

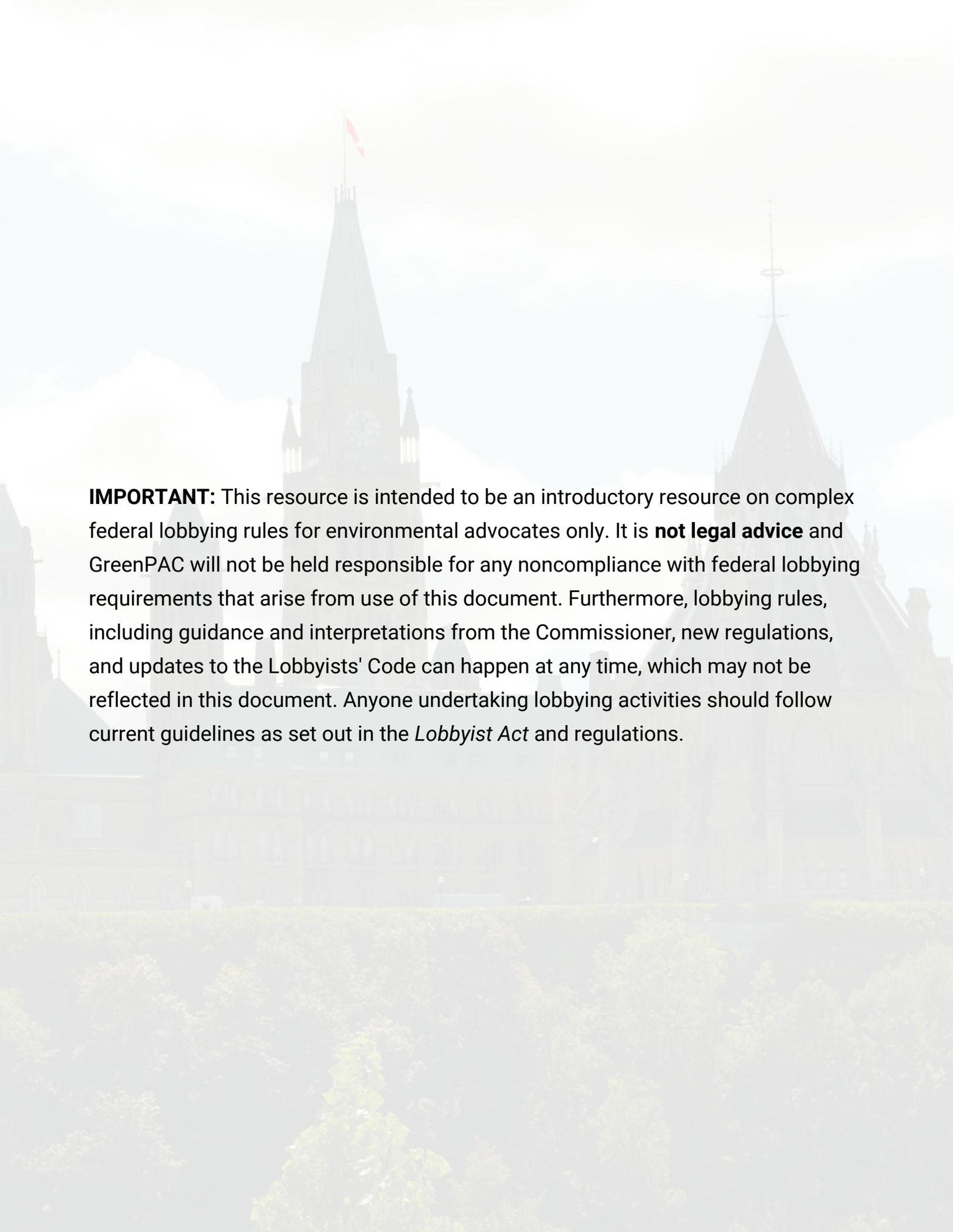
DIGGING DEEPER

An Introduction to Lobbying for Environmental Advocates

**EVERY DAY
ADVOCATES**



**Environmental
Leadership
Canada**



IMPORTANT: This resource is intended to be an introductory resource on complex federal lobbying rules for environmental advocates only. It is **not legal advice** and GreenPAC will not be held responsible for any noncompliance with federal lobbying requirements that arise from use of this document. Furthermore, lobbying rules, including guidance and interpretations from the Commissioner, new regulations, and updates to the Lobbyists' Code can happen at any time, which may not be reflected in this document. Anyone undertaking lobbying activities should follow current guidelines as set out in the *Lobbyist Act* and regulations.

