

BC Environmental Assessment Act & Regulations

The Act:

British Columbia's Environmental Assessment Act requires that certain large-scale project proposals undergo an environmental assessment and obtain an environmental assessment certificate before they can proceed. The current legislation came into effect in December 2002, replacing the previous Act in effect since June 1995. The provincial government is committed to more flexible, efficient and timely reviews of proposed major projects to help revitalize the provincial economy. This is why a new, streamlined environmental assessment process was introduced in 2002.

Key Elements:

The assessment process identifies and assesses the potential effects that may result from a proposed project, and develops measures for managing those effects. In general, environmental assessment includes four main elements:

- opportunities for all interested parties, including First Nations, to identify issues and provide input;
- technical studies of the relevant environmental, social, economic, heritage and/or health effects of the proposed project;
- identification of ways to prevent or minimize undesirable effects and enhance desirable effects; and
- consideration of the input of all interested parties in compiling the assessment findings and
- making decisions about project acceptability.

The Act and accompanying regulations establish the framework for delivering environmental assessments. However, the scope, procedures and methods of assessment are tailored to the circumstances of each project. This allows for assessment to focus on the issues relevant to whether or not that project should proceed.

Reviewable Projects:

There are three scenarios where a project may be considered reviewable under the Act:

- The project falls within a category of project that is included in the Reviewable Projects Regulation and meets or exceeds the prescribed thresholds.
- The Minister of Sustainable Resource Management (the minister) designates the project as reviewable. Or
- at the request of the proponent, the Environmental Assessment Office designates it as reviewable.

Importantly, under the newly revised Act, the Environmental Assessment Office has the option to waive a project out of the process without undertaking an environmental assessment, if the office is satisfied that the project will not result in any significant adverse effects, when practical impact management measures are taken into account. In such cases, the requirement to obtain an environmental assessment certificate would be waived.

The Environmental Assessment Office considers the waiver option only in rare cases where it can readily be determined, without the need for detailed analysis and/or further study or information gathering, that the potential for significant adverse effects is minimal, taking into consideration best management practices or readily available mitigation options.

Typical Assessment:

A typical environmental assessment is based on eight key steps:

- Determining if the *Environmental Assessment Act* applies
- Determining the review path.
- Determining how the assessment will be conducted (scope and procedures).
- Developing and approving terms of reference for the application.
- Preparing and submitting the application.
- Reviewing the application.
- Preparing the assessment report and referring the application to ministers.
- Deciding to issue/not issue an environmental assessment certificate.

Regulations:*Reviewable Projects Regulation:*

Under this regulation, the Act is applied to projects which exceed stated threshold sizes in specified categories (or sectors), as defined in this regulation. Projects within the following categories may be “reviewable”:

- Industrial
- Energy
- Mining
- Water
- Food processing
- Waste
- Transportation
- Tourism

Prescribed Time Limits Regulation:

This regulation specifies maximum (and, in some cases, also minimum) timelines for every step in the review process (e.g. the time available for the filing of documents on the project registry, for public comment periods, and for ministers and/or Cabinet to make final decisions on the overall acceptability of projects). Wherever the *Environmental Assessment Act* refers to a “prescribed time limit”, the exact legislated timeline is identified in this regulation. Based on the timelines set out in the regulation, estimates may be made regarding the total amount of time necessary for the completion of the major review stages.

Public Consultation Policy Regulation:

This regulation sets out general policies with respect to public consultation that the Environmental Assessment Office must take into account when determining consultation requirements for an environmental assessment. The policies relate to the implementation and assessment of the proponent’s public consultation program, the provision of public notice, access to information, and formal public comment periods.

Concurrent Approval Regulation:

Under the Act, a project proponent may apply to have applications for other provincial approvals reviewed concurrently with the application for an environmental assessment certificate. This regulation sets out the procedures related to this provision, such as the deadline by which the proponent must apply for concurrent review of applications for other approvals, and requirements for response and decision-making by regulatory agencies.

For more information: <http://www.eao.gov.bc.ca/>