

[Canadian Environmental Assessment Act](#) (1992, c. 37)

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Updated to August 31, 2004

Subject: Environment

Canadian Environmental Assessment Act

1992, c. 37

An Act to establish a federal environmental assessment process

[Assented to 23rd June, 1992]

Preamble

WHEREAS the Government of Canada seeks to achieve sustainable development by conserving and enhancing environmental quality and by encouraging and promoting economic development that conserves and enhances environmental quality;

WHEREAS environmental assessment provides an effective means of integrating environmental factors into planning and decision-making processes in a manner that promotes sustainable development;

WHEREAS the Government of Canada is committed to exercising leadership within Canada and internationally in anticipating and preventing the degradation of environmental quality and at the same time ensuring that economic development is compatible with the high value Canadians place on environmental quality;

AND WHEREAS the Government of Canada is committed to facilitating public participation in the environmental assessment of projects to be carried out by or with the approval or assistance of the Government of Canada and providing access to the information on which those environmental assessments are based;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Canadian Environmental Assessment Act*.

INTERPRETATION

Definitions

2. (1) In this Act,

"Agency" « *Agence* »

"Agency" means the Canadian Environmental Assessment Agency established by section 61;

"assessment by a review panel"
« *examen par une commission* »

"assessment by a review panel" means an environmental assessment that is conducted by a review panel established pursuant to section 33 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2);

"comprehensive study" « <i>étude approfondie</i> »	"comprehensive study" means an environmental assessment that is conducted pursuant to sections 21 and 21.1, and that includes a consideration of the factors required to be considered pursuant to subsections 16(1) and (2);
"comprehensive study list" « <i>liste d'étude approfondie</i> »	"comprehensive study list" means a list of all projects or classes of projects that have been prescribed pursuant to regulations made under paragraph 59(d);
"environment" « <i>environnement</i> »	<p>"environment" means the components of the Earth, and includes</p> <ul style="list-style-type: none"> (a) land, water and air, including all layers of the atmosphere, (b) all organic and inorganic matter and living organisms, and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b);
"environmental assessment" « <i>évaluation environnementale</i> »	"environmental assessment" means, in respect of a project, an assessment of the environmental effects of the project that is conducted in accordance with this Act and the regulations;
"environmental effect" « <i>effets environnementaux</i> »	<p>"environmental effect" means, in respect of a project,</p> <ul style="list-style-type: none"> (a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the <i>Species at Risk Act</i>, (b) any effect of any change referred to in paragraph (a) on <ul style="list-style-type: none"> (i) health and socio-economic conditions, (ii) physical and cultural heritage, (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or (c) any change to the project that may be caused by the environment, whether any such change or effect occurs within or outside Canada;
"exclusion list" « <i>liste d'exclusion</i> »	"exclusion list" means a list of projects or classes of projects that have been exempted from the requirement to conduct an assessment by regulations made under paragraph 59(c) or (c.1);
"federal authority" « <i>autorité fédérale</i> »	<p>"federal authority" means</p> <ul style="list-style-type: none"> (a) a Minister of the Crown in right of Canada, (b) an agency of the Government of Canada or other body established by or pursuant to an Act of Parliament that is ultimately accountable through a Minister of the Crown in right of Canada to Parliament for the conduct of its affairs,

(c) any department or departmental corporation set out in Schedule I or II to the *Financial Administration Act*, and

(d) any other body that is prescribed pursuant to regulations made under paragraph 59(e),

but does not include the Legislature or an agency or body of Yukon or Nunavut, the Commissioner in Council or an agency or body of the Northwest Territories, a council of the band within the meaning of the *Indian Act*, The Hamilton Harbour Commissioners constituted pursuant to *The Hamilton Harbour Commissioners' Act*, The Toronto Harbour Commissioners constituted pursuant to *The Toronto Harbour Commissioners' Act, 1911*, a harbour commission established pursuant to the *Harbour Commissions Act*, a Crown corporation within the meaning of the *Financial Administration Act*, a not-for-profit corporation that enters into an agreement under subsection 80(5) of the *Canada Marine Act* or a port authority established under that Act;

"federal lands"
« *territoire domanial* »

"federal lands" means

(a) lands that belong to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above those lands, other than lands under the administration and control of the Commissioner of Yukon, the Northwest Territories or Nunavut,