Contents

- 1** Lobbying at a Glance
- 2** Unpacking Federal Lobbying Rules
- 3** Using the Lobbyist Registry for Advocacy
- 4** Helpful Resources



Objective

To demystify the complicated, and often intimidating, realm of lobbying for environmental advocates. This resource aims to help advocates learn 1) how to remain in compliance with Canada's lobbying laws when pushing for environmental change, and 2) utilize, and know the limits, of lobbyist registries in learning about outside influence on environmental decision-making.

Among other things, this resource will explore:

- *What is lobbying in Canada?*
- *Who lobbies? Who gets lobbied?*
- *What is grassroots lobbying?*
- *What is required by the Lobby Act?*
- *How do lobbying rules differ across Canada?*
- *What is the Lobbyist Registry and what can it tell advocates?*
- *What are some of the major exceptions or loopholes in lobbying rules to be aware of?*

1 Lobbying at a Glance

Lobbying shapes public policy by **providing decision-makers with detailed information from stakeholders**, including research, financial forecasting and impact analysis. It is recognized by law as a legitimate activity, with rules aimed at ensuring transparency and integrity. As an environmental changemaker, you may engage with decision-makers in ways that constitute lobbying.

At the same time, **lobbying is considered a "global barrier to climate action"** by the IPCC. Certain interests have disproportionate access to decision-makers and deep pockets to effectively and aggressively pursue their interests. Advocates who wish to understand the influence landscape in Canada should know how lobbying works, what loopholes exist, and where/how to access information about lobbying activities.

Outside of political circles, “lobbying” and “advocacy” are often used interchangeably. However, they are not quite the same and care should be taken to use each term correctly.

Both advocacy and lobbying seek to affect decision-making. Advocacy does this at a broad level (e.g., advocating “for climate action” or to “prevent gun violence”) and relies heavily on educating the public and raising awareness about an issue. **Lobbying is a subset of advocacy intended to influence specific decisions**, such as a bill being considered by Parliament, the development of new regulation, or awarding of a government contract.

Put simply, **all lobbying is advocacy but not all advocacy is lobbying.**

In Canada, what is considered a lobbying activity and the rules that govern these activities vary by jurisdiction. The national *Lobbying Act* sets the rules for lobbying officials at the federal level. Each province, certain territories and even some cities have their own set of rules and lobbying registries as well, governing the lobbying of officials at the provincial/territorial or municipal level.

This resource focuses primarily on lobbying at the federal level. However, environmental advocates should be prepared to navigate multiple sets of rules if engaging with officials in different levels of government.



Lobbying is a specific type of advocacy activity and subject to a complex set of rules. It is important that environmental advocates know when their work is considered lobbying and must be registered.

2 Unpacking Federal Lobbying Rules

Lobbying at the federal level is governed by the *Lobbying Act* and overseen by the Office of the Commissioner of Lobbying in Canada. The Act is supported by various regulations, guidance and interpretations issued by the Commissioner, and by the Lobbyists' Code of Conduct. The Code was recently updated, with the changes coming into effect in July 2023.

What is (and is not) lobbying under federal guidelines?

The Office of the Commissioner of Lobbying in Canada defines lobbying as "communicating, with public office holders, for payment with regard to:

- the making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs;
- the awarding of federal grants, contributions or other financial benefits; and
- the awarding of a federal government contract (for consultant lobbyists only).

In the case of consultant lobbyists, the Lobbying Act also defines lobbying as arranging a meeting between a public office holder and any other person."¹

There are important exceptions. Lobbying does **not** include oral/written submissions to Parliamentary committees or requests for information. It also does **not** include "exchanges about the enforcement, interpretation or application of a law or regulation by the responsible public office holder," which some watchdogs view as a significant loophole.

Who gets lobbied?

Lobbying is not only aimed at elected officials in the House of Commons. Lobbying can also target their staff, Senators of Canada and their staff, high-ranking officials in the Canadian Forces, and federal government employees (bureaucrats).

