



FACT SHEET I: Highlights of the *Canadian Environmental Assessment Act*

The Canadian Environmental Assessment Act (Act) came into force in January 1995. It was the outcome of five years of extensive, nation-wide public consultation, including two years of intensive scrutiny by Parliament. The Act is one element of a major reform launched in **1987** of the federal practice of environmental assessment.

The Act is a tool for federal decision-makers. It establishes an open and balanced process to assess the environmental effects of projects requiring federal action or decisions. It ensures that the environmental effects of projects are considered as **early** as possible in a project's planning stages.

Highlights of the Act

- For the first time, the federal process has a **statutory basis**, reducing legal uncertainties and the need for court interpretations.
- Sustainable development is established as a fundamental objective of the federal environmental assessment process.
- Public participation is one of the goals of the Act, with increased opportunities for public input for all types of environmental assessments.
- The Act provides comprehensive definitions of key terms to facilitate more thorough assessments of projects. Such terms include, among others, **environment, environmental effect, project and physical activities**.
- All projects receive an appropriate degree of **environmental assessment**. The degree depends largely on the scale and complexity of the likely effects of the project. Consequently, there are four types of environmental assessments: screening, comprehensive study, mediation and panel review. The first two account for approximately 99 per cent of all federal projects assessed.
- A **screening** systematically documents the environmental effects of a proposed

project and determines the need to eliminate or minimize (mitigate) these harmful effects; to modify the project plan; or to recommend further assessment through mediation or a panel review. To improve the efficiency of the process, small-scale, routine projects may be assessed through the use of a **class screening**.

- Large-scale and environmentally sensitive projects usually undergo a more intensive assessment called a **comprehensive study**. The Comprehensive Study List Regulation identifies projects in this category.
- **Mediation, a new approach in Canada** to environmental assessment, is a voluntary process in which an impartial mediator appointed by the Minister of the Environment helps interested parties resolve issues surrounding a project. This approach is used when interested parties are few and consensus is possible.
- When following a screening or a comprehensive study, it is determined that a project requires further evaluation, it is referred to the Minister of the Environment for a **review by an independent and public panel**. Panel reviews offer large numbers of groups and **individuals** with different points of view a chance to present information and express concerns.
- Panels have the authority to enforce the attendance of witnesses and the provision of information using **subpoena powers**.
- **Federal authorities responsible for** projects may also request a public review by a mediator or a panel at any time.
- The **Minister of the Environment** plays a pivotal role in implementing the federal environmental assessment process. The Minister
 - at any stage of a screening or following a comprehensive study may call, under certain circumstances and in consultation with a federal **authority**, a public review by a mediator, a panel or a combination of the two;
 - appoints the mediator or panel members and, in consultation with the federal authority responsible for the project, establishes its terms of reference;



- may allow another federal process to be substituted for a panel review under the Act to promote efficiency, **avoid** duplication **and save** time;

- ensures that projects that pose a risk of significant adverse environmental effects on federal lands, or across provincial boundaries or international borders receive an environmental assessment.

- To prevent possible overlaps or confusion **with** the environmental assessment processes of other jurisdictions, such as provincial governments, the federal Minister of the Environment is **able** to negotiate **harmonized** environmental assessment procedures that provide for **joint panel reviews** with those jurisdictions.

- The scope **of assessment** for projects undergoing a comprehensive study, a mediation or panel review also includes a consideration of alternative means of carrying out the project, as well as the project's purpose and effects on the sustainability of renewable resources.

- Responsible authorities must address the need for a **follow-up program** to verify the accuracy of the environmental assessment and/or determine the effectiveness of mitigation measures.

- A **public registry** is established to ensure public access to records relating to the environmental assessment of a project.

- A new independent agency, the **Canadian Environmental Assessment Agency** (CEAA) is established to administer the federal environmental assessment process and ensure that opportunities are provided for public participation in the environmental assessment process.

- The Act requires a number of **regulations** to put its procedures into effect and to clarify its requirements and scope in certain circumstances. To meet specific needs and circumstances, more than a dozen such regulations are being developed in consultation with other governments, the private sector, First Nations, environmental groups and the general public.

