provisions to the relevant federal and provincial government departments and encourage them to include consideration of invasive alien species in research and in the development of policies, programs and management plans.

### 2.1.2 Explore the potential role of the *Environment Act* in the management of invasive species

The Nova Scotia *Environment Act* is a umbrella statute which may be used to regulate the release of any substance that could cause an adverse effect to the environment. Broadly interpreted the provisions that apply to the release of substances may include invasive alien species.

Nova Scotia Environment already considers the potential adverse effects on the environment from invasive alien species in the environmental impact assessment process and in the issuing of approvals for certain designated activities. There are a number of other authorities in the *Environment Act* that may prove useful in the identification, prevention, eradication and control of invasive alien species.

There may be an opportunity for ISANS to meet with staff of Nova Scotia Environment to discuss the options that may be available to apply the provisions of the *Environment Act* to the management of invasive alien species.

### 2.1.3 Pursue more effective implementation of the federal *Plant Protection Act*, and coordination with the *Canadian Environmental Protection Act and Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act*

The federal *Plant Protection Act* implements the standards under the *International Plant Protection Convention*. The Act is recognized as the primary means of ensuring plant protection in Canada. There are however, a number of recognized limitations as described in the *Action Plan for invasive alien terrestrial plants and plant pests*.

While plant pests (including insects, fungi, and plant viruses) and their pathways have been comprehensively addressed through application of the *Plant Protection Act*, invasive alien plants (i.e. weeds or pest plants) have not. In addition, application of the Act as focused on unintentional introductions (plant pests brought in with plant commodities and soil), not intentional introductions of alien plants, and on the protection of the agriculture and forestry sectors, not native plant biodiversity.<sup>11</sup>

There is a general consensus within the federal government that changes in policy interpretation could expand the application of the *Plant Protection Act* to regulate the introduction of invasive alien plants and plant pests and for considering their environmental impacts.<sup>12</sup> Implementing these changes in policy would ensure that the introduction of invasive alien plants and plant pests is regulated at the federal level. There would continue to be a gap in preventing the import of invasive alien species that do not have the potential to be injurious to plants. However, both the *Canadian Environmental Protection Act* and the *Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act* may provide a means of filling that gap.

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<sup>11</sup> Action Plan for Invasive Alien Terrestrial Plants and Plant Pests, 2004, 4.3 Appendix 3: Strengthening Canada's Federal Legislative Framework for Regulating the Importation of Alien Plants and Plant Pests – A Preliminary Analysis. <http://www.inspection.gc.ca/english/plaveg/invenv/action/phase1e.shtml#a4.2>

<sup>12</sup> Action Plan for Invasive Alien Terrestrial Plants and Plant Pests Phase 2 - Proposed Implementation Plan. <http://www.inspection.gc.ca/english/plaveg/invenv/action/phase2e.shtml>

## 2.2 Amend the current legislative framework to improve effectiveness

### 2.2.1 Minor amendments to several statutes

Minor amendments could be incorporated into many of the statutes discussed in this Report to clarify the role of the responsible Minister for the management of invasive alien species in the context of the statute. Not all of the amendments will be appropriate for all statutes.

Amendments could include:

- (1) adding a definition of invasive alien species;
- (2) incorporating protection of biodiversity;
- (3) requiring management planning that incorporates biodiversity and an ecosystem approach;
- (4) providing a process for early detection and monitoring of invasive species;
- (5) providing authority for actions to be taken to eradicate or control invasive species;
- (6) improving inspection and enforcement authorities, where appropriate;
- (7) providing authority to take action to control invasive species on private property, with appropriate limitations to protect privacy;
- (8) establish an expert advisory committee and provide them the authority to identify invasive alien species subject to the Act.

Statutes that may benefit from these amendments include:

#### Provincial Statutes

- *Forests Act*
- *Forest Enhancement Act*
- *Wildlife Act*
- *Endangered Species Act*
- *Environment Act*
- *Wilderness Areas Protection Act*

#### Federal Statutes

- *Canada Wildlife Act*
- *Canada National Parks Act*
- *Species at Risk Act*
- *Canadian Environmental Protection Act*
- *Forestry Act*

### 2.2.2 Minor amendments to the federal *Plant Protection Act*

The federal government has already concluded that the application of the *Plant Protection Act* may be expanded to control the importation of unintentionally imported organisms that are not plant pests but that may impact biodiversity. It is not clear if this can be done without amendment or development of new regulation. These changes would significantly increase the

effectiveness of the *Plant Protection Act* in preventing the introduction of invasive alien species into Canada.<sup>13</sup>

### 2.2.3 Minor amendments to the provincial *Weed Control Act*

The *Weed Control Act* has several positive features that facilitate the management of noxious weeds in Nova Scotia. These include clear authorities to require the elimination or destruction of noxious weeds on any property and the establishment of a Weed Control Advisory Council. However, for the most part the Act is outdated and presents challenges to broader efforts to address invasive alien species. The Act could be improved by incorporating several of the amendments described in section 2.1. More substantial improvements could be made by broadening the scope of the Act to clarify its application to invasive alien plants, regardless of where they occur in the province.

Amendments to the Act could also address challenges associated with the designation of species. First of all the authority to designate a species could be expanded from noxious weeds to include all invasive alien plants. Further amendments could be made to remove the requirement to have designation go through Cabinet (GIC) and enable the decision to be made by the Minister. The Minister could delegate this authority to the experts on the Weed (or invasive alien plants) Control Advisory Council to establish a list of species that would be subject to the Act. A provision to enable amendment of the list by decision of the Council could also be included.

A more thorough analysis of the Act and discussions with those tasked with its implementation would likely lead to other useful amendments. The amendments proposed would not provide a comprehensive legislative approach to the management of invasive species at the provincial level as the management of other invasive alien species, such as insects would fall under a separate statute. Another option may be to expand the scope of the *Weed Control Act* to include all terrestrial invasive alien plants and insects.

## 2.3 Create legislation dedicated to the management of invasive alien species

### 2.3.1 Create an *Invasive Alien Species Act*

With time and effort it may be possible to make the policy and legislative changes necessary to close the gaps that exist in the current legislative framework. However, it may be less time-consuming and ultimately more effective to create a stand alone statute to regulate the management of invasive alien species. Presuming that adequate changes can be made at the federal level to address the introduction of invasive alien species, the proposed statute would be best suited to the provincial level and would apply after an invasive alien species has been introduced into Canada.

As described above, the role of this legislation would be to provide the authority necessary to identify/detect the species, enable immediate mitigative action to eradicate the species, monitor the area following the action, and provide for remedial steps to be taken where mitigation has not been successful. The design of the statute would draw upon many of the features that already exist in other relevant statutes and would include definitions, research, planning and policy

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<sup>13</sup> Action Plan for Invasive Alien Terrestrial Plants and Plant Pests, 2004, 4.3 Appendix 3: Strengthening Canada's Federal Legislative Framework for Regulating the Importation of Alien Plants and Plant Pests – A Preliminary Analysis. <http://www.inspection.gc.ca/english/plaveg/invenv/action/phase1e.shtml#a4.2>

components, public education, risk assessment, species identification, prohibitions, inspection and enforcement authorities, etc.

The statute would become part of the current legislative framework that includes the *Forests Act*, *Forest Enhancement Act*, *Wildlife Act*, *Endangered Species Act*, *Environment Act* and *Wilderness Areas Protection Act*. The statute would replace the *Weed Control Act* and may replace some portions of other statutes such as the *Bee Industry Act*, *Potato Industry Act*, *Cattle Pest Control Act* and the *Agriculture and Marketing Act*.

### 2.3.2 Amend the *Environment Act* to provide the authority to regulate the management of invasive alien species

Amendments to the *Environment Act* to include a new part dedicated to the management of invasive alien species and development of related regulations may achieve the same goal as the creation of a stand alone *Invasive Alien Species Act*. The *Environment Act* already contains many of the underlying themes necessary to support effective invasive alien species legislation. For example, the *Environment Act* recognizes protection of biodiversity within the purpose section of the Act, it includes the precautionary principle, capacity for research, policy development and public education, a public registry, comprehensive inspection and enforcement provisions. The *Environment Act* also supports the activities designation regulations which may be used to designate certain activities that are prone to invasive species introduction, thereby requiring an approval process for those activities.

## 3.0 Areas for Further Research and Consideration

As described above there are numerous options available to improve the legislative framework to manage invasive alien species. However, in all cases, improving the legal capacity to address the problem will lead to little real improvement unless adequate human and financial resources are dedicated to that outcome. The ways and means to ensure that resource capacity through policy and decision-making has not been explored in this Report, but is an area for further research. Other areas of invasive alien species management that may benefit from further research include the following:

1. Role of municipal governments in the management of invasive alien species.
2. Role of Aboriginal governments in the management of invasive alien species.
3. Aquatic invasive alien species.
4. Animals and birds as invasive alien species.
5. Development of case studies to illustrate the application of legislation to the management of invasive alien species.

## 4.0 Other legislation

The following pieces of legislation were identified in the course of the research for this Report. They were not deemed to be relevant to this phase of the research but may prove useful in a later phase.

### Federal Statutes

- *Experimental Farm Stations Act*
- *Transportation of Dangerous Goods Act*
- *Prairie Farm Rehabilitation Act*

- *Customs Act*
- *Canada Transportation Act*
- *Controlled Drugs and Substances Act*
- *National Research Council Act*
- *Canadian Food Inspection Agency Act*
- *Fertilizers Act*
- *Fisheries Act*
- *Federal Real Property and Federal Immovables Act*
- *Health of Animals Act*
- *Oceans Act*
- *Canada Shipping Act*

Provincial Statutes

- *Pipeline Act*

## Appendix A Jurisdictional Tables

The following tables (Table 1.0 Federal Jurisdiction and Table 2.0 Provincial Jurisdiction) provide an overview of the federal and provincial statutes and regulations that may be used to manage invasive species in Nova Scotia. The tables identify the constitutional basis for the legislation, the area regulated, the name of the statute or regulation, a brief summary of its purpose and the Minister responsible.

Table 1.0

Federal Jurisdiction				
Authority	Regulated Area	Legislation	Summary	Responsible Minister
Interprovincial transportation and international trade	Trade in plants and animals	<i>Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act (WAPRITA)</i>	Controls the international trade of wild flora and fauna. The Act implements Canada's obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).	Minister of Environment
	Relevant Regulations made pursuant to WAPRITA	<i>Wild Animal and Plant Trade Regulations</i>	Provides a list of regulated flora and fauna.	Minister of Environment
Federal Crown land, protection of nationally significant wildlife habitat.	Wildlife on federal land	<i>Canada Wildlife Act</i>	Conservation and protection of wildlife on lands administered by the Minister.	Minister of Environment
	Relevant Regulations Made pursuant to <i>Canada Wildlife Act</i>	<i>Various Orders and Regulation</i>	Designates wildlife areas	Minister of Environment
		<i>Wildlife Area Regulations</i>	Regulates activities within designated wildlife areas	
Federal Crown land.	Parks on Federal Crown land	<i>Canada National Parks Act</i>	Provides operational policies for the prevention of exotic plant and animal introductions into national parks. There may also be exotic species management plans in some parks/historic sites.	Minister of Environment (Parks Canada)

Relevant Regulations Made pursuant to <i>Canada National Parks Act</i>		<i>National Parks Wildlife Regulations</i>	Addresses exotic species.	Minister of Environment
		<i>National Parks General Regulations</i>	Protection of flora and fauna in the park.	
		<i>National Historic Parks Wildlife and Domestic Animals Regulations</i>	Addresses exotic species.	
		<i>National Historic Parks General Regulations</i>	Protection of flora and fauna in the park.	
Federal Crown land.	Federal Crown forests	<i>Forestry Act</i>	Supports forest management.	Minister of Natural Resources
Federal Crown land.	Species on Crown land	<i>Species at Risk Act</i>	Implements International Convention on Biodiversity.	Minister of Environment
Federal Crown land.	Natural resources on Crown land	<i>Department of Natural Resources Act</i>	Designates that the Minister is responsible for all natural resources not otherwise legislated.	Minister of Natural Resources
Federal land/role	Environmental assessment of Federally owned or supported undertakings	<i>Canadian Environmental Assessment Act</i>	There is no direct application to invasive species; however, the requirement to assess projects for environmental effects may enable evaluation of potential impacts of invasive species.	Minister of Environment
Criminal law	Toxic substances	<i>Canadian Environmental Protection Act</i>	Management of “toxic” substances.	Minister of Environment and Minister of Health
Agriculture (shared with Provinces)	Pests	<i>Pest Control Products Act</i>	Regulates the manufacture, sale and distribution of pest control products.	Minister of Health (Pest Management Regulatory Agency)
Agriculture (shared with Provinces)	Plants and plant by-products	<i>Plant Protection Act</i>	Act provides for the implementation of policies and programs to manage invasive species or prevent invasive species that pose a threat to Canada’s plant life or economic health.	Minister of Agriculture and Agri-Food (Canadian Food Inspection Agency)
Relevant Regulations Made pursuant to <i>Plant Protection Act</i>		<i>Plant Protection Regulations</i>	Quarantine and treatment for pests.	Minister of Agriculture
		<i>Golden Nematode Order</i>	Specific order made in regards to the Golden Nematode	
Agriculture (shared with Provinces)	Seeds	<i>Seeds Act</i>	The <i>Seeds Act</i> enables the Weed Seeds Order, which designates species as ‘prohibited noxious’	Minister of Agriculture and