Federal lobbying rules distinguish between public office holders and those in special positions of privilege (*designated public office holders*), such as MPs, Ministers, and high-ranking civil servants, among others. A lobbyist must register for any lobbying communication with a public office holder, but **extra rules apply for communicating with designated public office holders.**

1. Lobby Canada, <https://lobbycanada.gc.ca/en/registration-and-compliance/frequently-asked-questions/>.

2 Unpacking Federal Lobbying Rules



**Know before you start:
Is your grassroots
advocacy actually
lobbying?**

Indirect Communications: Grassroots Lobbying

Most people imagine lobbying as meetings between public officials and outside interest groups (direct communications). However, the *Lobbying Act* also applies to indirect communications - aka *grassroots lobbying*.

Grassroots lobbying engages the public. These are activities that appeal to members of the public, either through mass media or direct communications, to persuade *them* to communicate with federal public office holders about one of the topics listed on page 2, in an attempt to sway decision-makers towards a specific outcome. In short, **it is possible to undertake registerable lobbying activities even when you do not speak once to a public official. For example, if you are running a campaign that gets community members to write to their MPs, asking them to vote a certain way on a forthcoming piece of legislation, that may be considered grassroots lobbying**, assuming you are paid for it and meet the other definition of *lobbyist* below.

Environmental advocates should be especially cognizant of which public engagement, organizing and mobilization campaigns would be considered lobbying. These activities are permitted but may require registration depending on who is lobbying and how much lobbying is being done.

Who is considered a lobbyist under the federal Lobbying Act?

The *Lobbying Act* recognizes two kinds of lobbyists: **in-house lobbyists** and **consultant lobbyists**, discussed in more detail below. Due to notable exemptions, including the thresholds required to be considered an "in-house lobbyist," it is possible for individuals to undertake lobbying activities without needing to register as a lobbyist.

Per the *Lobbying Act*, a **consultant lobbyist**:

- undertakes lobbying communications (direct or grassroots) on behalf of clients
- this includes to set up meetings between clients and public office holders, *even if they do not attend the meetings and/or the clients are not registered lobbyists*

Per the *Lobbying Act*, an **in-house lobbyist** is considered:

- someone who is employed by a corporation or organization that conducts lobbying activities which meet or exceed the "20% threshold"
- the "20% threshold" = research, logistics, meeting preparation, and other activities related to lobbying by the organization as a *whole* (i.e. by more than one staff person), collectively equating to 20% of 1 employee's full-time work

2 Unpacking Federal Lobbying Rules

Important Exceptions

Volunteers, citizens communicating on their own behalf, and officials in other levels of government are NOT considered lobbyists, even if they engage in communications with federal public office holders for the purposes of swaying decision-making. Staff of corporations or organizations that engage with federal officials but do not collectively meet the 20% threshold are also not considered lobbyists.

So, you are considered a lobbyist. What next?

Registering as a lobbyist: If you meet the definition of lobbyist, you (or, in the case of in-house lobbyists, the senior most staff member on your organization's behalf) will be required to register in the federal **Registry of Lobbyists**. Registration is free and can be done online.

Reportable Activities & Monthly Communications Filings: An extra step may be required if you are communicating with *designated public office holders* (e.g. MPs, Senators, cabinet members.). Lobbyists who undertake oral and pre-arranged communications with designated public office holders are required to file monthly communications reports detailing which DPOHs attended the meeting, when it took place, and the (broad) subject matter of the meeting.

All lobbyists are required to abide by the *Lobbyist Code of Conduct*.

Is it Lobbying? Examples:

- **You work for an organization that wants to make sure new legislation on toxic waste management doesn't let big polluters off the hook. You meet with the Minister's Chief of Staff to explain why these exemptions should not be included in the final bill. Is it lobbying?** *Yes, this is a lobbying activity. Unless your organization does not meet the 20% threshold for registration, its senior most staff member would need to file a return.*
- **You are the VP of a clean tech start-up and want to meet with officials to learn how new regulations will affect the company's operations. Is it lobbying?** *No, so long as the meeting is about the enforcement, interpretation or application of the regulation with the relevant public office holder, it is not considered lobbying.*
- **You are testifying to a Parliamentary Committee about how proposed amendments to a bill would endanger vulnerable species. Is it lobbying?** *No, testifying at committee is not lobbying.*
- **You and your neighbours are opposed to a new mine being proposed near your community. Together, you meet with your MP to express your concerns. Is it lobbying?** *No, so long as you are not being paid for this and are communicating as private citizens.*
- **You are running a nonprofit's national campaign in favour of a new handgun law under consideration in the House of Commons. You run e-blasts and advertise on social media to encourage members of the public to tell their MP to vote yes but do not engage with MPs yourself. Is it lobbying?** *Yes, this would be considered a "grassroots lobbying" (indirect communications) activity.*