There are currently **four regulations**:

- Comprehensive Study List,
- Law List,
- Exclusion **List**,
- Inclusion List.

(For more information on the regulations, please see Fact Sheet IV, ***Putting the Act into Practice - The Canadian Environmental Assessment Act Regulations***.)

Public Information

The **CEAA** conducts a comprehensive public information program. For more information, or for more detailed publications, please call or write the

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March 1995

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(Aussi disponible en français)



FACT SHEET II: An Overview of the Canadian Environmental Assessment Process

The **Canadian Environmental Assessment Act** (Act) clearly establishes, for the first time in a federal statute, a process for conducting **environmental assessments of projects** involving the federal government. The Act is administered by the Canadian Environmental Assessment Agency (CEAA).

Guiding Principles

The process is founded on several guiding principles:

- Environmental assessment is a tool to help **decision-makers** promote sustainable development -- the maintenance of a healthy environment and sound economy.
- The process must be applied as early **as** possible in a project's planning stage, and before irrevocable decisions are made, so that environmental factors can be taken into account in decision-making in the same way that economic and social factors have traditionally been considered.
- Public participation and accountability to the public are important elements of an open and balanced environmental assessment process.
- The selfdirected environmental assessment of projects by the federal departments **and** agencies responsible for them is a cornerstone of an effective and efficient environmental assessment process.

Applying the Act

An environmental assessment is required if a **federal authority** exercises one or more of the following duties, powers, or functions in relation to a **project**:

- proposes the project;
- contributes any other form of financial assistance to the project;
- sells, leases or otherwise transfers control or administration of land to enable the project to be carried out; or
- exercises a regulatory duty in relation to a project, **such as issuing a permit or licence, that is included in the Act's Law List Regulation.**

A federal authority is

- a federal Minister of the Crown;
- an agency or other body of the federal government that is ultimately accountable to Parliament through a federal Minister of the Crown;
- any federal department or departmental corporation set out in Schedule I or II to the **Financial Administration Act**;
- any other body prescribed in the regulations under the Act.

A federal **authority** is responsible for ensuring the assessment is carried out in compliance with the Act.

A project is defined as either

- an undertaking in relation to a physical work, such as any proposed construction, operation, modification, decommissioning, or abandonment, e.g. the construction (undertaking) of a bridge (physical work); or
- any physical activity not relating to a physical work that is listed in the Inclusion **List** Regulation under the Act (such as the cutting and removal of timber from the forests of a National Park).

Types of Environmental Assessments

Under the Act, all projects receive an appropriate degree of environmental assessment. The degree depends largely on the scale and complexity of the likely effects of the project. Consequently, there are **four types of environmental assessments**:

- **screening,**
- **comprehensive study,**
- **mediation, and**
- **panel review.**

Screening and comprehensive study are called **self-directed assessments** because they are conducted by the responsible authority for the project. Ninety-nine per cent of federal environmental assessments are conducted in this way. Mediation and review by a panel are called **independent assessments** because they are conducted by an independent mediator or public review panel appointed by the Minister of the Environment.



The Minister appoints a mediator or a panel once a responsible authority has referred a project for independent assessment.

Screening, conducted by the project's responsible authority, is the most flexible type of assessment, accommodating both simple, routine projects as well as larger projects. It is a systematic approach to documenting the environmental effects of a proposed project and determining the need to eliminate or minimize (mitigate) these effects; to **modify** the project plan; or to recommend further assessment through mediation or a panel review.

Public Involvement in a screening is at the discretion of the responsible authority (unless required by regulation under the Act) and depends on such factors as the nature of the project, its environmental setting, and public concerns.

Class Screening - The screening of some routine projects, such as dredging, culvert installations and highway maintenance, may be streamlined through the use of a class screening report. Designated by the Agency after taking into account public comments, a class screening report presents the accumulated knowledge of the environmental effects of a given type of project, and identifies the known measures to reduce or eliminate the likely adverse environmental effects.