			(none permitted in domestic or imported seed), 'primary noxious,' and 'secondary noxious.'	Agri-Food (Canadian Food Inspection Agency)
Relevant Regulations Made pursuant to <i>Seeds Act</i>	<i>Seeds Regulations</i>	Sets out the process of designating seeds.	Designates weed seeds.	Minister of Agriculture
	<i>Weed Seeds Order</i>			

Table 2.0

Provincial Jurisdiction				
Authority	Regulated Area	Legislation	Summary	Responsible Minister
Local works and undertakings	Any activity that may have an adverse effect on the environment.	<i>Environment Act (NSEA)</i>	<i>NSEA</i> deals with things that may have an adverse effect. Prohibits the release of “substances” that may cause an adverse effect, an invasive plant or insect may be deemed a substance under the Act. <i>NSEA</i> also regulated pest control products.	Minister of Environment
Relevant Regulations Made pursuant to the <i>NSEA</i>		<i>Pesticide Regulations</i>	The regulations provide detail on the management of pest control products.	Minister of Environment
		<i>Various Protected Watershed/Water Area Regulations</i>	These regulate pesticides that may enter protected watersheds. Many of them establish buffers in which pesticides cannot be used.	Minister of Environment
Conservation and management of forestry resources in the Province	Forests with particular emphasis on the forestry industry and the economic viability of forests.	<i>Forests Act</i>	Deals with forest management, specifically the idea of keeping the forests free from diseases and insects that may be harmful.	Minister of Natural Resources
Relevant Regulations Made pursuant to the <i>Forests Act</i>		<i>Dutch Elm Disease regulations</i>	Specifically deals with a devastating disease of elm trees, <i>Ulmus</i> spp. and <i>Zelkova</i> spp., caused by the fungus <i>Ceratocystis ulmi</i> (Buism.) Moreau and carried by bark beetles ( <i>Scolytus scolytus</i> Fabricus, <i>Scolytus multistriatus</i> (Marsham) and <i>Hylurgopinus rufipes</i> (Eichh.));	Minister of Natural Resources
Conservation and management of forestry resources in the Province	Provides detail on Forest management programs.	<i>Forest Enhancement Act</i>	Specifies that Forest Management Programs which are referred to under the <i>Forest Act</i> take into consideration the importance of protecting forests from insects and management techniques. Provides for the removal of unwanted competition in forests.	Minister of Natural Resources
Conservation and management of wildlife populations and habitat	Wildlife in the province	<i>Wildlife Act</i>	Regulates the ownership of wildlife, hunting, conservation and protection. Definition of “wildlife” includes all vertebrates in their natural	Minister of Natural Resources

within the Province.			habitat, including exotics. Provides for control of nuisance wildlife.	
Relevant Regulations Made pursuant to the <i>Wildlife Act</i>		<i>General Wildlife Regulations</i>	Defines nuisance wildlife and regulates the issuance of Nuisance Wildlife Operator's Licenses.	Minister of Natural Resources
Crown land within the Province	Provincial Parks	<i>Provincial Parks Act</i>	Within provincial parks the minister may designate any person to dispose of flora or fauna.	Minister of Natural Resources
Conservation and management of wildlife populations and habitat within the Province.	Endangered species	<i>Endangered Species Act</i>	Provides for species conservation, including measures to protect species habitat and develop species recovery plans and management plans.	Minister of Natural Resources
Conservation and management of land within the Province.	Beaches	<i>Beaches Act</i>	Dedicates and protects beaches for the benefit, education and enjoyment of present and future generations of Nova Scotians.	Minister of Natural Resources
Conservation and management of land within the Province.	Designated wilderness areas.	<i>Wilderness Areas Protection Act</i>	Provides for the establishment, management and protection of certain provincial wilderness areas and includes protection of biodiversity and natural processes in that area.	Minister of Environment
Agriculture (shared)	Umbrella legislation for management of agricultural production	<i>Agriculture and Marketing Act</i>	A broad statute covering commodity groups to agricultural exhibitions. Includes three parts dealing with control of plant diseases, insects and pests.	Minister of Agriculture
Relevant Regulations Made pursuant to the <i>Agriculture and Marketing Act</i>		<i>San Jose Scale Control Regulations</i> <i>Prevention and Control of Apple Maggot Regulations</i>	Regulates the control of the San Jose Scale on orchards.  Regulates the prevention, control and destruction of Apple Maggots.	Minister of Agriculture
Agriculture (shared)	Bee cultivation	<i>Bee Industry Act</i>	Outlines how to deal with pests in the bee industry.	Minister of Agriculture
Relevant Regulations Made pursuant to the <i>Bee Industry Act</i>		<i>Bee Industry Regulation</i>	Specifies the designation of pests and includes invasive bees	Minister of Agriculture
Agriculture (shared)	Regulates treatment programs for infested cattle	<i>Cattle Pest Act</i>	Regulates the <i>Hypoderma bovis</i> or <i>Hypoderma lineatum</i> (commonly known as the warble fly) in regards to treating cattle to get rid of the pest.	Minister of Agriculture

Agriculture (shared)	Potato Industry (farming)	<i>Potato Industry Act</i>	Grants the Minister power to prevent the spread of any pest or disease found.	Minister of Agriculture
Relevant Regulation Made pursuant to the <i>Potato Industry Act</i>		<i>Potato Industry Regulations</i>	Deals with ‘bacterial ring rot’ or <i>Corynebacterium sepedonicum</i> .	Minister of Agriculture
Agriculture (shared)	Weed control on Provincial land	<i>Weed Control Act</i>	Gives the power to designate “noxious weeds” and outlines the process of eradicating them, including the establishment of a weed control advisory committee (public participation).	Minister of Agriculture
Relevant Regulations Made pursuant to the <i>Weed Control Act</i>		<i>Weed Control Regulations</i>	Classifies plants as weeds (schedule “A”) and outlines the circumstances in which they can be destroyed.	Minister of Agriculture
Agriculture (shared)	Marshland	<i>Agriculture Marshland Conservation Act</i>	Conservation and protection of marshland for agricultural purposes.	Minister of Agriculture
Municipal institutions in the Province	Outlines the powers of municipalities	<i>Municipal Government Act</i>	Gives power to municipalities to regulate pesticides, herbicides and insecticides in the Municipality	Minister of Service Nova Scotia and Municipal Relations.
Transportation	Provincial Highways	<i>Public Highways Act</i>	Outlines areas of parkland surrounding highways	Minister of Transport

## Appendix B Provincial Legislative Tables

The following tables provide an overview of each provincial statute and regulation that may be used to manage invasive alien species in Nova Scotia. Each table includes three columns. Column one provides the provision taken directly from the relevant statute or regulation. Column two includes any explanatory notes or comments related to the provision. Column three, entitled the “shall” column includes a check mark to identify any provision that requires the Minister or the Minister’s designate to exercise an authority that may be used to regulate invasive alien species. The “shall” column also includes a check mark if the provision includes a prohibition or action required by a person other than a Minister.

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Table 1.0

Statute: Forests Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
<p>Purpose</p> <p>2 The intent and purpose of this Act is directed towards</p> <p>(a) developing a healthier, more productive forest capable of yielding increased volumes of high quality products</p> <p>(d) providing effective management of all Crown lands;</p> <p>(e) maintaining or enhancing wildlife and wildlife habitats, water quality, recreational opportunities and associated resources of the forest;</p>	<p>Effective management of invasive species would fit with the purposes set out in the <i>Forests Act</i>.</p>	
<p>Interpretation</p> <p>3 In this Act,</p> <p>(d) "Crown lands" means all or any part of land under the administration and control of the Minister;</p> <p>(j) "forest management" means the practical application of scientific, economic and social principles to the administration of forest land for specified objectives;</p> <p>(k) "forest management program" means a program designed to provide for more effective management of Crown lands and to encourage and assist private landowners to manage their land more effectively by providing professional and technical advice and assistance, training programs and suitable financial incentives;</p> <p>(t) "wildlife" means any species of vertebrate which is wild by nature and hence not normally dependent on man to directly provide its food, shelter or water;</p>	<p>Relevant definitions.</p>	
<p>Forest Management Program</p> <p>5 (1) The Minister shall be responsible for the development and implementation of forest management programs, including</p> <p>(e) the protection of forest land from insects and disease;</p>	<p>This provision <u>requires</u> the Minister to protect the forest land from insects and disease. This would include protection from invasive insects. Note: plants are not mentioned.</p>	✓
<p>Principles of forest management programs</p> <p>7 The principle of sustainable forest management forest is the basis of all forest management programs in the Province, including</p> <p>(e) the importance of protecting the forest from fire, insects, diseases and unwanted competing vegetation;</p>	<p>This is a broad principle on forest management is not a direct requirement. It does include plants and "competing vegetation".</p>	

<p><b>Forest management planning process</b> 8 (1) The Minister may undertake a forest management planning process involving the prediction of the effects of various forest management alternatives on wood supply requiring</p> <p>(b) full consideration of wildlife conservation requirements, potential ecological impacts and outdoor recreation opportunities and needs;</p>	<p>The reference to “potential ecological impacts” is broad enough to include invasive species. This process is not required – “may”.</p>	
<p><b>Forest management techniques</b> 9 The forest management techniques to be used on Crown lands and to be recommended for use on privately owned land shall</p> <p>(e) provide for weeding or the removal of unwanted competing vegetation in stands to be managed;</p> <p>(i) reflect prevailing hazards with respect to forest insects, diseases and fire and related protection requirements and provide appropriate information and advice to owners or occupiers of forest land.</p>	<p>Forest management techniques “must” address unwanted invasive species, both insect and plant.</p>	✓
<p><b>Wildlife management</b> 10 The Minister shall ensure that wildlife, wildlife habitats and the long term diversity and stability of the forest ecosystems, water supply watersheds and other significant resources are managed.</p>	<p>The Minister has a responsibility to manage forest ecosystems; this would include dealing with invasive species.</p>	✓
<p><b>Selective forest research</b> 12 The Minister may undertake selective forest research on the forest land to</p> <p>(b) further develop and refine ecological methods of land classification, reforestation and silvicultural prescriptions, and continue to evaluate strategies for the control of competing vegetation;</p> <p>(d) undertake further research on the forestry and wildlife interface and the environmental impacts of various forestry operations;</p>	<p>The Minister “may” undertake research including research relating to invasive species.</p>	
<p><b>Protection of forests</b> 21 (1) The Minister shall undertake all measures which the Minister determines to be reasonable to provide for effective protection of the forests whether Crown lands, other land vested in the Crown or privately owned land from various injurious agents, including fires, insects and diseases.</p> <p>(3) In co-operation with the Canadian Forestry Service, the Minister shall monitor forest insect and disease conditions and provide appropriate information and advice to owners and occupiers of privately owned land.</p>	<p>The Minister is <u>required</u> to take steps to protect forests on Crown and private lands from all injurious agents; including insects and diseases.</p> <p>The Minister <u>must</u> monitor forest insects – not plants.</p>	✓  ✓

<p>(4) Except with the approval of the Governor in Council, no privately owned forest land shall be treated for insects or diseases without the consent of the owner or occupier.</p>	<p>The Minister <u>must</u> obtain approval for treatment on private land.</p>	<p>✓</p>
<p><b>Regulations</b>  40 The Governor in Council may make regulations</p> <p>(j) prescribing methods and standards for sustainable forest management practices to protect wildlife habitats, watercourses, wetlands and other significant resources and requiring compliance with the prescribed methods and standards;</p>	<p>It should be noted that section 10A of the Act states that any regulations made pursuant to this section are binding on privately owned lands and lands owned by the Crown.</p>	

**Table 1.1**

<b>Dutch Elm Disease Regulations</b>		
Provisions	Comment	Shall
<p><b>Definition</b>  2 (c) "Dutch elm disease" means a devastating disease of elm trees, <i>Ulmus</i> spp. and <i>Zelkova</i> spp., caused by the fungus <i>Ceratocystis ulmi</i> (Buisson) Moreau and carried by bark beetles (<i>Scolytus scolytus</i> Fabricius, <i>Scolytus multistriatus</i> (Marshall) and <i>Hylurgopinus rufipes</i> (Eichh.));</p> <p>(e) "vectors" means the species of bark beetles which carry Dutch elm disease.</p>	<p>Relevant definitions</p>	
<p>3 Subject to Section 32 of the Act, a conservation officer appointed under the Act or any other person appointed by the Minister for this purpose, may enter upon any lands within the Province for the purpose of determining the existence of Dutch elm disease in any tree or area of trees thereon.</p>	<p>Provides authority to enter private property to address Dutch elm disease.</p>	

<p>4(1) Notwithstanding [sub]section 21(4) of the Act, where Dutch elm disease is determined to exist in any tree or area of trees, a conservation officer or other person appointed by the Minister for this purpose may take any action that is required to prevent, eliminate or control the spread of Dutch elm disease or its vectors in any tree or area of trees so infested.</p> <p>(2) No action shall be taken pursuant to subsection (1) without the consent of the owner or occupier of the land where a disease infested tree is located unless an officer of Agriculture Canada of the Government of Canada certifies that Dutch elm disease exists and that the action proposed to be taken is required to prevent, eliminate or control the spread of Dutch elm disease or its vectors.</p>		
<p>5(1)(a) Except as provided in these regulations, unless approved otherwise by Agriculture Canada, no person shall move any plant or parts thereof of any species and hybrids of <i>Ulmus</i> spp. and <i>Zelkova</i> spp. from an area where Dutch elm disease is known to exist into an area where Dutch elm disease is not known to exist.</p> <p>(b) The prohibition contained in clause (a) applies to untreated logs, lumber, sawn wood, wood and firewood, but not seeds.</p>	<p>Specific prohibitions to control the spread of dutch elm disease.</p>	<p>✓</p>
<p>5(2) All shipments of non-prohibited material of <i>Ulmus</i> spp. and <i>Zelkova</i> spp. originating in any area where Dutch elm disease is known to exist shall meet the following requirements:</p> <p>(a) logs, sawn wood, lumber, wood and firewood, without bark shall be certified by Agriculture Canada as free from bark;</p> <p>(b) sawn wood with bark shall be certified as being kiln-dried at such a temperature and for such a period of time as outlined in Appendix "A" as will ensure that neither Dutch elm disease nor its vectors exist;</p> <p>(c) (i) material moving between non-infested areas shall be certified by Agriculture Canada as originating in a non-infested area, and  (ii) material identified in [sub]clause (i) passing through an infested area shall be transported in a closed truck which shall not be opened while in an area where Dutch elm disease is known to exist;</p> <p>(d) in all cases, a Phytosanitary Certificate for Movement within Canada (AGR 1307) or any replacement certificate shall accompany any shipment; and</p> <p>(e) logs, lumber and wood without bark shall be thoroughly inspected by Agriculture Canada to ensure they are totally free from bark and insect stage infestation.</p>		<p>✓</p>

