

FNLMRC

Training, Mentorship and Professional Development

Solid Waste Management 103: Solid Waste Management and The Framework Agreement

TMPD Course Workbook
July 2019





A Welcome Message

Welcome to the printed version of our Online course focusing on Solid Waste Management. This is the last of three courses on the subject. The course is developed specifically to mirror the Online version, for communities having limited internet access, or for learners who prefer print over screen.

The course is brief, introducing key terms and concepts related to the subject. It also has “knowledge checks” so that you can check yourself along the way.

We hope that you will find it informative for your work.

In the meantime, should you require any assistance, please let us know.

The Resource Centre’s “Training, Mentorship and Professional Development” team.







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Course Objectives

Upon completion of this course, you may be more familiar with:

The importance of Solid Waste in relation to ...



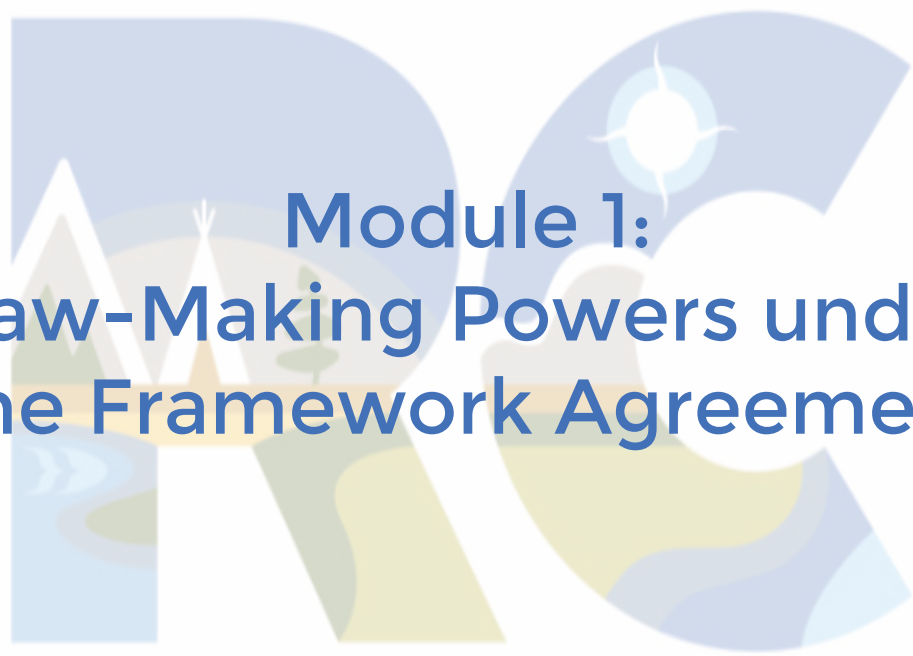

The scope of environmental law-making powers as related to Solid Waste Management under the Framework Agreement.



Solid Waste Management planning.



Solid Waste Management law-making under the Framework Agreement.



**Module 1:
Law-Making Powers under
the Framework Agreement**

Self Government

Self Government derives from First Nation history and traditions and is not granted by, nor created by, federal or provincial governments.

The Framework Agreement is a government to government agreement through which the federal government recognizes self government authority, including law making powers over reserve lands, natural resources and the environment.

Federal government recognition of this self government over reserve lands sends an important signal to other governments, businesses, non member residents, courts, police forces, etc. Parliament backs this exercise of self government power.

The *Indian Act* land system has failed in part because there no enforcement of *Indian Act* by-laws and regulations.

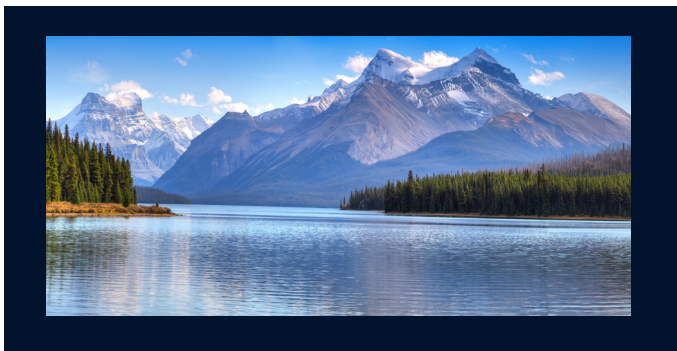
Additionally, there is little to no enforcement of federal environmental management and protection laws on reserve, and provincial laws do not apply.



The Framework Agreement provides options for building more effective environmental management and enforcement systems on an ongoing basis as an exercise of self government authority.

Environmental Governance

So what is environmental governance? It is the actions and tools used by First Nations to exercise control over their lands, waters, flora and fauna. It is grounded in the Framework Agreement, which allows First Nations to make, administer and enforce laws for land and resource management. As each First Nation and their environments are unique, environmental governance activities and the First Nation's capacity to implement them will also be unique. Planning is a key step for a First Nation in establishing their Environmental governance and protection regime. A Land Use Plan is a key document for good Environmental Governance.