Comprehensive Study - Some projects undergo a more intensive and detailed assessment of their environmental effects. Such projects, described in the Comprehensive Study List Regulation under the Act, are large-scale, environmentally sensitive projects that have the potential to create significant adverse environmental effects and to generate public concerns. Examples include large oil and natural gas developments, projects in national parks, nuclear power developments, major electrical-generation projects and large industrial plants. In a comprehensive study, the responsible authority considers a wider range of factors than a screening, and submits the comprehensive study report to the Minister of the Environment for review by the Agency and the public.

Mediation is a voluntary process of negotiation in which an independent and impartial mediator appointed by the Minister of the Environment **helps the interested parties** resolve their issues and reach a consensus on such

questions as the likely environmental effects of a project and the most effective mitigation measures. It can address all or part of the project's environmental assessment, and can be used in combination with a panel review. Where mediation is not appropriate or is not successful, the environmental assessment is conducted by an independent **public review panel** appointed by the Minister of the Environment. A panel review has the unique capacity to inform and involve a large number of concerned groups and members of the public, through, for example, opportunities to become involved in determining the scope of the environmental assessment and to participate in public hearings on the project. Public hearings are structured, but relatively informal and non-adversarial. The panel makes its recommendations to the government at the end of the public review process,

Follow-up Programs

Based on the findings of the environmental assessment, and on public comments, the responsible authority must decide whether it may undertake action in relation to the project -- that is, proceed **if it** is the proponent, contribute funding, dispose of interest in land or issue a permit, licence or other **authorization**.

The Act provides for a **follow-up program** to **verify** the **accuracy** of the environmental assessment, and/or to determine the effectiveness of any mitigation measures that have been implemented.

Public Participation

Public involvement is a key objective of the Act. All federal departments and agencies must keep this in mind when conducting or managing environmental assessments. The public is an important source of local information and traditional ecological knowledge about the project's physical site and likely environmental effects. Through public participation activities, project proponents can obtain this information, better understand and respond to public concerns and inform people about decisions. **Public concerns** can also trigger the need for a review by a mediator or panel.

The role of the public in the federal environmental assessment process is promoted through

- opportunities for public involvement in class screenings, comprehensive studies, mediation and panel reviews;
- the establishment of a **public registry** for each project undergoing any type of environmental assessment. Members of the public wishing to take part in the process can obtain copies and review most documents relating to an assessment; and
- a **participant funding program** designed to provide limited funding to interested individuals and groups, both for and against a project, to participate effectively at key stages of mediations and panel reviews.

Working with Other Governments

Many projects require authorization from **both** the federal government and a provincial or territorial government. Without close cooperation among these governments, a project might need to undergo separate environmental assessments -- resulting in unnecessary duplication, confusion, and excessive costs for all parties.

Recognizing the potential for such duplication and confusion, the Act allows the Minister to enter into agreements with provinces and territorial governments relating to the environmental assessment of projects where both governments are being asked to provide a licence, permit, certificate, or other authorization. These **bilateral agreements**, known as harmonization agreements, provide guidelines for the roles and responsibilities of each government in the environmental assessment of such projects. The agreements cover cooperation in such areas as joint panels, mediation, screening, comprehensive studies, notification, **cost-sharing** and time frames.

At this time, agreements with Alberta and Manitoba have been signed; five others are in the negotiation stage.

Public Information

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FACT SHEET III: The Canadian Environmental Assessment Agency

The Minister of the Environment initiated in **1987** through nation-wide consultations a major reform of the federal environmental assessment process. The reform reached an important milestone in June 1992 with the passage through Parliament of the **Canadian Environmental Assessment Act** (Act). The Act was implemented in January **1995**.

The Canadian Environmental Assessment Agency (CEAA) is charged with putting the Act into **practice**. The Agency is a national organization dedicated **solely** to administering and promoting environmental assessment policies and practices of the federal government. It reports directly to the Minister of the Environment **and operates** independently of any other federal department or agency. It replaces the Federal Environmental Assessment Review Office (FEARO).

The CEAA has four key **roles**:

- Administering the environmental assessment process;
- Providing advice to the Minister of the Environment on the Minister's responsibilities under the Act;
- Providing opportunities for public participation in the federal environmental assessment process; and
- Promoting sound environmental assessment practices.

