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Canadian Environmental Legislation and Policies related to Sonar R&D



Defence R&D Canada – Atlantic

James A. Theriault & Gary Fisher
Defence Research and Development Canada – Atlantic
PO Box 1012, Dartmouth, Nova Scotia, Canada B2Y 3Z7
jim.theriault@drdc-rddc.gc.ca

Introduction

Defence Research and Development Canada (DRDC) Atlantic has a number of projects which require sea trial activities. Because of potential adverse environmental effects, a number of Canadian laws and Department of National Defence (DND) policies impact on these research activities. In particular the Fisheries Act, the Oceans Act, the Canadian Environmental Assessment Act (CEAA), the Canadian Environmental Protection Act (CEPA), and the Species at Risk Act (SARA) influence the operation of research trials. Under CEAA, research activities on CFAV Quest within Canadian waters are exempt from the requirement to carry out an environmental impact assessment; however, DND policy requires that the assessment be carried out.

This poster provides an overview of the relevant legislation and policies relating to environmental impact associated with a sea trials program. The focus is on the potential impact of anthropogenic noise on marine mammals. DRDC activities must adhere to many laws: international, federal and provincial; however, only the legislation and policies affecting sea-trial activities are discussed in the following sections.

International Law

- UNCLOS III
- Foreign Sovereignty Rights

Policy: Defence Administrative Orders

Environmental Protection and Stewardship (1999)

- Commits Department to a code of Environmental Stewardship
- Requires DND Units to integrate environmental concerns into program and project planning
- Requires DND Units to meet or exceed the letter and the spirit of all federal environmental laws

Environmental Assessment (2000)

- Requires DND units to comply with the Canadian Environmental Assessment Act
- Establishes mechanisms by which DND units can determine which projects fall under the act
- Indicates that units should complete a "due diligence" environmental assessment for projects excluded under CEAA, but may have environmental impact.

Limitation

The authors (Marine Mammal Impact POC and Staff Officer Environment) have provided a layman's interpretation of the relevant legislation and departmental policies.

Canadian Legislation

Species at Risk Act (2002)

- Provide legal protection of extirpated, threatened, and endangered species
- Establishes the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) as authority in identification of species at risk
- Requires competent departments to develop species recovery plans
- Significant controversy remains regarding interpretation and enforcement

Canadian Environmental Protection Act (1999)

- Designed to protect the ecological health of Canada
- Consolidates other acts and regulations
- Defines "marine pollution" as "introduction by humans, directly or indirectly, of substances or energy into the sea"
- First instance in Canadian legislation where energy, other than thermal, is a potential pollutant
- May provide for future definitions of pollutants to include anthropogenic noise

Oceans Act (1996)

- Defines
 - Territorial sea (12nm)
 - Economic Exclusive Zone
- Provides for environmental protection within EEZ as part of sovereignty rights to area
- Established process for identifying and designating Marine Protected Areas (MPAs)
- 2 MPAs established
 - 8 remaining proposed areas

Fisheries Act – Marine Mammal Regulations (1993)

- "no person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat."
- Marine Mammal Regulations added
 - "no person shall disturb a marine mammal except when fishing"
- "disturb" is not defined within the act

Canadian Environmental Assessment Act (1992)

- Established an Environmental Assessment (EA) process for activities meeting CEAA "project" definition
- Only applies to activities of federal government
- All projects must have EA performed, unless "excluded" (e.g. building maintenance)
- Any federal activity that occurs outside of Canada requires an assessment
- Sonar R&D activity does not meet definition of CEAA "project"