Environmental Management Plans (EMPs)

The first recommended step for environmental governance is the development of an Environmental Management Plan (EMP). An EMP will identify environmental issues on reserve and outline the First Nation's proposed responses to those issues. It helps First Nations to meet their legal obligations and limit liabilities, and outlines the laws, policies, and procedures a First Nation wants to develop, setting out a detailed workplan and time-line for their development. EMPs are also good communication tools, providing direction to staff, community, other governments, businesses and institutions on the First Nation's environmental priorities and requirements. Ideally, an EMP will be designed with a community's Land Use Plan in mind. Ideally, an EMP will be designed with a community's Land Use Plan in mind.



An EMP:

- Defines a First Nation's approach to environmental governance.
- Identifies environmental issues on a First Nation's land, and proposes responses to resolve those issues.
- Is not legally required.
- Is useful in determining how a First Nation will meet their legal obligations, limit liability, and renew their role as protectors of the land.
- Outlines the laws, policies, and procedures a First Nation wants to pass, and sets a time-line and workplan for their development.
- Communicates the First Nation's environmental priorities and directions to staff, community members, other governments, businesses and institutions.

Examples of Environmental Issues and Responses

The next page includes some examples of environmental issues that could be included in an EMP. Issues included in your EMP will be specific to your First Nation and should be developed with extensive community consultation.

Responses to environmental issues that are selected by a First Nation will depend on the nature of the environmental issues, environmental or human health risks, willingness of community members to accept proposed responses, and capacity of the First Nation to take selected actions.

Examples of Environmental Issues and Responses

1. Environmental Assessment

Development of an Environmental Assessment Law.

2. Environmental Protection (contaminated sites, spills, etc)

Development of an Environmental Protection Law including EP standards and guidelines.

3. Flooding, erosion, loss of land

Adopting Best Management Practices & Standard Operating Procedures

4. Invasive species, pest issues

Applying traditional knowledge and practices.

5. Solid Waste (risks to human health, aesthetics, illegal dumping, etc)

Development of a Solid Waste Management Law with penalties for illegal dumping, waste reduction and diversion programs.

6. Overuse of natural resources (forestry, mining, aggregate extraction, etc)

Laws and policies for obtaining permits for the use of natural resources.

7. Environmentally and culturally significant areas

Protections for critical habitat and culturally sensitive areas.

8. Reduced fish or wildlife quantity or quality

New or expanded programs and initiatives.

9. Reduced water quality or quantity

Community education and outreach.

Law-Making Under the Framework Agreement

Scope of Law-Making and Management Authority under the Framework Agreement

There are several sections in the Framework Agreement that deal with law making and environmental management authority. Recent amendments to the Framework Agreement have expanded upon the list of example laws a First Nation may consider developing. The Framework Agreement also includes sections dealing with enforcement of First Nation laws:

- Establishing offenses punishable on summary conviction (Criminal Code)
- Fines, imprisonment, restitution, community service and alternative means for achieving compliance
- Enforcement procedures
- Appointment of a Justice of the Peace, court of competent jurisdiction and prosecutions

First Nation Laws must be enacted in accordance with the law-making and community consultation sections included in your Land Code.

Law-Making Authority under the Framework Agreement:

General:

PART IV

FIRST NATION LAW MAKING

18. LAW MAKING POWERS

18.1 The council of a First Nation with a land code in force will have the power to make laws, in accordance with its land code, respecting the development, conservation, protection, management, use and possession of First Nation land and interests or land rights and licenses in relation to that land.

This includes laws on any matter necessary or ancillary to the making of laws in relation to First Nation land.

19. ENFORCEMENT OF FIRST NATION LAWS

19.1 To enforce its land code and its First Nation laws, a First Nation will have the power to:

- (a) establish offenses that are punishable on summary conviction;
- (b) provide for fines, imprisonment, restitution, community service, and alternative means for achieving compliance;
- (c) establish comprehensive enforcement procedures consistent with federal, provincial or territorial law, including inspections, searches, seizures and compulsory sampling, testing and the production of information; and
- (d) provide for the collection of nontax debts, fees or charges owed to the First Nation using taxation collection remedies made under First Nation taxation laws.

Law-Making Authority under the Framework Agreement:

Environment:



PART V ENVIRONMENT

23. GENERAL PRINCIPLES

23.1 The council of a First Nation with a land code in force will have the power to make environmental laws relating to First Nation land.

23.1.1 The following examples illustrate some of the First Nation environmental laws relating to First Nation land contemplated by the Parties:

- (a) laws relating to contaminants on First Nation lands;
- (b) environmental protection requirements, including requirements in respect of natural resources, soils, water and ground water;
- (c) environmental emergencies and natural disasters;
- (d) conservation and heritage management requirements;
- (e) nuisances, including noise, odours and vibrations;
- (f) recycling, solid waste management and garbage disposal;
- (g) unsightly premises;
- (h) sewage and effluent discharges; and
- (i) implementation of any provisions of a First Nation environmental management plan.

Why Develop a Solid Waste Management Law?

First Nations operating under their Land Code have the power to create and enact land laws in accordance with the law-making powers and procedures set out in their Land Code. They also retain the power to create and enact by-laws under the *Indian Act*.