<p>5(3) Notwithstanding subsection (1), the owner or occupier of land or their agent may transport a tree infested with Dutch elm disease or its vectors to a site where it shall be immediately burned or destroyed in such manner as may be prescribed by Agriculture Canada.</p> <p>5(4) No person shall at any time sell, expose for sale, offer for sale, trade, barter, buy or possess a tree or portion thereof infested with Dutch elm disease except as authorized by these regulations.</p> <p>5(5) Notwithstanding subsection (2), the owner or occupier of land where a tree infested with Dutch elm disease is located may use parts of the tree for their personal use as fuelwood, provided the parts used for fuelwood are totally free of bark and the bark and other parts of the infested tree are burned or destroyed in such manner as may be prescribed by Agriculture Canada.</p>	<p>Provision creates a prohibition.</p>	<p>✓</p>
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Table 2.0

Statute: Forest Enhancement Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
<p><b>Purpose</b>                      2 The object and purpose of this Act is directed towards                      (a) developing a healthier, more productive forest capable of yielding increased volumes of high quality products;                      (d) providing effective management of all Crown lands;                      (e) maintaining or enhancing wildlife and wildlife habitats, water quality, recreational opportunities and associated resources of the forest;</p>	<p>The purposes are virtually the same as the <i>Forest Act</i> and could, in the same way, include management of invasive species.</p>	
<p><b>Interpretation</b>                      3 In this Act,                       (c) "forest management program" means a program designed to provide for more effective management of Crown lands and to encourage and assist private landowners to manage their land more effectively by providing professional and technical advice and assistance, training programs and suitable financial incentives;                       (f) "wildlife" means any species of vertebrate which is wild by nature and hence not normally dependent on man to directly provide its food, shelter or water.</p>		
<p><b>Forest management programs</b>                      8 Forest management programs in the Province shall be based upon the following principles:                      (e) the importance of protecting the forest from fire, insects, diseases and unwanted competing vegetation;</p>	<p>Forest management programs <u>must</u> address issues associated with invasive species.</p>	✓
<p><b>Forest management techniques</b>                      9 The forest management techniques to be used on Crown lands and to be recommended for use on privately owned land shall                       (e) provide for weeding or the removal of unwanted competing vegetation in stands to be managed;                       (h) reflect prevailing hazards with respect to forest insects, diseases and fire and related protection requirements and provide appropriate information and advice to forest land owners and occupiers;</p>	<p>Forest management techniques <u>must</u> address competing vegetation (i.e. invasive species) and insects.</p>	✓

Table 3.0

Statute: Wildlife Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
<p><b>Object and Purpose</b>                      2 The object and purpose of this Act is to                      (a) develop and implement policies and programs for wildlife designed to maintain diversity of species at levels of abundance to meet management objectives;                      (b) integrate appropriate protective measures into policies for use on Crown lands and in guidelines for forest management and other programs on privately owned land to ensure adequate habitat for established populations of wildlife;</p>	<p>The primary purpose of the Act is to maintain diversity of species, therefore anything that may threaten that would be addressed by the Act.</p>	
<p><b>Interpretation</b>                      3 (1) In this Act,                       (j) "conservation" means the wise use of the wildlife resource through management, including both complete protection and utilization, toward the maintenance of sustained, optimum populations of wildlife;                       (q) "exotic wildlife" means all birds, mammals and other vertebrates that are not indigenous to the Province and that in their natural habitat are usually wild by nature, and includes any part of such birds, mammals or other vertebrates;                       (ba) "wildlife" means vertebrates that, in their natural habitat, are usually wild by nature and includes                      (i) domestic organisms that are physically similar to their wild counterparts,                      (ii) exotic wildlife,                      (iii) hybrid descendants of wildlife or of wildlife and a domestic organism,                      (iv) the eggs, sperm or embryos of wildlife, and                      (v) any other organism designated as wildlife by the Governor in Council in accordance with this Act and the regulations;                       (bb) "wildlife habitat" means any water or land where wildlife may be found and the roads and highways thereon;</p>	<p>Relevant definitions</p>	
<p><b>Ownership of wildlife</b>                      4 (1) Subject to subsection (2), the property in all wildlife situate within the Province, while in a state of nature, is hereby declared to be vested in Her Majesty in right of the Province and no</p>	<p>All wildlife in the Province is vested in the Crown.</p>	

person shall acquire any right or property therein otherwise than in accordance with this Act and the regulations.		
<b>Responsibilities of the Minister</b> 6 (1) The Minister is responsible for overseeing the protection, management and conservation of wildlife in the Province.	The Minister of Natural Resources has the authority to protect wildlife. Under subsection 6(2) the Minister is granted specific powers.	
<b>Powers of the Minister</b> 6(2) The Minister may (c) co-ordinate the development and implementation of policies and programs designed to protect and conserve wildlife and wildlife habitats;	Such policies or programs could include management of invasive species where there may be impacts on wildlife or wildlife habitat.	

Table 4.0

Statute: Provincial Parks Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
<b>Purpose</b> 2 (1) The purpose of this Act is to develop and operate provincial parks to  (b) preserve unique, rare, representative or otherwise significant elements of the natural environment and historic resources of Nova Scotia;	The preservation and protection aspect of the statute’s purpose could include management of anything that could threaten the park, including invasive species.	
<b>Supervision of Act</b> 4 (1) The Minister is responsible for the general supervision, administration and management of this Act and the regulations.		
<b>Powers of Minister</b> 13 The Minister, or any person designated to act on behalf of the Minister in respect of a provincial park, may (j) dispose of flora or fauna in a provincial park; (l) take such measures as the Minister deems necessary to protect flora and fauna within a provincial park;	Provides authority to “dispose” of invasive flora or fauna in a provincial park and authority to take measures to protect flora and fauna. This authority would appear to be extensive enough to allow the Minister to manage invasive plants and insects, but it does not require the Minister to take these steps.	

Table 5.0

Statute: Endangered Species Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
<p><b>Purpose</b>                      2(1) The purpose of this Act is to provide for the protection, designation, recovery and other relevant aspects of conservation of species at risk in the Province, including habitat protection, while recognizing the following:</p> <p>(a) the goal of preventing any species in the Province from becoming extirpated or extinct as a consequence of human activities;                      (b) the conservation of species at risk is a key component of a broader strategy to maintain biodiversity and to use biological resources in a sustainable manner;</p>	<p>The purpose of the Act is to protect species and includes protection of their habitat.</p> <p>The specific reference to maintaining biodiversity supports the management of invasive species.</p>	
<p><b>Interpretation</b>                      3(i) "habitat" means land, water or air where a plant, animal or other organism lives;                      (j) "management plan" means a statement of needs and actions to be undertaken to keep a vulnerable species from becoming at increased risk;</p>	<p>Protection of a species often includes protection of habitat.</p>	
<p><b>Recovery team and plans</b>                      15(10) The Minister may appoint a management team and shall, within three years of the listing of a vulnerable species, prepare a management plan for the species.</p>	<p>The Minister is <u>required</u> to develop a management plan. The Minister is not required to consider invasive species but is required to support the purposes of the Act.</p>	✓

Table 6.0

Statute: Beaches Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
<p><b>Purpose of Act</b>                      (2) The purpose of this Act is to                      (a) provide for the protection of beaches and associated dune systems as significant and sensitive environmental and recreational resources;</p>	<p>The purpose of the Act is to protect beaches and dune systems for the enjoyment of present and future generations; this purpose could include management of invasive species that threaten beaches.</p>	
<p><b>Interpretation</b>                      3 In this Act,                      (a) "beach" means that area of land on the coastline lying to the seaward of the mean high watermark and that area of land to landward immediately adjacent thereto to the distance determined by the Governor in Council, and includes any lakeshore area declared by the Governor in Council to be a beach;</p>	<p>Protection of a species often includes protection of habitat.</p>	
<p><b>Agreements</b>                      3(4) The Minister may, for the effective management of beaches, enter into agreements with the Government of Canada or an agency thereof, with a provincial or municipal government or an agency thereof or with a person for the purposes of this Act or the regulations.                      Agreements to manage or preserve land                      (5) Without restricting the generality of subsection (4), the Minister may enter into an agreement with the owner or occupier of land adjacent to a beach to manage or preserve that land so that it complements the beach.</p>	<p>These agreements may include the control of invasive species on Beaches.</p>	
<p><b>Regulations</b>                      13 The Governor in Council may make regulations                      (a) for the preservation, control and management of beaches;                      (e) to preserve and protect flora and fauna located on a beach;                      (j) respecting the management or preservation of lands adjacent to a beach in accordance with an agreement made pursuant to Section 4 or where the lands are owned or occupied by Her Majesty in right of the Province;</p>	<p>The <i>Beaches Regulations</i> do not provide any authorities that specifically apply to control invasive species on a beach.</p>	

Table 7.0

Statute: Agriculture and Marketing Act		Minister Responsible: Minister of Agriculture
Provision	Comment	Shall
<p>Part XII Plant Diseases, Insects and pests Application of Part 111 This Part shall apply only to such plant diseases, insects and pests as the Governor in Council may from time to time declare to be subject to this Part.</p>	<p>The Governor in Council must list the disease, insect or pest before it is subject to the provisions of the Act.</p>	
<p>Part XII Plant Diseases, Insects and pests Regulations 113 The Governor in Council may from time to time make such regulations as are deemed expedient to eradicate, control or to prevent the introduction into the Province or the dissemination therein of any such plant disease, insect or pest.</p>	<p>This is a broad authority not limited to agricultural crops or livestock.</p>	
<p>Part XII Plant Diseases, Insects and pests Content of regulations 114 Such regulations may provide</p> <p>(a) that except as is otherwise provided in the regulations, it shall be unlawful for any person to have in his possession, in the Province, or in any particular part thereof at any time or during any particular time or times, any vegetation, vegetable or other matter that the Minister deems to be likely to introduce into the Province or to disseminate therein any such plant disease, insect or pests;</p> <p>(b) the terms or conditions upon which any person may lawfully have in his possession any such vegetation, vegetable or other matter;</p> <p>(c) for the treatment and method of treatment to be given to any vegetation, vegetable matter or premises to eradicate or control or to prevent the spread of any such plant disease, insect or pest, and whether the treatment shall be given by the owner or by a person appointed for the purpose;</p> <p>(d) for the treatment, prior to the sale or disposal thereof of any vegetation, vegetable or other matter infected or suspected to be infected with any such plant disease, insect or pest;</p> <p>(e) for the prohibition of the sale of any vegetation or vegetable matter infected with any such plant disease, insect or pest;</p>	<p>The Minister has broad regulatory control over vegetation, vegetable or other matter that may introduce plant diseases, insects and pests that Cabinet has declared to be subject to the Act.</p> <p>The items identified in this part describe potential regulations only; the provisions are not actually in force as described in the Act.</p> <p>Looking at the list of regulations made under the <i>Agriculture and Marketing Act</i> the <i>San Jose Scale Control Regulations</i> (see below) appear to be the only current regulations made in accordance with this Part.</p>	

<p>(f) that the occupier of the premises, on which is discovered any such plant disease, insect or pest, shall immediately notify the Minister thereof, and shall also send specimens of the plant disease, insect or pest to the Provincial Entomologist;</p> <p>(g) for establishing quarantine areas in the Province and regulating or prohibiting the moving or transportation of any vegetation or vegetable matter from or into any area so established;</p> <p>(h) for the entry upon and inspection for the purposes of this Part of any premises and of anything growing or found thereon;</p> <p>(i) for the seizure, confiscation, destruction or other disposal of any vegetation, vegetable or other matter and the container thereof, if any, in respect of which a breach of this Part, or of any regulation made thereunder, is committed;</p> <p>(j) for the payment of such fees as are deemed necessary to meet the cost of inspection, fumigation or other treatment of any vegetation, vegetable or other matter or containers brought or sent into the Province;</p> <p>(k) for the payment by the owners of vegetation, vegetable or other matter of the expense of any treatment required by the regulations;</p> <p>(l) generally for or respecting the doing or abstaining from the doing of any act, matter or thing whatsoever that the Minister may deem expedient for carrying out this Part, whether such regulations are of the kind enumerated in this Section or not.</p>		
<p>Part XIII Prevention and Control of the Apple Maggot (<i>Rhagoletis pomonella</i> Walsh)  119 (b) "control zone" means any area designated as an apple-maggot control zone where apples are grown commercially;  (e) "orchard" means any land on which any apple tree is growing</p>	<p><i>See details in Regulations below.</i></p>	
<p>Owner or occupier responsibility  121(1) An owner or occupant is required to control apple maggot in or on infested vegetation that is within a control zone of a commercial orchard.</p>		
<p>Part XIV Prevention and treatment of contagious diseases among bees  Interpretation of Part  139(c) "disease" means <i>Acarapis woodi</i>, American Foul Brood, Chalkbrood, European Foul Brood, Sacbrood or Varroaosis;</p>	<p><i>I have not included the detail on this Part because we are not dealing with diseases in this phase of the research.</i></p>	