3 Using the Lobbyist Registry for Advocacy

The Lobbyist Registry is intended to promote transparency in governance. Environmental advocates can **use the registry to better understand corporate and special interest influence in decision-making**, including to learn which officials are being lobbied the most and by whom. **However, it is important to understand that lobbyist registries in all jurisdictions in Canada provide an incomplete picture of what is happening behind closed doors.**

What the Registry of Lobbyists Reveals

The Registry of Lobbyists is highly accessible and includes both the registrations of lobbyists and, where applicable, monthly communications reports. The Registry is searchable by:

- lobbying organization/corporation
- individual consultant lobbyists and their clients
- lobbying subject matter (broad)
- recent monthly communications reports
- designated public office holders being lobbied
- and more



Individual **registrations** of lobbyists/lobbying organizations are useful in providing *the most specific information about the reason for lobbying*, as this is where "subject matter details" of lobbying activities are disclosed along with broad subject matter categories (e.g. "energy," "environment"). **Registrations** also disclose *which government institutions are being lobbied, the names of individual lobbyists, and which methods are being deployed* (e.g. written communications, grassroots lobbying, etc.).

Monthly communications filings reveal when *the communication took place and which designated public office holders participated in it*. When viewed collectively, these filings provide the greatest picture of how much (reportable) lobbying an organization or consultant is doing and which stakeholders are lobbying the most, thereby getting their voices (and interests) most heard by decision-makers. However, monthly communications filings provide only the broad subject matter of lobbying; they do not include details, making it difficult to ascertain the specific pieces of legislation, regulation or programs of the highest priority to lobbyists, or their positions/interests.

1 Using the Lobbyist Registry for Advocacy

Limits and Loopholes: What the Rules Leave Out

The *Lobbying Act*, the Registry of Lobbyists and surrounding regulations on federal lobbying do not reveal everything about external influence in politics. In fact, **the rules permit a considerable amount to be left out of the public eye.**

Critics point to one major loophole regarding the scope of what is considered lobbying: the fact that "exchanges about the enforcement, interpretation or application of a law or regulation" are exempt from lobbying rules. Another loophole according to critics: only those paid for lobbying activities are required to register. This permits consultant lobbyists to bill clients for services like advice but lobby in secret "for free."

Other limits pertain to what is required to be disclosed in registration and reporting. For example:

- Only "oral and arranged" exchanges need to be disclosed in monthly communications reports. This means that impromptu calls, "chance" encounters and written exchanges do not need to be disclosed.
- Only communications with *designated public holders* need to be included in monthly communications reports. This means that a meeting with an MP's staff (excluding those of Ministers or other key positions), for example, would not need to be disclosed (though registration as a lobbyist would still be required).
- The "subject matter details" provided in federal registration forms capture the specific target of lobbying activity (e.g. which bill or policy) but generally fail to reflect the actual *aim* of lobbying (e.g. for a bill to pass/fail). In some (albeit not many) provinces, lobbyists *do* have to disclose the objective of their lobbying activities.
- There is no requirement to disclose lobbyists' compensation.

A note on lobbying in other jurisdictions...

Engaging with provincial, territorial or municipal officials falls under completely different sets of rules (or lack thereof) than lobbying federally. While this resource focuses on federal lobbying, environmental advocates may find the following helpful to know:

- Some provinces have exemptions on if/when nonprofits need to register lobbying activities
- Not all provinces address grassroots lobbying the same way as federal rules
- Some provinces have exceedingly high thresholds to trigger lobbying disclosures, obscuring transparency for environmental advocates
- No lobbying act exists for the NWT or Nunavut at all

4 Helpful Links

Direct links:

- [The Lobbying Act](#)
- [Lobbying at the Federal Level](#) (Overview from Office of the Commissioner of Lobbying in Canada)
- [Lobbyists' Code of Conduct](#)
- [The Registry of Lobbyists](#)

Critical analyses of federal lobbying rules for environmental advocates:

- [Lobbying shapes government policy. Here's how it works and who's involved](#) (National Observer, 2022)
- [Opinion piece by Duff Conacher of Democracy Watch](#) (January 2023)

Comparing Lobbyist Registries across Canada

- [Canada's Lobbyist Registries: Briefing Note for Investors \(2017\)](#) Note that some of this document will be outdated. However, it provides a useful framework for comparing lobbyist rules across Canada