The Indian Reserve Waste Disposal Regulations (IRWDR) governs planning, development and permitting of waste disposal on reserve lands

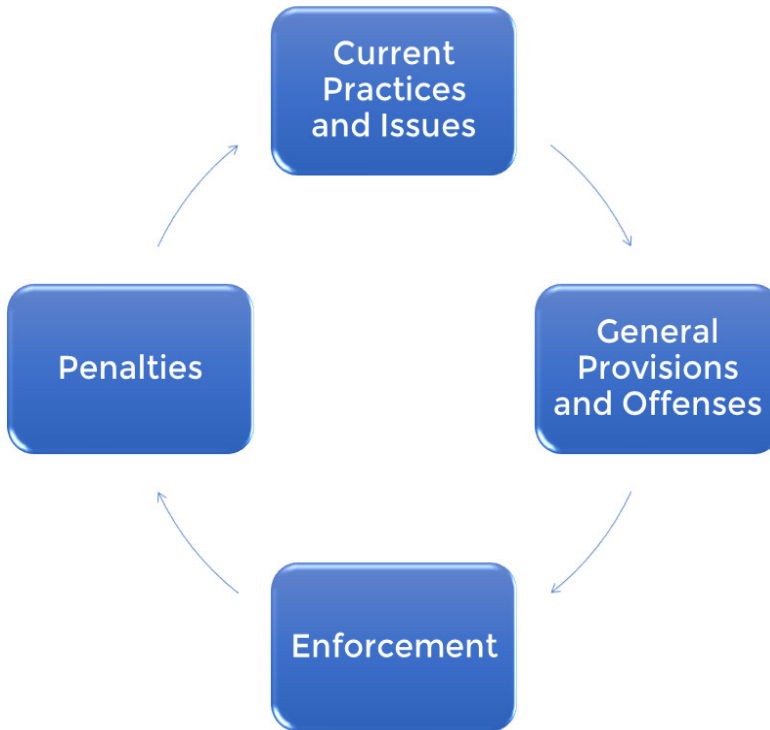
- Covers the field
- Attempts by First Nations to create Section 81 by-laws that go beyond the IRDWR haven't been supported by ISC.
- Maximum penalty for a violation: \$100 fine, 3 months imprisonment, or both.
- Additionally, there have been no prosecutions for illegal dumping on reserve lands under the IRWDR.

Section 21.1(h) of the Framework Agreement

- States that First Nations will not be subject to regulations made under sections 42 and 73 of the Indian Act to the extent that they are inconsistent with the Land Code or laws of the First Nation.

Therefore, until the First Nation develops a law under their Land Code dealing with solid waste, the IRWDR will continue to (ineffectively) apply.

Developing a Solid Waste Management Law



If a First Nation determines that developing a solid waste management law under their Land Code is a necessary / appropriate option, they may want to consider the following:

Current Practices and Issues

- How is solid waste currently managed on reserve?
- What is the expected lifespan of your current waste disposal sites?
- Are there any future initiatives that need to be taken into consideration?

General Provisions and Offenses

- What will and will not be allowed in terms of solid waste management?
- How will the law be administered?
- To whom does the law apply?

Enforcement

- Who will be responsible for enforcing your law and how are they appointed?
- What enforcement powers will they have?
- Are there any barriers preventing compliance?

Penalties

- What are appropriate penalties for non-compliance?
- Will you use a ticketing system, fines, warnings, or something else?
- How will penalties be collected?



Knowledge Check

Please answer the (4) questions below.

1. Environmental governance is the actions and tools used by First Nations to exercise control over their lands, water, flora and fauna.
 - a) True
 - b) False

2. The FA does not provide effective environmental management and enforcement systems.
 - a) True
 - b) False

3. An EMP is legally required.
 - a) True
 - b) False

4. A potential response to the overuse of Natural Resources might be:
 - a) Adopt best management practices.
 - b) Develop new programs and initiatives.
 - c) Develop laws and policies for obtaining permits for use of Natural Resources.
 - d) Community Outreach.



Module 2: Promoting Compliance to Environmental Laws under the Framework Agreement

The Framework Agreement

Self Government derives from First Nation history and traditions and is not granted by, nor created by federal or provincial governments.

The Framework Agreement is a government to government agreement through which the federal government recognizes self government authority, including law making powers over reserve lands, natural resources and the environment.

Federal government recognition of this self government over reserve lands sends an important signal to other governments, businesses, non member residents, courts, police forces, etc. Parliament backs this exercise of self government power. The Framework Agreement provides options for building more effective enforcement on an ongoing basis as an exercise of self government authority.

The Framework Agreement Amendments

Amendments to the Framework Agreement have expanded recognition of First Nation self government authority and enforcement powers. Phase I amendments were signed on November 26, 2018 and received Royal Assent on December 13, 2018.



Phase 1 Amendments

- Have simplified voting procedures, expanded on powers to make matrimonial real property laws and include examples of environmental law making powers.
- Also includes some improvements to enforcement powers, recognizing First Nation authority to adopt enforcement procedures consistent with provincial and territorial laws (previously just federal enforcement procedures).
- Clarify that prosecutors will either be appointed by First Nations or be provincial prosecutors (previous option of federal prosecutors has been dropped).



Phase 2 Amendments

- Have yet to be negotiated with Canada.
- The Lands Advisory Board has proposed recognition of additional law making powers (e.g. species at risk) and an expanded description of enforcement powers.