Table 7.1

San Jose Scale Control Regulations		
Provision	Comment	Shall
2 Part XII of the Agriculture and Marketing Act shall apply to the insect <i>Quadraspidiotus periciosus</i> commonly known and referred to in these regulations as San Jose Scale.	These regulations are made pursuant to Part XII Plant Diseases, Insects and pests of the <i>Agriculture and Marketing Act</i> .	
3 The Provincial Entomologist may from time to time declare any orchard in the Province, which in his opinion is infected with San Jose Scale, a quarantine area.	The authority to carry out the regulations rests with the Provincial Entomologist.	
6(1) The occupant of any quarantined area shall destroy or spray all or part of such vegetation therein or carry out such other control measures at such times and with such materials and in such manner as the Provincial Entomologist or an inspector may from time to time prescribe.  (2) Where the occupant of any quarantined area fails to carry out any control measure in accordance with subsection (1) of this regulation, the Provincial Entomologist or an inspector may cause such control measures to be carried out by any other person.	According to the Regulations the "occupant" includes the owner or the person in charge of any land or building or the person having care of or exercising control or authority over the same. The control measures <u>must</u> be taken.	✓

Table 7.2

Prevention and Control of Apple Maggot Regulations		
Provision	Comment	Shall
2 In these regulations “apple maggot” means <i>Rhagoletis pomonella</i> (Walsh).	These regulations are made pursuant to Part XIII Prevention and Control of the Apple Maggot of the <i>Agriculture and Marketing Act</i> .	
3 If apples from a commercial apple orchard are to be exported, the control zone with respect to the orchard shall be (a) registered with the agrologist; and (b) inspected annually by an inspector.	It appears that the Regulations only apply to apple orchards used for export of apples.	
5(1) If apple maggot is found on or in any vegetation within a control zone, the owner or occupant of the land shall implement a method or methods of control set out in subsection (2), as determined by the inspector.	A number of methods of control are described in the Regulation. These methods are only used within a control zone or in an area where a control zone may become infested. The owner/occupier is required to implement the control methods.	✓

Table 8.0

Statute: Bee Industry Act		Minister Responsible: Minister of Agriculture
Provision	Comment	Shall
<p>Interpretation</p> <p>2 In this Act,</p> <p>(f) "disease" means any disease designated in the regulations as a disease;</p> <p>(i) "pest" means any insect or parasite designated in the regulations as a pest;</p>	Plants are not included in the definition of pest, and only 'pests' designated by regulation are captured by the Act.	
<p>Infected honeycomb or honey</p> <p>8 No person shall expose to bees honeycomb or honey that is infected with a disease or pest.</p>	Creates a prohibition on 'pests' related to bees	✓
<p>Order by an Inspector</p> <p>11 (1) Where an inspector has reasonable grounds to believe that</p> <p>(a) any pest or disease exists in bees; or</p> <p>(b) any beekeeping equipment is infected,</p> <p>the inspector may, by order in writing, require the beekeeper to</p> <p>(c) treat or disinfect the bees or beekeeping equipment in the manner and in the period of time specified in the order; or</p> <p>(d) keep the bees or beekeeping equipment at a location required in the order for the period of time specified in the order.</p>	Gives authority to investigate 'pests'	
<p>Regulations</p> <p>17 (1) The Governor in Council may make regulations</p> <p>(d) designating any insect or parasite to be a pest within the meaning of this Act;</p>	The insect or pest must be designated to be regulated by the Act.	

Table 8.1

Bee Industry Regulations											
Provision		Comment	Shall								
<p>Designated pests</p> <p>10 All of the following insects and parasites are designated as pests:</p> <table border="1"> <thead> <tr> <th>Common Name</th> <th>Scientific Name or Abbreviation</th> </tr> </thead> <tbody> <tr> <td>Varroa mite</td> <td><i>Varroa destructor</i></td> </tr> <tr> <td>Varroa mite resistant fluvalinate</td> <td>rVMf</td> </tr> <tr> <td>Varroa mite resistant coumaphous</td> <td>rVMc</td> </tr> </tbody> </table>	Common Name	Scientific Name or Abbreviation	Varroa mite	<i>Varroa destructor</i>	Varroa mite resistant fluvalinate	rVMf	Varroa mite resistant coumaphous	rVMc		The regulations deal with import permits, inspections, quarantine, reporting of pests, and records.	
Common Name	Scientific Name or Abbreviation										
Varroa mite	<i>Varroa destructor</i>										
Varroa mite resistant fluvalinate	rVMf										
Varroa mite resistant coumaphous	rVMc										

Honey bee tracheal mite	<i>Acarapis woodi</i>		
	<i>Tropilaelaps clareae</i>		
Small hive beetle	<i>Aethina tumida</i>		
Africanized bees of the African races and hybrids of European and African races	<i>Apis mellifera scutellata</i>		

Table 9.0

Statute: Cattle Pest Act		Minister Responsible: Minister of Agriculture
Provision	Comment	Shall
<p>Interpretation</p> <p>2 In this Act,</p> <p>(b) "board" means a livestock health services board established under the <i>Livestock Health Services Act</i>;</p> <p>(d) "cattle pest" means the insect known as <i>Hypoderma bovis</i> or <i>Hypoderma lineatum</i> and commonly known as the warble fly;</p>	The 'warble fly' is the only 'cattle pest' regulated by the Act.	
<p>Treatment program</p> <p>3 (1) A board may formulate a treatment program for the area and may submit the treatment program for the approval of the Minister.</p>	Various sections in the Act list the power to implement treatment programs. The implementation of treatment programs is at the discretion of the Board.	
<p>Powers of Board</p> <p>4(1) A board may, as part of or in addition to a treatment program,</p> <p>(e) do such other things as are necessary to administer and implement a treatment program.</p>		
<p>Director of Cattle Pest Control</p> <p>6(1) The Minister may appoint the Director of Livestock Health Services or some other person in the service of the Department of Agriculture and Marketing as the Director of Cattle Pest Control.</p>		

Table 10.0

Statute: Potato Industry Act		Minister Responsible: Minister of Agriculture
Provision	Comment	Shall
<p>Interpretation 2 In this Act, (g) "insect, pest or disease" means any insect, pest or disease destructive or injurious to potatoes;</p>		
<p>Regulation making Power 6 (1) The Governor in Council may make regulations for the purpose of preventing the introduction into the Province or any defined area therein of any insect, pest or disease and the spreading thereof within the Province.</p>	The content of the regulations is described in subsection 6(2).	
<p>Order to prevent spread of existing disease 10 The Minister, when satisfied of the existence of any insect, pest or disease in any potatoes, whether growing or stored or contained in a vehicle, may order that such steps be taken by the owner or person under whose control they are as the Minister deems necessary to prevent the spread of the insect, pest or disease, including the destruction of such potatoes or any vehicle or container.</p>	The Minister has the discretionary authority to require steps to be taken to prevent the spread of insects, pests and diseases.	

Table 10.1

Potato Industry Regulations		
Provision	Comment	Shall
2 In these regulations, unless the context otherwise requires, "bacterial ring rot" means the disease <i>Corynebacterium sepedonicum</i> .	The regulations deal entirely with the control of bacterial ring rot.	
5 No person shall plant, sell or otherwise dispose of any potatoes infected or suspected of being infected with bacterial ring rot except as an inspector or the Minister may direct.	Strictly controls management of potatoes infected with bacterial ring rot.	✓
6 Any person who discovers or suspects the presence of bacterial ring rot in his crop in the field or in potatoes in his possession shall immediately notify an inspector or the Minister and supply a sample of the potatoes for further examination.	Requires notification when bacterial ring rot is found.	✓
7 Where an inspector discovers or suspects the presence of bacterial ring rot in any potatoes, he shall immediately place the potatoes under detention and, if practicable shall mark such potatoes with a tag bearing the words, "Detention" and in the form set out in Schedule "A" and signed by the inspector, and thereafter no person shall plant, sell, move or dispose of any such potatoes except as an inspector may direct.	Requires an inspector take action when informed of infected potatoes.	✓

Table 11.0

Statute: Weed Control Act		Minister Responsible: Minister of Agriculture
Provision	Comment	Shall
<p>Interpretation 2 In this Act, (f) "noxious weed" means a plant that is designated under this Act as a noxious weed; (h) "weed seed" means the seed of a noxious weed.</p>	The Act addresses plants but does not address insects. The Act only applies to weeds that have been designated.	
<p>Designation of noxious weeds 3 (1) The Governor in Council may designate plants as noxious weeds generally or in respect of any part of the Province. (2) The council of a municipality, after consultation with the county federation of agriculture, may recommend to the Minister plants for designation by the Governor in Council as noxious weeds within the municipality.</p>	Noxious weeds must be designated by the Governor in Council to be covered by the Act.	
<p>Duty to destroy noxious weeds of class number one 4 (1) Where noxious weeds of class number one exist on land from which they are likely to spread to cultivated or pasture land, the occupant shall destroy all noxious weeds thereon as often in every year as may be necessary to prevent the ripening of the seeds. Duty to destroy noxious weeds of class number two (2) The occupant of land shall destroy all noxious weeds of class number two as often and at such times as shall be necessary to eliminate such weeds.</p>	This provision applies to any occupant of land including private land.	✓
<p>Act binds Crown respecting highway 5 This Act and the regulations apply to Her Majesty in respect to public highways to which the <i>Public Highways Act</i> applies.</p>	Weeds designated as noxious under this Act can be controlled along public highways.	
<p>Consultation with occupant of land 9 (1) Where a district inspector finds noxious weeds or weed seeds on any land and the occupant resides within his jurisdiction, the district inspector shall confer with him as to a satisfactory method of destroying such noxious weeds or weed seeds. (2) Where, after consulting with the occupant, prompt effective action is not taken, the district inspector may issue an order in the form prescribed in the regulations requiring the occupant to destroy the noxious weeds or weed seeds within the period of time specified in the order, which shall not be less than seven days after the person named in the order has been served with a copy of the order.</p>	<p>Section 9 provides broad authority to an inspector to order a private landowner to take action to destroy noxious weeds.</p> <p>Section 10 is similar and binds non-residents</p>	
<p>Failure to comply with order 14 (1) Where a person fails to comply with an order made under Section 9 or 10, the district</p>	Inspectors have the authority to destroy noxious weeds and weed seeds if occupant	

inspector may cause the noxious weed or weed seeds to be destroyed in the manner prescribed in the regulations.	does not do so.	
<b>Disposal of weed seeds in grain plant</b> 18 Every person in charge of a grain elevator, grist mill, flour mill, seed processing plant or other grain cleaning or grain grinding plant shall dispose of all refuse containing weed seeds in such a manner as will prevent the weed seeds from growing or spreading.	Specified persons are required to dispose of weed seeds.	✓
<b>Weed Control Advisory Committee</b> 21 (1) The Minister shall appoint a Weed Control Advisory Committee consisting of such number of persons as he may determine, including at least one representative of the Nova Scotia Federation of Agriculture. (2) The Minister shall consult with the Committee on all matters pertaining to the administration of this Act, including the making of recommendations to the Governor in Council pertaining to regulations or the designation of plants as noxious weeds.	The Minister is required to have a Weed Control Advisory Committee in place and must consult with that committee.	✓

Table 11.1

Weed Control Regulations		
Provision	Comment	Shall
<b>Noxious weeds</b> 1 Each of the plants named in Class Number One and Class Number Two of Schedule "A" is hereby designated as a noxious weed in respect of the area set opposite its name in Schedule "A".		
5 The circumstances and conditions under which an inspector may cause noxious weeds to be destroyed are (a) that the inspector is of the opinion (i) that propagation of the noxious weeds would be prevented or substantially reduced by reason of their destruction, and (ii) that lands other than those on which the noxious weeds are growing are likely to be damaged by propagation of the noxious weeds;	This provision restricts the power granted to an inspector under the <i>Weed Control Act</i> to destroy noxious weeds and weed seeds.	
<b>Schedule A</b> <b>Class Number One</b> <b>Common Name</b> <b>Scientific Name</b> 1. Field bindweed <i>Convolvulus arvensis</i> L. 2. Marsh hedge nettle <i>Stachys palustris</i> L. 3. Leafy spurge <i>Euphorbia esula</i> L. 4. Common milkweed <i>Asclepias syriaca</i> L. 5. Yellow nut sedge <i>Cyperus esculentus</i> L.	This Schedule provides a list of all of the noxious weeds designated to date.	

6. Tansy ragwort	<i>Senecio jacobaea</i> L.		
7. White cockle	<i>Lychnis alba</i> Mill.		
8. Velvetleaf	<i>Abutilon theophrasti</i> Medic.		
9. Wild chervil	<i>Anthriscus sylvestris</i> Hoffm.		
Class Number Two			
Common Name	Scientific Name		
1. Thorn-apple	<i>Datura</i> spp.		