(b) the following lands and areas, namely,

(i) the internal waters of Canada,

(ii) the territorial sea of Canada,

(iii) the exclusive economic zone of Canada, and

(iv) the continental shelf of Canada, and

(c) reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and are subject to the *Indian Act*, and all waters on and airspace above those reserves or lands;

"follow-up program"
« *programme de suivi* »

"follow-up program" means a program for

(a) verifying the accuracy of the environmental assessment of a project, and

(b) determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project;

"interested party"
« *partie intéressée* »

"interested party" means, in respect of an environmental assessment, any person or body having an interest in the outcome of the environmental assessment for a purpose that is neither frivolous nor vexatious;

"mediation"
« *médiation* »

"mediation" means an environmental assessment that is conducted with the assistance of a mediator appointed pursuant to section 30 and that includes a consideration of the factors required to be considered under subsections 16(1) and (2);

"Minister" « *ministre* »

"Minister" means the Minister of the Environment;

"mitigation" « <i>mesures d'atténuation</i> »	"mitigation" means, in respect of a project, the elimination, reduction or control of the adverse environmental effects of the project, and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means;
"prescribed" <i>Version anglaise seulement</i>	"prescribed" means prescribed by the regulations;
"project" « <i>projet</i> »	"project" means <p style="margin-left: 40px;">(a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or</p> <p style="margin-left: 40px;">(b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b);</p>
"proponent" « <i>promoteur</i> »	"proponent", in respect of a project, means the person, body, federal authority or government that proposes the project;
"record" « <i>document</i> »	"record" includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof;
"Registry" « <i>registre</i> »	"Registry" means the Canadian Environmental Assessment Registry established under section 55;
"responsible authority" « <i>autorité responsable</i> »	"responsible authority", in relation to a project, means a federal authority that is required pursuant to subsection 11(1) to ensure that an environmental assessment of the project is conducted;
"screening" « <i>examen préalable</i> »	"screening" means an environmental assessment that is conducted pursuant to section 18 and that includes a consideration of the factors set out in subsection 16(1);
"screening report" « <i>rapport d'examen préalable</i> »	"screening report" means a report that summarizes the results of a screening;
"sustainable development" « <i>développement durable</i> »	"sustainable development" means development that meets the needs of the present, without compromising the ability of future generations to meet their own needs.
Extended meaning of "administration of federal lands"	(2) In so far as this Act applies to Crown corporations, the expression "administration of federal lands" includes the ownership or management of those lands.
For greater certainty	(3) For greater certainty, any construction, operation, modification, decommissioning, abandonment or other undertaking in relation to a physical work and any activity that is prescribed or is within a class of activities that is prescribed for the purposes of the definition "project" in subsection (1) is a project for at least so long as, in relation to it, a person or body referred to in subsection 5(1) or (2), 8(1), 9(2), 9.1(2), 10(1) or 10.1(2) is considering, but has not yet taken, an action referred to in those subsections.

1992, c. 37, s. 2; 1993, c. 28, s. 78, c. 34, s. 18(F); 1996, c. 31, s. 61; 1998, c. 10, s. 164, c. 15, s. 50; 2002, c. 7, s. 122, c. 29, s. 137; 2003, c. 9, s. 1.

HER MAJESTY

Binding on Her Majesty

3. This Act is binding on Her Majesty in right of Canada or a province.

PURPOSES

Purposes

4. (1) The purposes of this Act are

(a) to ensure that projects are considered in a careful and precautionary manner before federal authorities take action in connection with them, in order to ensure that such projects do not cause significant adverse environmental effects;

(b) to encourage responsible authorities to take actions that promote sustainable development and thereby achieve or maintain a healthy environment and a healthy economy;

(b.1) to ensure that responsible authorities carry out their responsibilities in a coordinated manner with a view to eliminating unnecessary duplication in the environmental assessment process;

(b.2) to promote cooperation and coordinated action between federal and provincial governments with respect to environmental assessment processes for projects;

(b.3) to promote communication and cooperation between responsible authorities and Aboriginal peoples with respect to environmental assessment;

(c) to ensure that projects that are to be carried out in Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out; and

(d) to ensure that there be opportunities for timely and meaningful public participation throughout the environmental assessment process.

Duties of the Government of Canada

(2) In the administration of this Act, the Government of Canada, the Minister, the Agency and all bodies subject to the provisions of this Act, including federal authorities and responsible authorities, shall exercise their powers in a manner that protects the environment and human health and applies the precautionary principle.