Enforcement under the Framework Agreement

The *Indian Act* land system has failed in part because there is no enforcement of by-laws and regulations.

The Framework Agreement provides options for building more effective environmental management and enforcement systems on an ongoing basis as an exercise of self government authority.

Section 19.1 of the Framework Agreement gives First Nations the power to enforce its Land Code and laws.

- 19.1 To enforce its land code and its First Nation laws, a First Nation will have the power to:
- (a) establish offences that are punishable on summary conviction;
 - (b) provide for fines, imprisonment, restitution, community service, and alternative means for achieving compliance;
 - (c) establish comprehensive enforcement procedures consistent with federal, provincial or territorial law, including inspections, searches, seizures and compulsory sampling, testing and the production of information; and
 - (d) provide for the collection of nontax debts, fees or charges owed to the First Nation using taxation collection remedies made under First Nation taxation laws.

Promoting Compliance

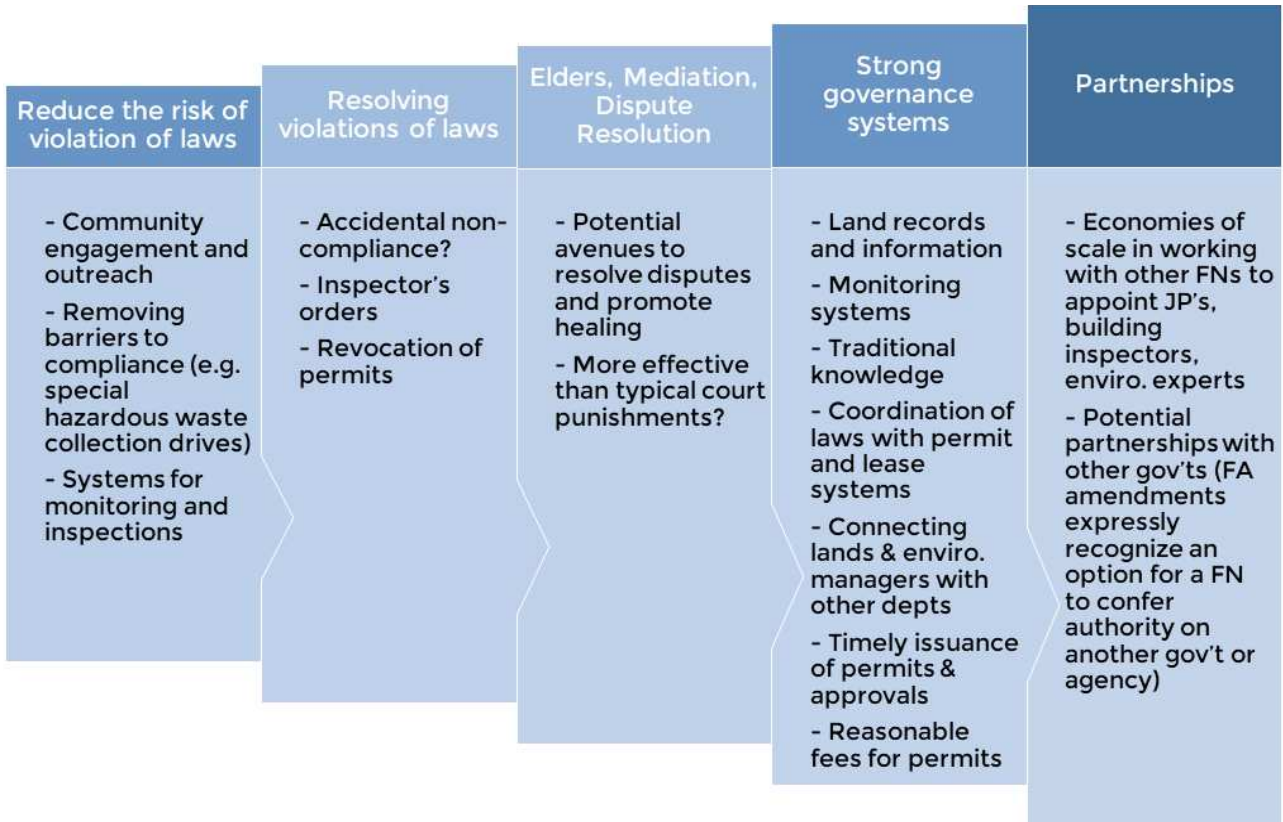
The Framework Agreement provides for prosecution of laws, recognizing authority to impose fines and imprisonment for violation of laws – but we recognize the importance of promoting compliance and respect for laws to avoid excessive and costly reliance on prosecutors and courts.

Community Involvement and Enforcement

- One of the best ways to ensure a First Nation Land Law is followed is to involve the community.
- The community can help to identify when a law is needed and what it should include.
- Additionally, First Nation Land Codes set out the enactment process for land laws, often requiring community consultation, education, and voting procedures.
- Educating the community on an environmental law and its importance can also help to ensure compliance.
- Voluntary compliance with a law reduces the need for enforcement measures including fines, charges, and use of the court system.
- It is recommended that enforcement personnel first work with offenders where appropriate to achieve voluntary compliance with a law, rather than going straight to the courts.

Promoting Compliance and Respect for Laws

Examples of enforcement strategies for promoting compliance and respect for laws as well as resolving disputes arising under Framework Agreement First Nation laws include: (please see graphic below).