Table 12.0

Statute: Agriculture and Marshland Conservation Act		Minister Responsible: Minister of Agriculture	
Provision	Comment	Shall	
<p>Interpretation</p> <p>(i) "works" includes dykes, aboiteaux, breakwaters, canals, ditches, drains, roads and other structures, excavations and facilities for the conservation, development, improvement or protection of marshland to a standard appropriate for agricultural purposes</p>	<p>The definition of 'works' includes 'protection of marshland...for agricultural purposes'. This would appear to include management of invasive species where they compromise such protection.</p>		
<p>Powers of the Minister</p> <p>4(1) Subject to the approval of the Governor in Council, the Minister may construct works to develop marshland for agricultural purposes.</p> <p>(2) The Minister may reconstruct, repair, operate and maintain any works for the protection, drainage and improvement of marshland for agricultural purposes.</p>	<p>The Minister has the authority only with the approval of cabinet to 'construct works'. This would appear to go beyond maintenance.</p>		
<p>Composition, remuneration and staff</p> <p>7(1) The Governor in Council may appoint an Agricultural Marshland Conservation Commission consisting of not more than five members.</p>			
<p>Duties of Commission</p> <p>8 The Commission shall</p> <p>(a) advise the Minister on matters related to the conservation and protection of marshland and its development and maintenance;</p>	<p>If a commission is appointed then they must advise the Minister.</p>		

Table 13.0

Statute: Environment Act		Responsible Minister: Minister of Environment
Provision	Comment	Shall
<p>Part I Introduction Purpose of the Act 2 The purpose of this Act is to support and promote the protection, enhancement and prudent use of the environment while recognizing the following goals: (b) maintaining the principles of sustainable development, including (i) the principle of ecological value, ensuring the maintenance and restoration of essential ecological processes and the preservation and prevention of loss of biological diversity,</p>	<p>The broad purpose of the Act to preserve and prevent the loss of biological diversity could include management of any species that may threaten that diversity.</p>	
<p>Part I Introduction Interpretation 3 In this Act (c) "adverse effect" means an effect that impairs or damages the environment, including an adverse effect respecting the health of humans or the reasonable enjoyment of life or property;  (k) "contaminant" means, unless otherwise defined in the regulations, a substance that causes or may cause an adverse effect;  (ak) "person responsible" means (i) the owner of the substance or thing, (ii) the owner or occupier of land on which an adverse effect has occurred or may occur, (iii) a previous owner of the substance or thing, (iv) a person who has or has had care, management or control, including care, management and control during the generation, manufacture, treatment, sale, handling, distribution, use, storage, disposal, transportation, display or method of application of the substance or thing, ...  (am) "pesticide" or "pest control product" means (i) any substance that is intended, sold or represented for use in preventing, destroying, repelling or mitigating, directly or indirectly, any pest, (ii) any substance that is a pest control product within the meaning of the Pest Control Products Act (Canada) or is intended for use as a pest control product, ... (v) any other substance designated as a pesticide in the regulations,</p>	<p>Relevant definitions</p> <p>An invasive species could cause an 'adverse effect' to the environment.</p> <p>Substance is broadly defined (see below); an invasive species could fit the definition of contaminant.</p> <p>Relevant to Part VI Release of Substances. The 'person responsible' could include the person who owns the land where an invasive species is growing.</p> <p>Pesticides or pest control products used to manage invasive species fall within the authority of the Minister of Environment.</p>	

<p>(ar) "release" means to spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place, drain, pump or exhaust;</p> <p>(au) "substance" means</p> <p>(i) matter that is capable of becoming dispersed in the environment,</p> <p>(ii) matter that is capable of becoming transformed in the environment into matter referred to in subclause (i),</p> <p>(iii) sound, vibration, heat, radiation or another form of energy, or</p> <p>(iv) any combination of things referred to in subclauses (i) to (iii);</p>	<p>The definition of ‘release’ is broad and could include intentional or accidental release of an invasive species, seed, etc.</p> <p>The definition of ‘substance’ is based on the definition of matter which is broad enough to include a plant or insect.</p> <p>‘matter’ the substance of which a physical object is composed <a href="http://www.merriam-webster.com/dictionary/matter">http://www.merriam-webster.com/dictionary/matter</a></p>	
<p>Part II Administration Minister Responsible for Act</p> <p>8 (1) The Minister is responsible for the general supervision and management of this Act.</p> <p>(2) The Minister, for the purposes of the administration and enforcement of this Act, and after engaging in such public review as the Minister considers appropriate, shall</p> <p>(b) establish and administer policies, programs, standards, guidelines, objectives, codes of practice, directives and approval processes pertaining to the protection and stewardship of the environment;</p> <p>(e) control the handling of substances that may have an adverse effect;</p> <p>(f) promote the rehabilitation and restoration of degraded areas of the environment;</p>	<p>Given “preservation and prevention of loss of biological diversity” is included in the purpose section of the Act, the responsibilities described in section 8 could be seen to include management of invasive species.</p> <p>The provision <u>requires</u> the Minister to establish policies, programs, etc, control the handling of certain substances and promote rehabilitation of the environment.</p>	✓
<p>Part II Administration Advisory committees and experts</p> <p>9 The Minister may</p> <p>(a) appoint any person, establish advisory committees and retain experts to report to the Minister with respect to</p> <p>(ii) any policies, programs, standards, guidelines, objectives, codes of practice, directives, approval processes or other matters under the administration of the Minister,</p>	<p>This provision provides the Minister with the authority to establish an advisory committee on invasive species but the Minister is not required to establish such a committee.</p>	
<p>Part III Environmental Education and Research Education and research</p>		

27(2) The Minister may contribute to, sponsor or undertake research that the Minister considers necessary to achieve the purpose of this Act.		
<b>Part IV Environmental Assessment Process</b> <b>Powers of the Minister</b> 40 (1) Upon receiving information under Section 34, a focus report under Section 35, an environmental-assessment report under Section 38, a recommendation from the Board under Section 39 or from a referral to alternate dispute resolution, the Minister may (a) approve the undertaking; (b) approve the undertaking, subject to any conditions the Minister deems appropriate; or (c) reject the undertaking.	The environmental impact assessment provisions do not specifically refer to invasive species but the Minister may reject a proposed project if he or she determines that it is likely to cause adverse effects or environmental effects that cannot be mitigated.	
<b>Part V Approvals and Certificates</b> <b>Prohibition</b> 50 (1) No person shall knowingly commence or continue any activity designated by the regulations as requiring an approval unless that person holds the appropriate approval. (2) No person shall commence or continue any activity designated by the regulations as requiring an approval, unless that person holds the appropriate approval.	The Activities Designation Regulations provide a list of the activities that require an approval. The Approval Procedure Regulations provide information on how to apply for an approval. The Minister may issue or refuse to issue an approval. The Minister may issue an approval with terms and conditions.	
<b>Part VI Release of Substances</b> <b>Prohibition</b> 67 (1) No person shall knowingly release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause an adverse effect, unless authorized by an approval or the regulations.  (2) No person shall release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause an adverse effect, unless authorized by an approval or the regulations.	Given the broad definitions of “substance” and “adverse effect” in section 3 of the Act it is reasonable to conclude that the release of an invasive species into the environment would violate section 67 of the Act.	✓
<b>Part VI Release of Substances</b> <b>Duty to Report Release</b> 69 (1) Any person responsible for the release of a substance into the environment that has caused, is causing or may cause an adverse effect, shall forthwith, as soon as that person knows or ought to know of the release, report it to...	The definition of “person responsible” in section 3 is very broad and could capture a person who transports an invasive species and permits it to be released into the environment.	✓
<b>Duty to take remedial measures</b> 71 Any person responsible for the release of a substance under this Part shall, at that person's own cost, and as soon as that person knows or ought to have known of the release of a substance into the environment that has caused, is causing or may cause an adverse effect,	The broad definitions of “person responsible”, “substance” and “release” provide the authority to require a person who by intention or accident releases an invasive species into	✓

<p>(a) take all reasonable measures to</p> <p>(i) prevent, reduce and remedy the adverse effects of the substance, and</p> <p>(ii) remove or otherwise dispose of the substance in such a manner as to minimize adverse effects;</p> <p>(b) take any other measures required by an inspector or an administrator; and</p> <p>(c) rehabilitate the environment to a standard prescribed or adopted by the Department.</p>	<p>the environment to take action to prevent and remedy adverse effects.<sup>1</sup></p>	
<p>Part VII Dangerous Goods and Pesticides Pesticides -- Pesticides</p> <p>79 (1) Subject to subsection (2), no person shall</p> <p>(a) sell, distribute, use, apply, handle, store or transport a pesticide;</p>	<p>The regulation of pest control products at the provincial level is under the <i>Environment Act</i>, therefore the Minister of Environment regulates the use of products targeted at all pests including invasive species. The use of shall makes it illegal to sell, distribute... pesticides without the permission of the minister.</p>	
<p>Part VII Dangerous Goods and Pesticides Pesticides -- Destruction of crops and pesticide research</p> <p>80 (1) In this Section, Federal Regulatory Authority includes, but is not limited to, the Minister of Agriculture for Canada, and includes Acts and regulations within the jurisdiction of that Minister.</p> <p>(4) A person conducting pesticide research in the Province shall notify the Department before commencing the pesticide research and shall provide the Department with such information as the Minister considers necessary.</p> <p>(5) The Minister may give additional directions to a person to whom a pesticide research permit is issued by the Federal Regulatory Authority.</p>	<p>The Minister of Environment must be informed of any research projects using pest control products for the control of all pests, including invasive species.</p> <p>Provincial Minister has power even where the federal government has authorized research.</p>	
<p>Part VII Dangerous Goods and Pesticides Pesticides -- Powers and duties of the Minister</p> <p>81 The Minister</p> <p>(a) shall develop, co-ordinate and enforce policies, planning and programs respecting integrated pest management and alternatives to the use of pesticides;</p> <p>(b) may make grants and loans for research related to pesticides and integrated pest management and the control of pests in such amounts and on such terms and conditions as the regulations prescribe.</p>	<p><u>Directs</u> the Minister to develop, co-ordinate and enforce some form of integrated pest management and alternatives to pesticides.</p> <p>Provides the Minister with the authority to provide funding that could include management of invasive species as pests.</p>	<p>✓</p>

<sup>1</sup> The definitions are so broad that one may be able to put forward the argument that any person who has an invasive species on their property must report (s.69) and take remedial measures (s.71) however, the linking of the terms “person responsible” and “release” may inhibit such an argument requiring the person to physically release the species before triggering the provision.

Table 13.1

Pesticide Regulations		
Provision	Comment	Shall
<p>Interpretation 2 In these Regulations (p) “pest” means any plant, animal, micro-organism or any organic functions of a plant, animal, or micro-organism, including any insect, nematode, rodent, predatory animal, parasite, bacterium, fungus, weed, or other form of plant or animal life or virus, the Minister believes is or may be injurious, noxious or troublesome, but does not include a virus, parasite, bacterium or fungus in a living person or animal;</p>	<p>The definition of “pest” includes invasive species as long as the Minister of Environment believes that the species is injurious, noxious or troublesome. The terms ‘injurious, noxious and troublesome’ are not defined in the Act or Regulations.</p>	
<p>Exemption from regulation 4 These regulations do not apply to the use or sale of a germicidal, disinfectant, veterinary, or sanitizing product registered under the <i>Pest Control Products Act</i> (Canada).</p>		
<p>Application of federal statutes 5 The requirements of these regulations are in addition to any applicable federal legislation, including the <i>Fertilizers Act</i> (Canada) and the <i>Pest Control Products Act</i> (Canada) and regulations made pursuant to those statutes.</p>	<p>Jurisdiction over agriculture is shared between the federal and provincial governments therefore the provincial regulatory framework recognizes that it is subject to the federal framework.<sup>2</sup></p>	
<p>Remaining Provisions sections 6-31</p>	<p>These provisions provide the detailed regulation of pest control products including requirements for certification and approval.</p>	

<sup>2</sup> The doctrine of paramountcy requires that in cases of overlapping jurisdiction the federal requirement must be met, however, if the provincial requirement is stricter than the federal it can be argued that the federal requirement is met via compliance with the provincial.

Table 13.2

Various Protected Watershed/Water Area Regulations		
These regulate pesticides that may enter protected watersheds. Many of them establish buffers in which pesticides cannot be used. All of them refer to the pesticide regulations.		
Regulations of interest, that refer to land based pesticides include:	Comment	Shall
<i>Bennery Lake Watershed Protected Water Area Regulations</i> , N.S. Reg. 211/2003		
<i>Forbes Lake Watershed Protected Water Area Regulations</i> , N.S. Reg. 107/2003		
<i>French Mill Brook Watershed Protected Water Area Regulations</i> , N.S. Reg. 214/2007		
<i>Hebb, Milipsigate and Minamkeak Lake Watershed Protected Water Area Regulations</i> , N.S. Reg. 113/2006		
<i>James River Watershed Protected Water Area Regulations</i> , N.S. Reg. 169/2006		
<i>Lake George Watershed Protected Water Area Regulations</i> , N.S. Reg. 197/2006		
<i>Lake Major Watershed Protected Water Area Regulations</i> , N.S. Reg. 154/92		
<i>McGee Lake Watershed Protected Water Area Regulations</i> , N.S. Reg. 209/2005		
<i>Mill Lakes Watershed - Designation and Regulations</i> , N.S. Reg. 264/86		
<i>Oakland Lake Watershed Protected Water Area Regulations</i> , N.S. Reg. 345/2007		
<i>Pockwock Lake Watershed - Designation and Regulations</i> , N.S. Reg. 12/95		

Table 14.0

Statute: Wilderness Areas Protection Act		Minister Responsible: Minister of Environment
Provision	Comment	Shall
<p><b>Purpose</b> 2 The purpose of this Act is to provide for the establishment, management, protection and use of wilderness areas, in perpetuity, for present and future generations, in order to achieve the following primary objectives: (a) maintain and restore the integrity of natural processes and biodiversity; (b) protect representative examples of natural landscapes and ecosystems;</p>	The purpose of the Act includes protecting the biodiversity and natural processes of the area and this could include management of invasive species.	
<p><b>Duties and Powers of the Minister</b> 10(2) The Minister may (a) establish advisory and ad hoc committees and retain experts to report to the Minister with respect to (i) the content and administration of this Act and the regulations, (ii) any policies, programs, standards, guidelines, objectives, plans, codes of practice, directives, approval processes or other matters under the administration of the Minister;</p>	The Minister has the authority to set up committees, develop policies, etc., relating to any aspect of the Act which would include management of invasive species in the wilderness area.	
<p><b>Management Plans</b> 15 (1) The Minister shall complete management plans to guide the protection, management or use of a specific wilderness area, a part of a specific wilderness area or any action or activity undertaken to manage a specific wilderness area.</p>	The Minister is <u>required</u> to produce a management plan to guide “protection” to achieve this potential impact of invasive species should be included.	✓
<p><b>Prohibitions</b> 17 (1) Within a wilderness area, no person shall (g) alter the surface of the land; (h) remove, destroy, or damage any natural object, flora or fauna, whether living or dead;</p>	This provision would appear to <u>prohibit</u> activities that may be necessary to manage invasive species, however there is an exception below.	
<p><b>Permitted Activities</b> 19 The Minister may carry out, or authorize the carrying out of, activities within a wilderness area, including activities that would otherwise be prohibited pursuant to Section 17, for the responsible management, preservation or restoration of indigenous biodiversity of a wilderness area, including the protection of property, the health or safety of humans and the suppression of forest fire</p>	Provides authority for the Minister to undertake prohibited activities to protect indigenous biodiversity.	