Administering the Federal Environmental Assessment Process

The CEAA **serves** as a source of information and advice on the federal environmental assessment process by

- providing training, information, guidance, and advice to federal departments and agencies on their obligations under the Act and the policy assessment guidelines;
- providing advice to project proponents **and** consultants conducting environmental assessments, to ensure compliance with the Act;
- responding to requests from the public for both general information on environmental assessment procedures and **specific information on the assessment of particular projects**;

- reviewing proposed class screening reports and comprehensive study reports to ensure compliance with the Act;
- providing administrative support for mediators **and** review panels;
- providing limited funding for the public to participate in mediation and panel reviews;
- working with provincial governments and other jurisdictions to ensure that environmental assessments of projects are **harmonized**; and
- preparing an annual report to Parliament on how the Act is being implemented across government departments and agencies.

Providing Advice to the Minister of the Environment

The Minister of the Environment has a critical review and decision-making **role** in the federal environmental assessment process. The CEAA provides legal, procedural, and policy advice to the Minister on meeting the Minister's responsibilities under the Act. For example, the Agency provides advice when the Minister

- reviews a comprehensive study report to ensure compliance with the Act;
- determines, after reviewing a comprehensive study and public comments, whether a project can be referred back to the responsible authority for action, or whether further review is needed through mediation or a panel review;
- decides whether mediation is an appropriate option, or whether a project should be referred to a panel review;
- establishes terms of reference for a mediator or panel;
- appoints a mediator or panel members; or
- receives a report from a mediator or panel and makes it available to the public.

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Providing **Opportunities** for Public Involvement

Public involvement is a key objective of the Act. The CEAA encourages public involvement by

- ensuring that the public has an opportunity to review and comment on proposed class screening reports and comprehensive study reports before any decisions are taken;
- providing guidance to federal departments and project proponents on effectively involving the public;
- maintaining a public registry for all projects undergoing a review by a mediator or a panel;
- providing guidance to federal departments in establishing and maintaining a public registry for projects, so that the public can conveniently access environmental assessment reports and supporting documents;
- providing funding to interested groups so that they can participate in mediation sessions and panel reviews;
- supporting panel hearings.

Promoting Sound Environmental Assessment Practices

Finally, the CEAA has a broader role in promoting and improving environmental assessment practices in Canada and abroad. Through its work with federal departments and agencies, project proponents, provincial, municipal, and territorial governments, interested public groups, and international organizations, the Agency

- promotes the principles of sustainable development and public involvement in environmental assessment;
- works to ensure a consistent application of environmental assessment in all regions of the country;
- supports research to improve environmental assessment methods; and
- promotes international cooperation on environmental assessment by sharing information with, and offering Canadian expertise to, other countries.

Through public information **booklets**, fact sheets, bulletins, and an annual report to Parliament tabled by the Minister, the CEAA also promotes greater **public** awareness of the important role environmental assessment plays in Canada.

Public Information

The CEAA conducts a **comprehensive** public Information program. For more information, or for more detailed publications, please call or write the

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FACT SHEET IV: Putting the Act into Practice

The *Canadian Environmental Assessment Act Regulations*

For the first time, the **Canadian Environmental Assessment Act** (Act) establishes a process based on a federal statute for conducting environmental assessments of projects involving the federal government.

Four key regulations, the Comprehensive Study List, the Law List, the Exclusion List and the Inclusion List have been developed.

Comprehensive Study List

The Comprehensive Study List Regulation describes those types of projects that must be assessed through a more detailed study. These projects have the potential of causing significant adverse environmental effects and often generate considerable public concern.

Examples include the following :

- large oil and natural gas developments;
- projects in national parks and protected areas;
- major electrical-generation projects;
- large mining projects;
- major pipelines;
- nuclear power facilities, including uranium mines; and
- large industrial plants.

Law List

Under the Act, an environmental assessment is required or triggered when a federal department or agency is asked to provide a licence, permit, certificate, or other regulatory authorization for a project which is listed on the Law List Regulation. Of course, not every federal regulatory decision is likely to result in environmental effects. The Law List defines the scope of the Act by identifying those federal statutory and regulatory approvals that will be counted as triggers for an environmental assessment.