Knowledge Check

Please answer the (4) questions below.

1. The phase 2 FA amendments were signed on November 26, 2018.
 - a) True
 - b) False

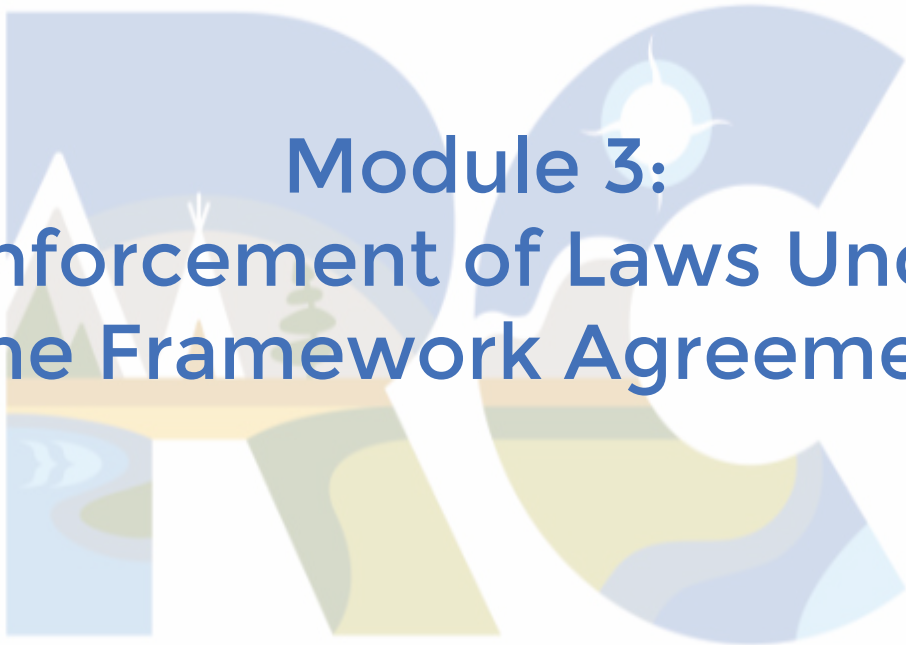
2. Section 19.1 of the FA gives First Nations the power to enforce its Land Code and Laws.
 - a) True
 - b) False

3. Community engagement and outreach is an example of an enforcement strategy to reduce the risk and violation of laws.
 - a) True
 - b) False

4. Phase 1 FA amendments have made voting procedures more complex and difficult.
 - a) True
 - b) False



Module 3: Enforcement of Laws Under the Framework Agreement



Enforcement of Environmental Laws under the Framework Agreement

- How will the First Nation ensure that their law is followed?
- Who will be enforcing this law?
- How are enforcement officers appointed?
- What activities can enforcement officers undertake (e.g. monitoring, inspections, investigations)?
- What enforcement powers do enforcement officers have (e.g. search & seizure; sampling, testing and taking measurements)?
- What actions can enforcement officers take to ensure or compel compliance (e.g. issuing warnings, tickets & orders; injunctions, prosecutions)?
- What are the penalties for non-compliance (consistent with the Framework Agreement)?

Powers of Enforcement

Promoting respect and compliance for laws is important but establishing clear and widely recognized processes for full enforcement is vital to promoting compliance and respect for laws.

Measures for enforcing an environmental law should be specified in the law itself; measures to address non-compliance and powers and duties for enforcement personnel should also be included.

A First Nation's legal counsel are recommended to ensure that enforcement measures in a law are both appropriate for the purposes and consistent with other First Nation laws.

Note that environmental laws and their enforcement provisions will apply to all activities occurring on reserve, whether conducted by the First Nation, community members, non-members, or corporations.

Factors to consider (see graphic below).



Enforcement Power

Enforcement officers are responsible for enforcing the requirements of a First Nation's environmental laws. Details of who designates someone to be an enforcement officer and their responsibilities and powers must be outlined in a First Nation's environmental laws and should be consistent between various laws.



What are the responsibilities of Officers?

- ✓ Carrying out inspections to verify compliance with environmental laws, decisions made under those laws, and any conditions specified in the decision statement, authorization or permit.
- ✓ Issuing orders directing corrective measures where there is an alleged contravention of an environmental law, its accompanying regulations and the conditions in a decision statement, authorization or permit.
- ✓ Taking other measures to compel compliance, such as issuing orders, directions and prohibitions.
- ✓ Investigating suspected contraventions.
- ✓ Undertaking measures to compel compliance through court action, such as injunctions and prosecution.

Policing can be relevant to issues such as trespassing, curfews, matrimonial real property disputes, problematic residential tenancies, property vandalism, emergency management and response, traffic control and some serious environmental issues such as preventing illegal dumping, and unauthorized use and harvesting of natural resources.

Enforcement of some First Nation laws may require technical experts without triggering policing considerations (e.g. a First Nation law may describe the authority of an inspector to issue stop work orders or to revoke permits).

Enforcement of other laws may require police assistance in support of compliance efforts by First Nation officials and technical experts (e.g. accompanying lands officers when changing locks on residences, disputes arising at construction sites etc.).