Table 15.0

Statute: Municipal Government Act		Minister Responsible: Minister of Service Nova Scotia and Municipal Relations
Provision	Comment	Shall
<p><b>Power to make by-laws</b> 172 (1) A council may make by-laws, for municipal purposes, respecting</p> <p>(b) the safety and protection of property;</p> <p>(d) nuisances, activities and things that, in the opinion of the council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations and, without limiting the generality of the foregoing, by-laws</p> <p>(j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor trees, shrubs, flowers, other ornamental plants and turf on the part of a property used for residential purposes and on property of the municipality and, ...</p>	<p>The authority to create weed control by-laws is granted to the municipalities.</p> <p>Municipalities have the authority to apply some controls to pesticide use on residential properties but not on properties used for agricultural or forestry purposes.</p>	

Table 16.0

Statute: Public Highways Act		Minister Responsible: Minister of Transportation
Provision	Comment	Shall
<p>Interpretation 2 In this Act (f) "highway" means a public highway or public road and includes the bridges thereon; (g) "maintenance" means the preservation and keeping in repair of a public highway, and includes the removal of snow and the doing of any work and the supplying of any materials in connection therewith;</p>		
<p>Application of Act 3 This Act applies to all highways within the Province not included within the boundaries of a city or town or owned by a municipality, and does not, except where expressly provided, apply to highways within the boundaries of cities or towns or owned by a municipality.</p>	Subsection 11(3) empowers the Minister to vest any local highway in a Municipality.	
<p>Construction or maintenance by Minister 5 The Minister may construct or maintain any highway...</p>	The Minister has the authority to "maintain" a highway. It is not clear if maintenance goes beyond the physical footprint of the highway.	
<p>Deemed common and public highway 11(1) Except in so far as they have been closed according to law, (f) every road now open and used as a public road or highway; shall be deemed to be common and public highway until the contrary is shown.</p> <p>Vesting in Crown (2) Every common and public highway, together with the land within the highways boundaries, is vested in Her Majesty in right of the Province.</p> <p>Power to vest title in municipality (3) The Minister may vest any local highway in a municipality.</p>	The Act does not provide a definition of "highway boundary", however guidelines from the Department of Transportation and Infrastructure Renewal describe the right of way (ROW) for most roads is 30 m from the centerline and for 100 series highways it is 75 m from the centerline. The guidelines and maintenance manuals describe three zones: Zone A, the shoulder area along the road, minimum width is approximately 1.75 m from the outside edge of the gravel shoulder; Zone B, the Ditch area with fore and back slopes; width is approximately 10 m; and Zone C, the remaining ROW area (Buffer zone; area of managed succession) that the Province owns width is approximately	

	30 to 75 metre.	
<p><b>Deemed width of highway</b>  15(1) Every common and public highway shall, until the contrary is shown, be deemed to be at least 20.1168 metres in width.</p> <p><b>Determination of disputed boundary</b>  (2) In the event of a dispute as to the boundaries of a highway or road, the boundaries shall be fixed by the Minister.</p>		

## Appendix C Federal Legislative Tables

The following tables provide an overview of each federal statute and regulation that may be used to manage invasive species in Nova Scotia. Each table includes three columns. Column one provides the provision taken directly from the relevant statute or regulation. Column two includes any explanatory notes or comments related to the provision. Column three, entitled the “shall” column includes a check mark to identify any provision that requires the Minister or the Minister’s designate to exercise an authority that may be used to regulate invasive species. The “shall” column also includes a check mark if the provision includes a prohibition or action required by a person other than a Minister.

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Table 1.0

Statute: Wild Animal and Plant Protection and Regulation of International and Inter-Provincial Trade Act		Minister Responsible: Minister of Environment
Provision	Comment	Shall
<p><b>Interpretation</b>                      2 In this act                      “animal” means any specimen, whether living or dead, of any species of animal that is listed as “fauna” in an appendix to the Convention, and includes any egg, sperm, tissue culture or embryo of any such animal;</p> <p>“plant” means any specimen, whether living or dead, of any species of plant that is listed as “flora” in an appendix to the Convention, and includes any seed, spore, pollen or tissue culture of any such plant;</p>	The protection of the Act applies to listed plants and animals only.	
<p><b>Purpose</b>                      4 The purpose of this Act is to protect certain species of animals and plants, particularly by implementing the Convention and regulating international and interprovincial trade in animals and plants.</p>		
<p><b>Importation</b>                      6(1) No person shall import into Canada any animal or plant that was taken, or any animal or plant, or any part or derivative of an animal or plant, that was possessed, distributed or transported in contravention of any law of any foreign state.</p> <p><b>Importation and exportation</b>                      (2) Subject to the regulations, no person shall, except under and in accordance with a permit issued pursuant to subsection 10(1), import into Canada or export from Canada any animal or plant, or any part or derivative of an animal or plant.</p> <p><b>Interprovincial transport</b>                      (3) Subject to the regulations, no person shall, except under and in accordance with a permit issued pursuant to subsection 10(1), transport from one province to another province any animal or plant, or any part or derivative of an animal or plant.</p>	The import, export and interprovincial movement of certain plants and animals is regulated.	✓
<p><b>Issuance</b>                      10(1) The Minister may, on application and on such terms and conditions as the Minister thinks fit, issue a permit authorizing the importation, exportation or interprovincial transportation of an animal or plant, or any part or derivative of an animal or plant.</p>		

<p><b>Order</b> 21.1(1) The Governor in Council may, on the recommendation of the Minister, by order, amend the definition "animal" or "plant" in section 2 for the purposes of subsection 6(2).</p> <p><b>Recommendation</b> (2) If the Minister is of the opinion that the import of any specimen, living or dead, would be harmful to Canadian ecosystems or to any species in Canada and that urgent action is needed, the Minister may recommend that an order be made under subsection (1).</p>	<p>The Minister has the authority to recommend to the GIC that an order be issued to prohibit an animal or plant from being imported into Canada if the import could cause harm to Canadian species or the ecosystem.</p>	
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**Table 1.1**

Wild Animal and Plant Trade Regulations		
Provision	Comment	Shall
PART I Fauna PART II Flora	The Act lists specific flora and fauna that can be imported into Canada (Schedule I and II)	

Table 2.0

Statute: Canada Wildlife Act		Minister Responsible: Minister of Environment
Provision	Comment	Shall
<p><b>Powers of the Minister</b>                      3 The Minister may                      (a) undertake, promote and recommend measures for the encouragement of public cooperation in wildlife conservation and interpretation;</p>	<p>The Minister has basic authorities to encourage the public to assist with wildlife conservation. This could include programs to prevent adverse impacts from invasive species.</p>	
<p><b>Powers of Minister on public lands assigned</b>                      4 (2) Where the administration of any public lands has been assigned to the Minister pursuant to any federal law by reason of being required for wildlife research, conservation or interpretation, the Minister may                       (c) subject to the regulations, carry out measures for the conservation of wildlife on those lands not inconsistent with any law respecting wildlife in the province in which the lands are situated; and</p> <p><b>Powers in relation to lands administered by other ministers</b>                      (3) If public lands under the administration of a minister of the Crown other than the Minister are, in the opinion of the Minister and the other minister, required for wildlife research, conservation or interpretation, the Governor in Council may, on the recommendation of both ministers, by order, authorize the Minister to exercise, with the concurrence of the other minister, the powers referred to in subsection                       (2) in relation to those lands or any portion of them specified in the order.</p>	<p>The Minister has authority to undertake conservation activities in wildlife areas assigned to the Minister as long as the activities are not inconsistent with the regulations or the laws of the relevant province or territory.</p>	
<p><b>Measures for protection</b>                      8 The Minister may, in cooperation with one or more provincial governments having an interest therein, take such measures as the Minister deems necessary for the protection of any species of wildlife in danger of extinction.</p>	<p>The Minister has broader authority to take action to protect species that may be at risk of extinction. Where an invasive plant or insect threatened such a species the Minister could take action to eradicate or manage the invasive plant or insect. There is no mention of limitations in relation to crown land.</p>	
<p><b>Regulations</b>                      12 The Governor in Council may make regulations                      (b) specifying the measures to be taken, in cooperation with the government of any province having an interest therein, for the protection of any species of wildlife in danger</p>		

of extinction; (d) for the preservation, control and management of lands purchased, acquired or leased pursuant to section 9;		
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**Table 2.1**

Orders and Regulations made pursuant to the Canada Wildlife Act assigning administrative authority to the Minister of Environment		
Provision/Regulation/Order	Comment	Shall
Assigning the Administration, Management and Control of Certain Lands from the Minister of Indian Affairs and Northern Development to the Minister of the Environment	Certain lands in the Northwest Territories; on Bathurst Island and adjoining waters are assigned to the Minister of Environment for wildlife research, conservation, etc.	
Assigning to the Minister of the Environment the Administration, Management and Control of Certain Public Lands	Assigns several wildlife areas across Canada to be administered and managed by the Minister of Environment.	
Order Assigning to the Minister of the Environment the Administration of Certain Public Lands	Assigns lands within the Îles de l'Estuaire National Wildlife Area in the province of Quebec, to be administered and managed by the Minister of Environment.	
Order Authorizing the Minister of the Environment to Exercise, with the Concurrence of the Minister of National Defence, the Administration of Certain Public Lands	Assigns certain land in Alberta under the authority of the Minister of National Defence to the Minister of Environment.	

**Table 2.2**

Wildlife Area Regulations		
Provision	Comment	Shall
3(1) Subject to subsection (2), no person shall, in any wildlife area  (d) damage, destroy or remove a plant, (l) disturb or remove any soil, sand, gravel or other material, or (m) dump or deposit any rubbish, waste material or substance that would degrade or alter the quality of the environment,	Sets out a list of activities that cannot be undertaken in a wildlife area including several that could impact management of invasive species.	

4 The Minister may, on application, issue a permit to any person authorizing that person to carry on an activity described in section 3 in any wildlife area where that activity will not interfere with the conservation of wildlife.	The Minister can issue a permit for any of the prohibited activities.	
Schedule I	Schedule designates wildlife areas in provinces and territories throughout Canada	

Table 3.0

Statute: Canada National Parks Act		Minister Responsible: Minister of Environment
Provision	Comment	Shall
<p><b>Definitions</b> 2(1) The definitions in this subsection apply in this Act.</p> <p>“ecological integrity” means, with respect to a park, a condition that is determined to be characteristic of its natural region and likely to persist, including abiotic components and the composition and abundance of native species and biological communities, rates of change and supporting processes.</p>		
<p><b>Management by Minister</b> 8(1) The Minister is responsible for the administration, management and control of parks, including the administration of public lands in parks and, for that purpose, the Minister may use and occupy those lands.</p> <p><b>Ecological integrity</b> (2) Maintenance or restoration of ecological integrity, through the protection of natural resources and natural processes, shall be the first priority of the Minister when considering all aspects of the management of parks.</p>	The Minister has the authority and the mandate to ensure that maintaining ecological integrity in parks is a priority.	✓
<p><b>Agreements — general</b> 10(1) The Minister may enter into agreements with federal and provincial ministers and agencies, local and aboriginal governments, bodies established under land claims agreements and other persons and organizations for carrying out the purposes of this Act.</p>		
<p><b>Management plans</b> 11(1) The Minister shall, within five years after a park is established, prepare a management plan for the park containing a long-term ecological vision for the park, a set of ecological integrity objectives and indicators and provisions for resource protection and restoration, zoning, visitor use, public awareness and performance evaluation, which shall be tabled in each House of Parliament.</p> <p><b>Review of plans</b> (2) The Minister shall review the management plan for each park every five years, and any amendments to a plan shall be tabled with the plan in each House of Parliament.</p>	<p>Management plans are required for parks. These plans should include management of invasive species.</p> <p>Creates a mandatory review process.</p>	✓
<p><b>Pollution clean-up</b></p>	There is no definition of the term ‘substance’ but it	✓