1992, c. 37, s. 4; 1993, c. 34, s. 19(F); 1994, c. 46, s. 1; 2003, c. 9, s. 2.

ENVIRONMENTAL ASSESSMENT OF PROJECTS

Projects to be Assessed

Projects requiring environmental assessment

5. (1) An environmental assessment of a project is required before a federal authority exercises one of the following powers or performs one of the following duties or functions in respect of a project, namely, where a federal authority

(a) is the proponent of the project and does any act or thing that commits the federal authority to carrying out the project in whole or in part;

(b) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part, except where the financial assistance is in the form of any reduction, avoidance, deferral, removal, refund, remission or other form of relief from the payment of any tax, duty or impost imposed under any Act of Parliament, unless that financial assistance is provided for the purpose of enabling an individual project specifically named in the Act, regulation or order that provides the relief to be carried out;

(c) has the administration of federal lands and sells, leases or otherwise disposes of those lands or any interests in those lands, or transfers the administration and control of those lands or interests to Her Majesty in right of a province, for the purpose of enabling the project to be carried out in whole or in part; or

(d) under a provision prescribed pursuant to paragraph 59(f), issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part.

Projects requiring approval of Governor in Council

(2) Notwithstanding any other provision of this Act,

(a) an environmental assessment of a project is required before the Governor in Council, under a provision prescribed pursuant to regulations made under paragraph 59(g), issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part; and

(b) the federal authority that, directly or through a Minister of the Crown in right of Canada, recommends that the Governor in Council take an action referred to in paragraph (a) in relation to that project

(i) shall ensure that an environmental assessment of the project is conducted as early as is practicable in the planning stages of the project and before irrevocable decisions are made,

(ii) is, for the purposes of this Act and the regulations, except subsection 11(2) and sections 20 and 37, the responsible authority in relation to the project,

(iii) shall consider the applicable reports and comments referred to in sections 20 and 37, and

(iv) where applicable, shall perform the duties of the responsible authority in relation to the project under section 38 as if it were the responsible authority in relation to the project for the purposes of paragraphs 20(1)(a) and 37(1)(a).

Confidences of Queen's Privy Council for Canada

6. Notwithstanding any other provision of this Act, no confidence of the Queen's Privy Council for Canada in respect of which subsection 39(1) of the *Canada Evidence Act* applies shall be disclosed or made available to any person.

Excluded Projects

Exclusions

7. (1) An assessment of a project is not required under section 5 or sections 8 to 10.1, where

(a) the project is described in an exclusion list;

(b) the project is to be carried out in response to a national emergency for which special temporary measures are being taken under the *Emergencies Act*; or

(c) the project is to be carried out in response to an emergency and carrying out the project forthwith is in the interest of preventing damage to property or the environment or is in the interest of public health or safety.

Exclusions

(2) For greater certainty, an assessment is not required under any of the provisions referred to in this subsection where a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) or 10.1(2)(b) - or a person or body exercises a power or performs a duty or function referred to in paragraph 5(1)(b), 9(2)(b), 9.1(2)(b) or 10(1)(b) -- in relation to a project and the essential details of the project are not specified before or at the time the power is exercised or the duty or function is performed.

1992, c. 37, s. 7; 1994, c. 26, s. 23(F); 2003, c. 9, s. 3.

Assessments by certain Crown corporations

8. (1) A Crown corporation, as defined in subsection 83(1) of the *Financial Administration Act*, that is not a federal authority shall, if regulations have been made in relation to it under paragraph 59(j) and have come into force, ensure that, before it exercises a power or performs a duty or function referred to in any of paragraphs 5(1)(a) to (d) in relation to a project, an environmental assessment of the project under this section is conducted in accordance with those regulations as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

Where a minister has no duty

(2) Notwithstanding section 5, a Minister of the Crown in right of Canada is not required to ensure that an environmental assessment of a project is conducted by reason only of that minister's authorization or approval under any other Act of Parliament or any regulations made under such an Act of the exercise of a power or performance of a duty or function referred to in paragraph 5(1)(a), (b) or (c) in relation to the project by a Crown corporation within the meaning of the *Financial Administration Act*.