Police assistance and improved policing of First Nation laws may help contribute to policing of more serious criminal activity - for example improving trust and relationships with key community leaders - and may help strengthen enforcement across neighbouring jurisdictions.

First Nation laws can include measures to address potential liability of police forces (recent Framework Agreement amendments recognize express authority to limit liability of officials within the limits under provincial law).

Policing agreements can help identify land code laws for which police assistance may be required - and mechanisms for police to have access to authoritative and up to date versions of law.

Search & Seizure

- When there are reasonable grounds to believe that an offence has occurred, allows enforcement officers to enter onto premises, open containers to examine their contents, access information (including paper and computer files and data), and seize or take copies of any information or objects that may serve as evidence in court proceedings.
- May or may not require a warrant

Sampling, testing & taking measurements

- Allows enforcement officers to take samples (soil, water, air) for field or laboratory testing or to take other measurements in the field to verify compliance or in response to suspected non-compliance.
- Enforcement Officers must therefore have some training and expertise in scientific measurement and sampling procedures, sample storage and preservation, chain of custody, etc.



Enforcement Actions

1. Warnings

- Can be written or verbal.
- Used when an enforcement officer wants to draw an offence to the attention of the offender and provide notice that a repeat of the offence may attract more serious sanctions.
- Are not a conviction or a finding of guilt.
- Enforcement officers must keep records of all warnings issued (written and verbal) and any actions undertaken by the offender to restore compliance in response to the warning.



2. Tickets

- Can be either paid or disputed.
- Typically issued in the field for minor offenses such as littering and specifies the corresponding fine amount.
- Not paying or disputing a ticket within a defined time frame means the ticket holder is considered to have plead guilty, and the full amount is due immediately.



3. Orders

- Issued when the enforcement officer believes, on reasonable grounds, that there has been a contravention of the environmental law.
- May order a person to stop doing something that is a contravention, cause it to be stopped, or take any measure necessary to comply or mitigate the effects of non-compliance.
- Must be in writing and must include the reasons for the order and the time and manner in which it must be carried out.
- Can include stop work orders, remedial orders, other orders.

4. Injunction

- Injunctions are court orders requiring an individual to do or refrain from a specific action to prevent harm to persons or property or otherwise ensure Justice.
- Can lead to financial penalties for failure to comply with an injunction.

5. Prosecution

- Legal proceedings in which a person (or corporation) accused of an offence is tried in a court.
- The means adopted to bring a supposed offender to justice and punishment by due course of law; its purpose is to determine guilt or innocence of a person charged with crime.
- Enforcement officers will need to rely on lawyers to prosecute alleged offenses in the court system.
- The Framework Agreement provides for First Nations to appoint their own prosecutors, or to turn to provincial prosecutors.
- So far, no land code First Nations have agreements for the use of provincial prosecutors.
- The Komoks First Nation on Vancouver Island hired a private prosecutor for their landlord-tenant dispute. Note provincial Attorneys General have authority to “stay” private prosecutions.
- Note: some prosecutors specialize in regulatory offenses (as opposed to criminal or financial offenses) – challenges: regulatory offence prosecutors are oversubscribed already and don’t know enough about land codes.



6. Justices of the Peace (JPs)

- The Framework Agreement provides an option to appoint Justices of the Peace - “to try offenses established by or under a land code or a First Nation law”.
- There is also an option to request that Canada appoint a JP. This option is not being pursued because Canada has no clear program or track record of appointing JP’s to assist in exercising self government.
- A ruling by a Justice of the Peace can be appealed to a court of competent jurisdiction (provincial courts) – other provisions of the Framework Agreement refer to courts of competent jurisdiction.
- First Nations must “....protect the independence of each justice of the peace it appoints in a way similar to that in a province, for example tenure, removal and remuneration”.
- Given the requirements for independence of JPs and potential appeals to the provincial courts, it may be helpful to explore with provinces having a First Nation JP cross appointed under provincial law.
- Ideally a JP appointed by a First Nation should have some legal training or experience but also be respected by community members and be familiar with the First Nation’s traditions and culture.

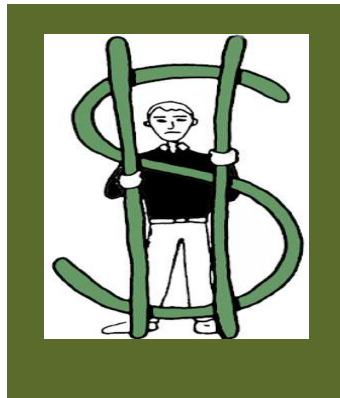
7. Court Competent Jurisdiction for FN Environmental Laws

- Given provincial court jurisdiction for summary conviction offenses, the vast majority of offenses will be within provincial court jurisdiction (some high dollar environmental fines may be within superior court jurisdiction).
- Komoks case on Vancouver Island is not determinative in Ontario or Atlantic Canada – but it is a precedent establishing provincial court jurisdiction to consider land codes and First Nation laws under land codes.
- Work is currently underway to develop practical arrangements with provincial courts across Canada.
- A traditional court system is not expressly provided for in the Framework Agreement – but might be a longer term option.
- Some First Nations may wish to establish their own traditional courts – consider linkages or separation from provincial courts.