<p>32(1) Where a substance that is capable of degrading the natural environment, injuring fauna, flora or cultural resources or endangering human health is discharged or deposited in a park, any person who has charge, management or control of the substance shall take reasonable measures to prevent any degradation of the natural environment and any danger to the fauna, flora or cultural resources or to persons that may result from the discharge or deposit.</p>	<p>could be defined to include plants and insects. Such a broad definition is used in the provincial <i>Environment Act</i>.</p>	
<p><b>Regulations</b>  16(1) The Governor in Council may make regulations respecting</p> <p>(b) the protection of flora, soil, waters, fossils, natural features, air quality, and cultural, historical and archaeological resources;  (c) the protection of fauna, the taking of specimens of fauna for scientific or propagation purposes, and the destruction or removal of dangerous or superabundant fauna;  (q) the abatement and prevention of nuisances;</p>		

**Table 3.1**

National Historic Parks General Regulations		
Provision	Comment	Shall
<p><b>Interpretation</b>  2 “fauna” means all vertebrates or invertebrates, living or dead, or parts thereof and includes the eggs or young of fauna but does not include the fossil remains of any fauna;  “flora” means any plant matter, living or dead, and includes fungi and moulds but does not include the fossil remains of any flora;</p>		
<p>4(1) No person shall remove, deface, damage or destroy flora, fauna or natural objects in a Park.  (2) Notwithstanding subsection (1), a Superintendent may issue a permit to any person authorizing the person to remove, deface, damage or destroy flora, fauna or natural objects in a Park for management of the Park or scientific purposes.</p>	<p>There is no distinction provided to address invasive flora or fauna; however the permitting provision could be used when action is required to address invasive species.</p>	<p>✓</p>

**Table 3.2**

National Historic Parks Wildlife and Domestic Animals Regulations		
Provision	Comment	Shall
2 In these Regulations, “Director” means a director of Parks Canada of the Department of the Environment;  “exotic wildlife” means all wildlife that is not indigenous to a park;		
9 Except as otherwise authorized by the Director, no person shall release within a Park, (b) any exotic wildlife; or	There are restrictions on the killing, capturing, etc of any wildlife except by permit. The provisions do not apply to peace officers of park superintendents.	✓

**Table 3.3**

National Parks General Regulations		
Provision	Comment	Shall
2 In these Regulations, “flora” means any plant matter, living or dead, and includes fungi and moulds		
10 No person shall remove, deface, damage or destroy any flora or natural objects in a Park except in accordance with a permit issued under subsection 11(1) or 12(1).	Permits can be issued for purposes of park management.	✓

**Table 3.4**

National Parks Wildlife Regulations		
Provision	Comment	Shall
2 In these Regulations, “exotic wildlife” means all wildlife that is not indigenous to a park or that has been declared, pursuant to these Regulations, to be exotic wildlife;		
4(1) Except as otherwise provided in these Regulations, no person shall (g) release any exotic wildlife within a park.		✓

Table 4.0

Statute: Species at Risk Act		Minister Responsible: Minister of Environment
Provision	Comment	Shall
<p><b>Definitions</b>                      2(1)                      “competent minister” means                      (a) the Minister responsible for the Parks Canada Agency with respect to individuals in or on federal lands administered by that Agency;                      (b) the Minister of Fisheries and Oceans with respect to aquatic species, other than individuals mentioned in paragraph (a); and                      (c) the Minister of the Environment with respect to all other individuals.</p> <p>“habitat” means                      (b) in respect of other wildlife species, the area or type of site where an individual or wildlife species naturally occurs or depends on directly or indirectly in order to carry out its life processes or formerly occurred and has the potential to be reintroduced.</p> <p>“wildlife species” means a species, subspecies, variety or geographically or genetically distinct population of animal, plant or other organism, other than a bacterium or virus, that is wild by nature and                      (a) is native to Canada; or                      (b) has extended its range into Canada without human intervention and has been present in Canada for at least 50 years.</p>		
<p><b>Purposes</b>                      6 The purposes of this Act are to prevent wildlife species from being extirpated or becoming extinct, to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and to manage species of special concern to prevent them from becoming endangered or threatened.</p>	This protection extends to the protection of habitat.	
<p><b>Recovery Strategy Preparation — endangered or threatened species</b>                      37(1) If a wildlife species is listed as an extirpated species, an endangered species or a threatened species, the competent minister must prepare a strategy for its recovery.</p>	Once a species has been listed as endangered or threatened there area a series of steps that the Minister(s) must follow to assess and hopefully recover the species. These requirements include assessment of any threats against the species or its critical habitat. Any invasive species that may	✓

	impact these species would presumably be included.	
<b>Recovery Strategy -- Commitments to be considered</b> 38 In preparing a recovery strategy, action plan or management plan, the competent minister must consider the commitment of the Government of Canada to conserving biological diversity and to the principle that, if there are threats of serious or irreversible damage to the listed wildlife species, cost-effective measures to prevent the reduction or loss of the species should not be postponed for a lack of full scientific certainty.	All recovery strategies, action plans and management plans must consider biological diversity.	✓
<b>Contents if recovery feasible</b> 41(1) If the competent minister determines that the recovery of the listed wildlife species is feasible, the recovery strategy must address the threats to the survival of the species identified by COSEWIC, including any loss of habitat, and must include  (b) an identification of the threats to the survival of the species and threats to its habitat that is consistent with information provided by COSEWIC and a description of the broad strategy to be taken to address those threats;		✓
<b>Proposed recovery strategy</b> 42(1) Subject to subsection (2), the competent minister must include a proposed recovery strategy in the public registry within one year after the wildlife species is listed, in the case of a wildlife species listed as an endangered species, and within two years after the species is listed, in the case of a wildlife species listed as a threatened species or an extirpated species.		✓
<b>Action Plan Preparation</b> 47 The competent minister in respect of a recovery strategy must prepare one or more action plans based on the recovery strategy. If there is more than one competent minister with respect to the recovery strategy, they may prepare the action plan or plans together.		✓

Table 5.0

Statute: Canadian Environmental Assessment Act		Minister Responsible: Minister of Environment
Provision	Comment	Shall
<p><b>Definitions</b>                      2(1) In this Act,                      “environmental effect” means, in respect of a project,                      (a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the Species at Risk Act,                        “federal lands” means                      (a) lands that belong to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above those lands, other than lands under the administration and control of the Commissioner of Yukon, the Northwest Territories or Nunavut,</p>		
<p><b>Purposes</b>                      4(1) The purposes of this Act are                      (b) to encourage responsible authorities to take actions that promote sustainable development and thereby achieve or maintain a healthy environment and a healthy economy;                      (c) to ensure that projects that are to be carried out in Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out; and</p>		
<p><b>Projects requiring environmental assessment</b>                      Sections 5 – 10.1</p>	<p>Outlines the types of project that require an Environmental Assessment and the exclusions.</p>	
<p><b>Factors to be considered</b>                      16(1) Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors:                      (a) the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;</p>	<p>If a project was likely to release an invasive species or encourage growth of an invasive species that could be assessed as an environmental effect.</p>	

Table 6.0

Statute: Canadian Environmental Protection Act		Minister Responsible: Minister of Environment
Provision	Comment	Shall
<p><b>Duties of the Government of Canada</b>                      2(1) In the administration of this Act, the Government of Canada shall, having regard to the Constitution and laws of Canada and subject to subsection (1.1),</p> <p>(a) exercise its powers in a manner that protects the environment and human health, applies the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation, and promotes and reinforces enforceable pollution prevention approaches;</p> <p>(a.1) take preventive and remedial measures to protect, enhance and restore the environment;</p> <p>(j) protect the environment, including its biological diversity, and human health, from the risk of any adverse effects of the use and release of toxic substances, pollutants and wastes;</p>		
<p><b>Definitions</b>                      3(1) The definitions in this subsection apply in this Act.                      “biological diversity” means the variability among living organisms from all sources, including, without limiting the generality of the foregoing, terrestrial and marine and other aquatic ecosystems and the ecological complexes of which they form a part and includes the diversity within and between species and of ecosystems.</p>		
<p><b>National Advisory Committee</b>                      6(1) For the purpose of enabling national action to be carried out and taking cooperative action in matters affecting the environment and for the purpose of avoiding duplication in regulatory activity among governments, the Minister shall establish a National Advisory Committee</p>	Requires the establishment of the National Advisory Committee.	✓
<p><b>Toxic substances</b>                      64 For the purposes of this Part and Part 6, except where the expression “inherently toxic” appears, a substance is toxic if it is entering or may enter the environment in a quantity or</p>	If an invasive species was listed as a toxic substance it would be covered under this section of the Act. At present there do not appear to be any invasive	

<p>concentration or under conditions that</p> <p>(a) have or may have an immediate or long-term harmful effect on the environment or its biological diversity;</p> <p>(b) constitute or may constitute a danger to the environment on which life depends; or</p> <p>(c) constitute or may constitute a danger in Canada to human life or health.</p>	<p>species listed as toxic substances.</p>	
<p>PART 6 ANIMATE PRODUCTS OF BIOTECHNOLOGY 104 “living organism” means a substance that is an animate product of biotechnology.</p>		
<p>Manufacture or import of living organisms 106(1) Where a living organism is not specified on the Domestic Substances List and subsection (2) does not apply, no person shall manufacture or import the living organism unless</p> <p>(a) the prescribed information with respect to the living organism, accompanied by the prescribed fee, has been provided by that person to the Minister on or before the prescribed date; and</p> <p>(b) the period for assessing the information under section 108 has expired.</p>		
<p>Regulations 200(1) The Governor in Council may, on the recommendation of the Minister and after the Committee is given an opportunity to provide its advice to the Minister under section 6, make regulations</p> <p>(a) establishing a list of substances that, if they enter the environment as a result of an environmental emergency</p> <p>(i) have or may have an immediate or long-term harmful effect on the environment or its biological diversity;</p> <p>(ii) constitute or may constitute a danger to the environment on which human life depends, or</p> <p>(iii) constitute or may constitute a danger in Canada to human life or health;</p>		

Table 6.1

New Substances Notification Regulations		
Provision	Comment	Shall
4. A person who manufactures or imports an organism other than a micro-organism must provide the information specified in Schedule 5.		
<p>SCHEDULE 5                      (Section 4 and paragraph 6(d))                      INFORMATION REQUIRED IN RESPECT OF ORGANISMS OTHER THAN MICRO-ORGANISMS</p> <p>1. The following information in respect of the organism:                      (e) a description of the biological and ecological characteristics of the organism, including                      (iii) its involvement in adverse ecological effects, including pathogenicity, toxicity and invasiveness.</p>		

Table 7.0

Statute: Forestry Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
<p><b>Functions of Minister</b>                      3(1) In exercising the powers and performing the duties and functions assigned to the Minister by the Department of Natural Resources Act, the Minister</p> <p>(a) shall provide for the conduct of research relating to the protection, management and utilization of the forest resources of Canada and the better utilization of forest products and may establish and maintain laboratories and other necessary facilities for those purposes;</p> <p>(e) at the request of any department or agency of the Government of Canada, may assume responsibility for the protection and management of any forest on lands for which that department or agency is responsible, including responsibility for the disposal of timber and grass and for the granting of rights to the natural produce of the forest.</p>	<p>The Minister is required by the Act to ensure that research on forest management is undertaken.</p>	<p>✓</p>
<p><b>Regulations</b>                      6 The Governor in Council may make regulations for the protection, care and management of lands comprised in Forest Experimental Areas and lands in respect of which the Minister has assumed responsibility under paragraph 3(1)(e), including regulations respecting</p> <p>(b) the protection of the flora and fauna;</p>		

Table 8.0

Statute: Department of Natural Resources Act		Minister Responsible: Minister of Natural Resources
Provision	Comment	Shall
5 The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to (a) natural resources;	This provision establishes the authority of the Minister of Natural Resources over all natural resources not addressed in other legislation. It does not specifically relevant to invasive species but does clearly identify which Minister has the most direct authority in this area.	
<b>General duties</b> 6 In exercising the powers and performing the duties and functions assigned to the Minister by section 5, the Minister shall (a) have regard to the sustainable development of Canada's natural resources and the integrated management thereof;	The Minister is required to consider sustainable development and integrated management in the exercising of all legal responsibilities. An argument could be made that invasive species must be part of any integrated management plan.	✓

Table 9.0

Statute: Plant Protection Act		Minister Responsible: Minister of Agriculture
Provision	Comment	Shall
<p><b>Purpose of the Act</b>                      2 The purpose of this Act is to protect plant life and the agricultural and forestry sectors of the Canadian economy by preventing the importation, exportation and spread of pests and by controlling or eradicating pests in Canada.</p>	<p>A preliminary legal analysis of the Plant Protection Act confirms policy interpretations that it provides all of the required means for regulating the introduction of invasive alien plants and plant pests, and for considering their environmental impacts.<sup>1</sup></p>	
<p><b>Definitions</b>                      3 In this Act, "pest" means any thing that is injurious or potentially injurious, whether directly or indirectly, to plants or to products or by-products of plants, and includes any plant prescribed as a pest;</p>	<p>The definition of pest is broad requiring only that the pest be injurious or potentially injurious to <u>plants or plant by-products</u>. The injury can be direct or indirect.</p>	
<p><b>Duty to notify Minister</b>                      5 Where a person becomes aware of the existence of a thing that the person suspects to be a pest in an area where the pest has not previously been known to exist, the person shall immediately notify the Minister of the suspected pest and provide the Minister with a specimen of it.</p>	<p>There is no limit on application of this provision, it applies to anyone who has information on a "new" pest.</p>	✓
<p><b>Importation and Exportation</b>  <b>Presentation for inspection</b>                      7(1) No person shall import or admit into Canada or export from Canada any thing that is a pest, that is or could be infested with a pest or that constitutes or could constitute a biological obstacle to the control of a pest, unless...</p>	<p>Import and export of pests is prohibited.</p>	✓
<p><b>Removal of imports</b>                      8 (1) Where an inspector believes on reasonable grounds that a thing has been imported into Canada and that it                      (a) was imported in contravention of this Act or the regulations, or                      (b) is a pest, is or could be infested with a pest or constitutes or could constitute a biological obstacle to the control of a pest,                      the inspector may, whether or not the thing is seized, require the owner of the thing or the person having the possession, care or control of it to remove it from Canada.</p>	<p>Inspectors have broad powers to deal with pests or anything that may be contaminated with a pest.</p>	