Exclusion List and Inclusion List

Under the Act, a **project** is defined as either

- an undertaking in relation to a physical work such as any proposed construction, operation, modification, decommissioning, or abandonment. Physical works are

physical things that are constructed and have a fixed location such as a dam or a bridge; or

- any physical **activity** not relating to a physical work that is listed in the Inclusion List Regulation.

A regulation applies to each of these two types of projects.

The **Exclusion List** Regulation describes those undertakings in relation to a physical work that do not require an environmental assessment. Such projects are routine and **relatively** small-scale, and can be expected to result in only insignificant environmental effects. Examples include routine maintenance, minor renovations, and the construction of small buildings. The Exclusion List will help streamline the federal environmental assessment process by allowing federal departments and agencies to focus their assessment efforts more **effectively** and efficiently.

The **Inclusion List** Regulation relates only to those projects that are a physical activity not relating to a physical work. It describes those activities that must be subjected to an environmental assessment **if** a federal department or agency proposes, funds, or otherwise **authorizes** the project by issuing a **permit** or licence. Examples include the ocean dumping of substances prescribed by the **Canadian Environmental Protection Act**, and the cutting **and** removal of timber from forests in a national park.

Other Key Regulations

In addition to these regulations, others are under development, including the following:

• Minimal Federal Involvement

This regulation will set out minimal thresholds for federal involvement in a project below which no federal environmental assessment will be required. It **will** establish limits such as the percentage of funds the federal government **gives** to a project and the area of lands that the federal government sells or leases to allow a project to go forward.



- **Projects Outside Canada**

This regulation will describe procedures for conducting environmental assessments of projects outside Canada involving the federal government, while respecting the sovereignty of states and International law.

- **One Project/One Assessment**

This regulation will ensure that environmental assessments relating to the same project, but coordinated by separate responsible authorities, are coordinated to avoid **duplication**.

- **Indian Reserve Lands**

This regulation **will** describe the principles and procedures for the environmental assessment of projects on lands reserved for Indians and with respect to federal funding to Indian bands.

- **Procedures**

This regulation **will** spell out the procedures under which environmental assessments will be undertaken by responsible authorities and the Canadian Environmental Assessment Agency.

- **Revisions to the Inclusion List Regulation**

This regulation **will** list the physical activities which do not derive from the Law List or the Comprehensive Study List regulations for which an environmental assessment may be required.

- **Crown Corporations and Harbour Commissions**

This regulation **will** establish in separate agreements the obligations of these corporations and commissions to conduct environmental assessments in the spirit of the CEAA. Each agreement **will** reflect the particular circumstances of the corporation or commission, such as its commercial competitiveness, and will allow for flexibility of the process, including the use of relevant provincial or territorial environmental assessment processes.

- **Offshore Boards**

This regulation will adapt the federal environmental assessment process to projects carried out by offshore boards established by federal-provincial agreements, such as the Canada-Nova Scotia Offshore Petroleum Resources Accord.

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FACT SHEET V: Public Participation under the *Canadian Environmental Assessment Act*

Public participation strengthens the quality and **credibility** of environmental assessments. The public is an important source of local and traditional knowledge about a project's physical site and likely environmental effects. Through the participation of interested parties, concerns that people have about a project are identified and addressed at an early stage. Public participation also helps build a consensus among different groups about a project's likely environmental effects or the most effective mitigation measures.

The federal government has **recognized** the important role that public participation plays in environmental assessment in the following ways:

- The ***Canadian Environmental Assessment Act*** (Act) provides numerous opportunities for public involvement in the environmental assessment of projects;
- A **public registry** permits interested persons to have access to documents relating to all current environmental assessments of projects for which the federal government has a decision-making responsibility;
- A **participant funding program** provides limited funds to ensure that interested individuals and groups have the opportunity to **participate** in mediation sessions and panel reviews.

OPPORTUNITIES FOR PUBLIC PARTICIPATION

The Act provides opportunities for public input at most types of environmental assessment of projects involving the federal government.