8. Penalties

- The Framework Agreement provided for enforcement of laws on “summary conviction” – fines up to \$5000 and up to six months imprisonment, or both
- The Framework Agreement authorizes even higher penalties for violations of environmental laws, with penalties equivalent to prevailing provincial standards.
- Work is currently underway to develop practical arrangements with provincial courts across Canada.
- First Nations have flexibility in establishing fines within the limits recognized in the Framework Agreement (e.g. a First Nation can specify a maximum \$100 fine for certain minor environmental violations and maximum \$1,000,000 fines for more serious environmental violations if that penalty also applies under provincial law).
- First Nations set the maximum financial fines and terms of imprisonment (within the limits in the Framework Agreement) with the courts deciding the actual fine within those limits and deciding whether or not to impose any imprisonment.

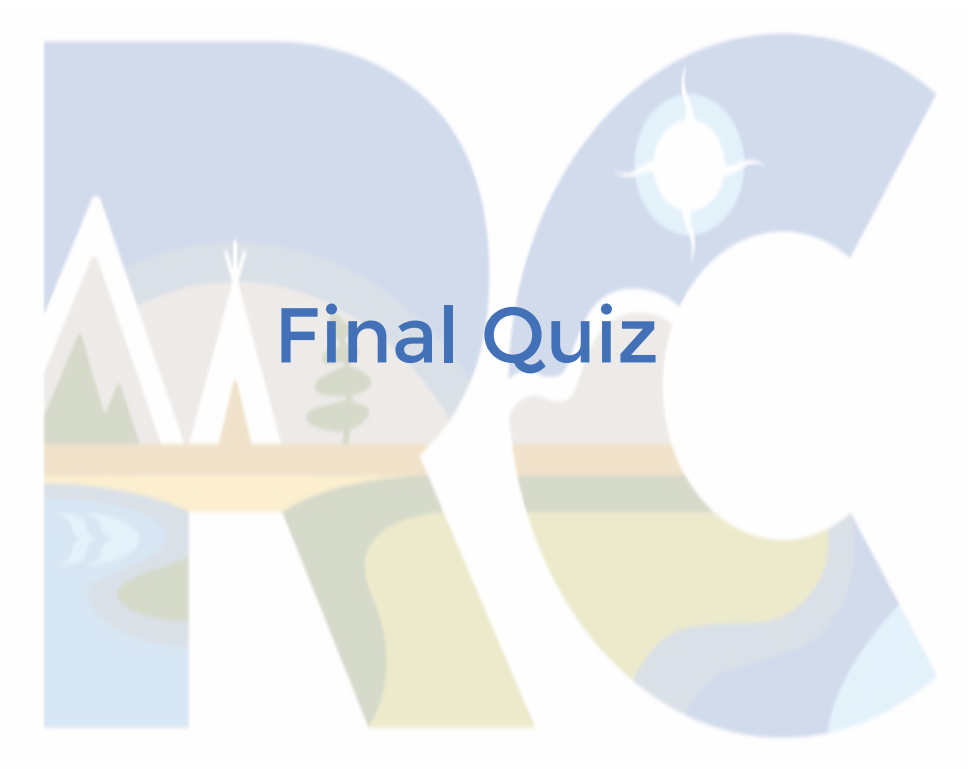




Knowledge Check

Please answer the (4) questions below.

1. Environmental laws and their enforcement provisions will apply to all activities occurring on a reserve.
 - a) True
 - b) False
2. It is not in an officer's scope of responsibility to carry out inspections to verify compliance with environmental laws.
 - a) True
 - b) False
3. Warnings can only be in written form.
 - a) True
 - b) False
4. First Nations set maximum financial fines and terms of imprisonment within the limits of the FA.
 - a) True
 - b) False





Please answer the (5) questions below.

1. The Council of a First Nation with Land Code will have the power to make environmental laws relating to First Nation land.
 - a) True
 - b) False

2. Community involvement is one of the best ways to ensure a First Nation Land law is followed.
 - a) True
 - b) False

3. A potential response to illegal dumping would be ...
 - a) Create an Environmental Impact Assessment
 - b) Community Outreach
 - c) Develop a Solid Waste Management Law
 - d) Develop an Environmental Protection Law

4. The FA does NOT include a section on enforcement procedures.
 - a) True
 - b) False

5. According to the FA, it is unacceptable to develop a potential partnership with other government agencies.
 - a) True
 - b) False



Attachments





Framework Agreement on First Nation Land Management

EXECUTIVE SUMMARY

For Full Version of the Framework Agreement and other resources please visit our [website](#).

INTRODUCTION

The Framework Agreement on First Nation Land Management (Framework Agreement) is an historic, government-to-government agreement signed on February 12, 1996 between the original First Nations who created and advocated for it, and the Minister of Indian Affairs and Northern Development. It is an initiative developed by these First Nations to opt out of the 44 lands related sections of the *Indian Act*. The Framework Agreement recognizes First Nations' inherent right to govern their lands.

Today, the Framework Agreement has expanded to include an ever-growing number of communities across Canada who are interested in replacing the lands restrictions of the *Indian Act* with the legal framework developed in a community land code. Only those First Nations who are signatory to the agreement are affected by its application.