<sup>1</sup> The federal *Action Plan for invasive alien terrestrial plants and plant pests Phase 2 - Proposed Implementation Plan*

<p><b>Declaration of infested place</b>  11(1) Where an inspector suspects or determines that a place is infested with a pest and is of the opinion that the pest could spread, the inspector may in writing declare that the place is infested.</p>		
<p><b>Interim powers of inspector</b>  13(1) Where an inspector is of the opinion that immediate action is required to control a pest, the inspector may, in a declaration under section 11 or 12, and for a period of not more than ninety days, prohibit or restrict the movement of persons and things within, into or out of the infested place for the purpose of controlling the pest.</p>		
<p><b>Powers of Minister</b>  (3) The Minister may, by order,  (a) declare any place to be infested that is not already the subject of a declaration under section 11 or 12;  (b) determine and subsequently vary the area of any place that is declared infested;  (c) extend the period of any prohibition or restriction declared by an inspector under subsection 13(1);  (d) prohibit or restrict the movement of persons and things within, into or out of any place that is declared infested; and  (e) permit any movement of persons and things within, into or out of a place that would otherwise be prohibited by this section or section 6.</p>		
<p><b>Regulations</b>  47 The Governor in Council may make regulations for carrying out the purposes and provisions of this Act and prescribing anything that is to be prescribed under this Act, including regulations</p> <p>(a) prohibiting or regulating the importation and admission into Canada, the exportation from Canada and the processing, handling, packaging, distribution, sale, disposition, loading, unloading and movement within Canada of pests and other things that are or could be infested with pests or that constitute or could constitute biological obstacles to the control of pests;</p> <p>(f) governing investigations and surveys to detect pests and to identify areas of infestation;</p> <p>(g) respecting the declaration of things infested with pests and things free of infestation;</p> <p>(i) prohibiting or regulating the use of places that are, or are suspected of being, infested</p>		

with pests and of things that are, or are suspected of being, pests or infested with pests or that constitute or could constitute biological obstacles to the control of pests;		
(j) governing the quarantine of things;		
(l) governing the disposition of things that are, or are suspected of being, pests or infested with pests or that constitute or could constitute biological obstacles to the control of pests;		

**Table 9.1**

Golden Nematode Order		
Provision	Comment	Shall
2 “quarantine area” means the area of land described in the schedule;		
3(1) Subject to sections 4 to 8, the transportation into or from and the movement within the quarantine area is hereby prohibited of any plant, soil or other matter that is or may be contaminated by the Golden Nematode or by soil that is infested with the Golden Nematode ...	The Golden Nematode is a pest subject to the provisions of the <i>Plant Protection Act</i> .	✓
SCHEDULE That portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road.		

**Table 9.2**

Plant Protection Regulations		
Provision	Comment	Shall
Full Title Regulations Respecting the Prevention of the Importation, Exportation and Spreading of Pests Injurious to Plants and Provision for their Control and Eradication, and for the Certification of Plants and Other Things		
PART I GENERAL Interpretation 2 In these Regulations, “infested” means that a pest is present in or on a thing or place or that the thing or place is so exposed to a pest that one can reasonably suspect that the pest is in or on the thing or place;		

<p>“pest risk assessment” means a pest risk assessment conducted by the Minister in accordance with the principles of the International Standards for Phytosanitary Measures, Part I — Import Regulations, Guidelines for Pest Risk analysis, published by the Food and Agriculture Organization of the United Nations, as amended from time to time, with the definition “pest” in those guidelines being replaced by the definition “pest” in section 3 of the Act, for the purpose of</p> <p>(a) determining if a thing is a pest, is or could be infested or constitutes or could constitute a biological obstacle to the control of a pest,</p> <p>(b) recommending actions, as applicable,</p> <p>(i) to prevent the introduction into Canada or the spread within or from Canada of any pest or biological obstacle to the control of a pest, or</p> <p>(ii) to control a pest or to eradicate a pest or biological obstacle to the control of a pest,</p> <p>(c) determining if a thing that is a pest or biological obstacle to the control of a pest has a significant adverse effect on the environment, and</p> <p>(d) minimizing the degradation of environmental quality with respect to Canadian flora;</p> <p>“quarantine” means the confinement of a thing for a period and includes confinement for the purposes of</p> <p>(a) observation, inspection, testing or analysis of a thing to determine if the thing is a pest, is or could be infested or constitutes or could constitute a biological obstacle to the control of a pest, or</p> <p>(b) preventing the spread of a pest or biological obstacle to the control of a pest</p>		
<p><b>Eradicating and Preventing the Spread of Pests</b></p> <p>3 An inspector may, as appropriate in the circumstances for the purpose of eradicating a pest or preventing its spread, take one or more of the actions that the inspector is authorized to take under the Act or any regulation or order made under the Act if</p> <p>(a) after a pest risk assessment, the Minister or an inspector believes on reasonable grounds that a thing is a pest, or a thing or place is or could be infested or constitutes or could constitute a biological obstacle to the control of a pest; and</p> <p>(b) the Minister determines that it is necessary and cost-justifiable to take pest control measures.</p>	<p>Gives inspectors the power to eradicate or prevent the spread of pests after the Minister has agreed to such action.</p>	
<p><b>Quarantine</b></p> <p>11(1) Where the Minister or an inspector believes on reasonable grounds that a thing is a pest or that a period is required to determine if a thing is a pest, is or could be infested or constitutes or could constitute a biological obstacle to the control of a pest, any inspector</p>	<p>Quarantine Pest: “A pest of potential economic importance to the area endangered thereby and not yet present but not widely distributed and being officially controlled” (Glossary of phytosanitary</p>	

may require that the thing be quarantined.	terms, 1997. International Plant Protection Convention, FAO, Rome).	
<b>Investigation or Survey of a Thing or Place</b> 16(1) Subject to section 26 of the Act, an inspector may, at any reasonable time, enter any place and conduct an investigation or survey of that place or any thing in that place in order to detect pests or biological obstacles to the control of pests and to identify areas in which a pest or biological obstacle to the control of a pest is or could be found.		
<b>Treatment or Processing of a Thing or Place</b> 17(1) Where the Minister or an inspector believes on reasonable grounds that a thing is a pest, or a thing or place is or could be infested or constitutes or could constitute a biological obstacle to the control of a pest, any inspector may, in order to eradicate, or prevent the spread of, the pest or biological obstacle, decide that the thing or place shall be treated or processed and may determine the treatment or process and manner of treatment or processing.		
<b>Prohibiting or Restricting the Use of a Place</b> 20(1) Where the Minister or an inspector believes on reasonable grounds that a place is infested or suspected of being infested or contains or is suspected of containing a biological obstacle to the control of a pest, any inspector may prohibit or restrict the use of the place.		
<b>Prohibiting or Restricting Activities</b> 21(1) Where the Minister or an inspector believes on reasonable grounds that a thing is a pest, is or could be infested or constitutes or could constitute a biological obstacle to the control of a pest, any inspector may, in writing, for the purpose of detecting, eradicating or preventing the spread of the pest or biological obstacle, (a) prohibit or restrict any activity in respect of the thing indefinitely or during a specified period; and (b) specify conditions respecting the prohibition or restriction.		
<b>PART II</b> <b>IMPORTATION</b> <b>Importation Requirements</b> 29(1) Subject to subsections (1.1) to (5) and the conditions set out in sections 38 to 44, no person shall import into Canada any thing that is a pest, is or could be infested or constitutes or could constitute a biological obstacle to the control of a pest, unless the person has obtained and furnished to an inspector a valid permit number and, as applicable, a foreign Phytosanitary Certificate or a foreign Phytosanitary Certificate for Re-export.		

<p>29(2) Subject to subsections (3) and (4), a person may import a thing referred to in subsection (1) without a permit where the Minister determines, on the basis of a pest risk assessment,</p> <p>(a) that the thing is not a pest, is not or is not suspected of being infested or does not or could not constitute a biological obstacle to the control of a pest, and that the thing originates from an area free from pests listed in the <u>List of Pests Regulated by Canada</u>, published by the Agency, as amended from time to time;</p>	<p>The List of Pests Regulated by Canada can be found on the following CFIA website:  <a href="http://www.inspection.gc.ca/english/plaveg/protect/listpespare.shtml">http://www.inspection.gc.ca/english/plaveg/protect/listpespare.shtml</a></p> <p>Although the list is entitled List of Pests Regulated by Canada it is used only in the regulation of pests in the context of international trade, as set out in section 29 of the <i>Plant Protection Act</i>.</p>	
<p>PART III  MOVEMENT OF THINGS  Prohibitions  50(1) Subject to section 54, no person shall move any thing set out in column I of an item of Schedule I from a place in Canada set out in column II of that item to a place in Canada set out in column III of that item if the thing</p> <p>(a) is a pest named in column IV of that item;  (b) is infested or could be infested with a pest named in column IV of that item; or  (c) is or could be a biological obstacle to the control of a pest named in column IV of that item.</p> <p>(2) Subject to section 54, no person shall move any pest named in column IV of an item of Schedule I within or outside an area specified in column II of that item.</p> <p>(3) Subject to section 54, no person shall move any pest named in column V of an item of Schedule II within or outside an area specified in column II of that item.</p>		
<p>SCHEDULE I  (Subsections 50(1) and (2))  PROHIBITED MOVEMENT WITHIN CANADA</p>	<p>Lists 4 pests whose movement is prohibited in Canada or within certain areas of Canada.</p>	
<p>SCHEDULE II  (Subsection 50(3) and sections 51 and 52)  RESTRICTED MOVEMENT WITHIN CANADA</p>	<p>Lists 29 pests whose movement is restricted in Canada or within certain areas of Canada.</p>	

Table 10.0

Statute: Seeds Act		Minister Responsible: Minister of Agriculture
Provision	Comment	Shall
<p><b>Definitions</b>                      “seed” means any plant part of any species belonging to the plant kingdom, represented, sold or used to grow a plant;</p>		
<p><b>Seed not conforming to standard, etc.</b>                      3(1) Except as provided by the regulations, no person shall                      (a) sell, import into Canada or export from Canada any seed unless the seed conforms to the prescribed standard and is marked and packed and the package labelled as prescribed;                      or                      (b) sell or advertise for sale in Canada or import into Canada seed of a variety that is not registered in the prescribed manner.</p>		✓
<p><b>Powers of inspectors</b>                      6(1) Subject to subsection (1.1), an inspector may at any reasonable time                      (a) enter any place in which the inspector believes on reasonable grounds there is any seed to which this Act applies;                      (b) open any package found in that place that the inspector believes on reasonable grounds contains any such seed;                      (c) examine the seed and take samples thereof; and                      (d) require any person to produce for inspection or for the purpose of obtaining copies or extracts any books, shipping bills, bills of lading or other documents or papers with respect to the administration of this Act or the regulations.</p>		

Table 10.1

Seeds Regulations		
Provision	Comment	Shall
<p>7(1) In addition to the standards prescribed by section 6, the following standards apply to seed:                      (a) the seed shall not contain prohibited noxious weed seeds;</p>		

Table 10.2

Weed Seeds Order 2005		
Provision	Comment	Shall
1. The seeds of the species of plants set out in the schedule are deemed to be weed seeds for the purpose of establishing grades under the <i>Seeds Act</i> .		
SCHEDULE CLASS 1 PROHIBITED NOXIOUS WEED SEEDS	Lists 21 plant names.	
CLASS 2 PRIMARY NOXIOUS WEED SEEDS	Lists 17 plant names.	
CLASS 3 SECONDARY NOXIOUS WEED SEEDS	Lists 17 plant names.	
CLASS 4 SECONDARY NOXIOUS WEED SEEDS	Lists 5 plant names.	
CLASS 5 NOXIOUS WEED SEEDS	Lists 10 plant names.	
CLASS 6 OTHER WEED SEEDS	Lists 0 plant names.	

Table 11.0

Statute: Pest Control Products Act		Minister Responsible: Minister of Health
Provision	Comment	Shall
<p><b>Definitions</b>                      2(1) The definitions in this subsection apply in this Act.</p> <p>"biological diversity" means the variability among living organisms from all sources, including, without limiting the generality of the foregoing, terrestrial and marine and other aquatic ecosystems and the ecological complexes of which they form a part and includes the diversity within and between species and of ecosystems.</p> <p>"environmental risk", in respect of a pest control product, means the possibility of harm to the environment, including its biological diversity, resulting from exposure to or use of the product, taking into account its conditions or proposed conditions of registration.</p> <p>"pest" means an animal, a plant or other organism that is injurious, noxious or troublesome, whether directly or indirectly, and an injurious, noxious or troublesome condition or organic function of an animal, a plant or other organism.</p>		
<p><b>Primary objective</b>                      4(1) In the administration of this Act, the Minister's primary objective is to prevent unacceptable risks to people and the environment from the use of pest control products.</p>	The act deals with the registration and sale of pest control products.	