Screening

Screening is a systematic approach to documenting the environmental effects of a proposed project and determining the need to eliminate or minimize (mitigate) these effects; to modify the project plan; or to recommend further assessment through mediation or a public panel.

All projects, unless excluded or subject by regulation to a comprehensive study, must undergo a screening. Many projects that do are relatively small-scale and routine.

Consequently, public participation is left to the discretion of the federal department or agency responsible for the project's environmental assessment. When appropriate, however, the public may be invited to examine and comment on the screening report before a final decision is made on the future of the project.

Class Screening Reports

The environmental assessment of some routine, repetitive projects can be streamlined through the use of class screening reports. Before any screening report is designated a class screening report by the Canadian Environmental Assessment Agency (CEAA) however, the public is notified and given an opportunity to review and comment on the proposed model class screening report. The CEAA takes these public comments into account in making a decision on the designation.

Comprehensive Study Reports

Projects which have the potential for significant adverse environmental effects and which are identified in the Comprehensive Study List Regulation receive a more thorough assessment. Such projects usually generate considerable public interest and concern. Consequently, a responsible authority may **decide** to implement a public involvement program as part of its assessment.

Whenever the Minister of the Environment receives a comprehensive study report, the Minister is required to publish a notice to that effect and to provide the public with an opportunity to comment on the report before making a decision. The Minister of the Environment takes public comments into account in determining whether further review of the project, through mediation or a panel review, is needed.

Public concerns, if not resolved during a screening or comprehensive study, can warrant an independent review by a mediator or a panel.

Mediation and Panel Reviews

Public participation is the distinguishing feature of mediation and panel reviews. In mediation, public groups that have a direct interest in, or are directly affected by, a proposed project work with an independent mediator to **reach a consensus with the proponent about the likely environmental effects of the project and the most appropriate mitigation measures to address the adverse environmental effects.** However, meetings open to the general public are usually not part of the mediation process.

Public participation is most visible during a panel review. Members of the public may participate in meetings to identify issues to be addressed, and later appear before the panel in public hearings **to present their concerns and recommendations.**

THE PUBLIC REGISTRY

The Public Registry is an important source of information for members of the **public** wanting to participate in the environmental assessment process. It will contain records produced, collected, or submitted with respect to the environmental assessment of a project. Some documents, such as Cabinet documents, trade secrets, and confidential financial information, however, are excluded.

A registry is established by the federal department or agency -- known as the project's responsible authority -- whose funding, land, permit, licence, or other approval is needed to **enable** the project to proceed. It is also established by the CEAA whenever a project is referred for review by a mediator or a panel.

To facilitate convenient public access to the registry documents, the **CEAA** has developed an electronic database, the **Federal Environmental Assessment Index.** **The Index contains "tombstone" information (the who, what, when, where and why) about environmental assessments and lists contacts** for further information or to request copies of documents.

The Index will be available to the public through public libraries, the Internet and the WEB on-line service.

For more information on the registry, please write or call the

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PARTICIPANT FUNDING

The Participant Funding Program was created to help concerned citizens and organizations participate in the environmental assessment of projects through mediation and panel reviews. The fund is administered by the Canadian Environmental Assessment Agency (**CEAA**).

The work to be funded must relate directly to the environmental assessment of the project in question, and should provide the panel or mediator with new information not presented by the proponent or other participants.

The funding helps members of the public

- prepare for and participate in the background scoping meetings that identify the factors that a project's proponent must address in its environmental impact statement (**EIS**);
- **review the EIS**;
- **prepare** for and participate in mediation sessions; and
- prepare for and participate in public hearings before the panel.

Eligibility

Funding is **available** to individuals and non-profit organizations such as voluntary groups and, Indian bands. Applications reflecting both sides of an issue are considered equally.

Allocation of Funds

Each **public** review receives a certain allocation of money from the program. A funding administration committee, independent of the **panel** or mediator and proponent, is established for the review. The committee, which usually includes one or two non-government members who have scientific expertise or are familiar with the community, reviews the applications and makes recommendations to the CEAA. The president of the **CEAA** reviews the recommendations and announces the allocation.

For more information on the program, please write or call the

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