Each signatory community to the Framework Agreement assumes the administration and full law-making authority of their reserve lands, environment and natural resources, when they ratify their land code. Canada ratified and implemented the Framework Agreement in the *First Nations Land Management Act*, which was assented to June 17, 1999.



Answer Key

Knowledge Check 1

1. True
2. False
3. False
4. c) Develop laws and policies for obtaining permits for use of Natural Resources.

Knowledge Check 2

1. False
2. True
3. True
4. False

Knowledge Check 3

1. True
2. False
3. False
4. True

Final Quiz:

1. True
2. True
3. c) Develop a Solid Waste Management Law
4. False
5. False

Glossary of Terms and Acronyms

CFMP: Capital Facilities and Maintenance Program

Dispute Resolution

Establishes procedures for when there is a disagreement between the parties.

Environmental Management Plan (EMP)

An EMP will identify environmental issues on reserve and outline the First Nation's proposed responses to those issues. It helps First Nations to meet their legal obligations and limit liabilities, and outlines the laws, policies, and procedures a First Nation wants to develop, setting out a detailed workplan and timeline for their development. EMPs are also good communication tools, providing direction to staff, community, other governments, businesses and institutions on the First Nation's environmental priorities and requirements.

Framework Agreement (FA)

The Framework Agreement is a government to government agreement signed in 1996. It gives First Nations the option of withdrawing their lands from the *Indian Act* in order to exercise control over their lands and resources.

ICMS: Integrated Capital Management System

Indian Act (IA)

The *Indian Act* is a legislation enacted by the Federal Government. The current act has been in place since 1951.

INAC: Indigenous and Northern Affairs Canada

IRWDR: Indian Reserve Waste Disposal Regulations

ISC: Indigenous Services Canada

Justice of the Peace

The Framework Agreement provides the authority for a community to appoint a Justice of the Peace. Many have not been lawyers, but most have some kind of legal background and are of good standing in their community.

Some Provincial Courts will require that a sitting Justice be a current lawyer to sit in a Provincial Court. They can be appointed by the community or appointed Provincially to accept and hear “informations” and “complaints of offences” and to initiate appropriate legal process.

The Justices could also preside over trials and hearings dealing with First Nation Laws following the rules of law pertaining to the Charter of Rights and Freedom, rules and admissibility of evidence and ruling on findings of guilt or innocence. The Justice will upon a finding of guilt administer remedies prescribed under the First Nation Law.

Land Use Planning (LUP)

Land Use Planning is the process of regulating the use of land in an effort to promote more desirable social and environmental outcomes, promoting the efficient use of resources, and fostering fair and transparent decision-making processes regarding the land and its uses. It may be a requirement of your Land Code.

Leachate

Liquid that drains or leaches from a landfill.

Memorandum of Understanding

A formal document describing the broad outlines of an agreement that two or more parties have reached through negotiations. It is not a legally binding document but signals the intention of all parties to move forward with a contract.

Municipal Type Service Agreement (MTSA)

Municipal Type Service Agreement is defined as an agreement between the First Nation and another federal department, provincial government, city, town government, private contractor, individual, other First Nations or organization.

Service Agreements

A contract between a First Nation and a third party under which all or a portion of a First Nation's on-reserve solid waste is managed by a third party for an agreed upon duration and fee.

Service Area

Service Area identifies what specific single family or multi-family residences; community facilities; commercial, industrial, or institutional buildings; or areas in the community will receive the garbage collection services.

Site Closure

An area (land fill) that is decommissioned in a manner that promotes re-vegetation, minimizes leachate and ensures that buried residual waste does not pose a physical hazard to people or animals that may use the site.

Solid Waste

Solid Waste is any material, non-hazardous or hazardous that has no further use, and which is managed at recycling processing or disposal sites.

Solid Waste Management

Solid Waste Management is defined as the discipline associated with control of generation, storage, collection, transport or transfer, processing and disposal of solid waste materials in a way that best addresses the range of public health, conservation, economics, aesthetic, engineering and other environmental considerations. Solid Waste management includes planning, administrative, financial, engineering and legal functions.

Summary Conviction

Pursuant to Section 19 of the Framework Agreement, in order to enforce its First Nation laws, a First Nation has the power to establish offences that are punishable on Summary Conviction.

Section 785 of the Criminal Code contains the Summary Conviction provisions, which state that unless otherwise provided in the law, everyone who is convicted of an offence is liable to a maximum fine of \$5000.00 or 6 months in jail or both. First Nations may therefore increase the maximum penalties for offences under their land laws, but the increased penalties must be stated within the law.

In the case of an Environmental Protection Law, the Framework Agreement requires that penalties must be at least as high as the penalties for offences under the equivalent provincial law.

The process to initiate charges, following the Summary Conviction process, is to file a sworn Information before a Justice of the Peace and the Justice issues a summons to be served on the accused commanding their appearance in Provincial Court.

If found guilty, the provincial court will set the penalty, which may be less than the maximum penalties specified within the law, but not more.

Suspension and Termination

Suspension / Termination terms identify the conditions and procedures for temporarily stopping services (suspension) or ending an agreement before the end of its term (termination).

Terms of Agreement

The Term of Agreement is the duration of the contract.

Waste Audit

A Waste Audit will assist you in determining the types and amount of waste generated by the community.



**FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**

July, 2019