Precedence of federal authority

(3) If a Crown corporation is the proponent of a project and proposes to do any act or thing that commits it to carrying out the project in whole or in part and a federal authority other than the Crown corporation is required under paragraph 5(1)(d) to ensure the conduct of an environmental assessment of that project, the Crown corporation is not required to ensure that an environmental assessment of the project is conducted but, for greater certainty, it may accept a delegation from the federal authority under section 17.

1992, c. 37, s. 8; 2003, c. 9, s. 4.

Assessments by harbour commissions and port authorities

9. (1) The Hamilton Harbour Commissioners as constituted pursuant to *The Hamilton Harbour Commissioners' Act*, a harbour commission established pursuant to the *Harbour Commissions Act*, a not-for-profit corporation that enters into an agreement under subsection 80(5) of the *Canada Marine Act* or a port authority established under that Act shall, if regulations have been made under paragraph 59(k) and have come into force, ensure that an environmental assessment of a project under this section is conducted in accordance with those regulations as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

Projects

(2) The environmental assessment of a project under this section shall be conducted where

(a) a person or body referred to in subsection (1) is the proponent of the project and does any act or thing that commits it to carrying out the project in whole or in part;

(b) a person or body referred to in subsection (1) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part;

(c) a person or body referred to in subsection (1) sells, leases or otherwise disposes of federal lands or any interests in those lands, for the purpose of enabling the project to be carried out in whole or in part;

(d) under a provision prescribed under paragraph 59(k.1), a person or body referred to in subsection (1) issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part; or

(e) in circumstances prescribed by regulations made under paragraph 59(k.2), a project is to be carried out in whole or in part on federal lands over which a person or body referred to in subsection (1) has administration or management.

1992, c. 37, s. 9; 1998, c. 10, s. 165; 2003, c. 9, s. 5.

Prescribed authorities

9.1 (1) If regulations have been made under paragraph 59(k.3) and have come into force, an authority prescribed by those regulations shall ensure that an environmental assessment of a project under this section is conducted in accordance with those regulations as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

Projects

(2) The environmental assessment of a project under this section shall be conducted where

(a) the project is to be carried out on federal lands and the prescribed authority is the proponent of the project and does any act or thing that commits it to carrying out the project in whole or in part;

(b) the project is to be carried out on federal lands and the prescribed authority makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part;

(c) the prescribed authority sells, leases or otherwise disposes of federal lands or any interests in those lands, for the purpose of enabling the project to be carried out in whole or in part;

(d) the prescribed authority, under a provision prescribed under paragraph 59(k.4), issues a permit or licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part; or

(e) in circumstances prescribed by regulations made under paragraph 59(k.5), a project is to be carried out in whole or in part on federal lands over which the prescribed authority has administration or management or any right or interest specified in those regulations.

2003, c. 9, s. 5.

Assessments by band councils under regulations

10. (1) If a project is to be carried out in whole or in part on a reserve that has been set apart for the use and benefit of a band and that is subject to the *Indian Act*, the council of the band for whose use and benefit the reserve has been set apart shall, if regulations that apply to the band have been made under paragraph 59(l) and have come into force, ensure that an environmental assessment of the project is conducted in accordance with those regulations before the band council exercises one of the following powers or performs one of the following duties or functions in respect of the project, namely, where the band council

(a) is the proponent of the project and does any act or thing that commits it to carrying out the project in whole or in part;

(b) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance to the proponent of the project for the purpose of enabling the project to be carried out in whole or in part, including financial assistance in the form of any reduction, avoidance, deferral, removal, refund, remission or other form of relief from the payment of any tax; or

(c) takes any action under a provision prescribed under paragraph 59(l.001) for the purpose of enabling the project to be carried out in whole or in part.

Timing of assessment

(2) Where an environmental assessment of a project is required under subsection (1), the band council shall ensure that the assessment is conducted as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

1992, c. 37, s. 10; 2003, c. 9, s. 5.

Assessments -- CIDA

10.1 (1) The Canadian International Development Agency shall, if regulations have been made under paragraph 59(l.01) and have come into force, ensure that an environmental assessment of a project is conducted under this section in accordance with those regulations as early as is practicable in the planning stages of the project and before irrevocable decisions are made.

Projects

(2) An environmental assessment of a project under this section is required to be conducted where the Canadian International Development Agency

(a) is the proponent of the project and does any act or thing that commits it to carrying out the project in whole or in part; or

(b) makes or authorizes payments or provides a guarantee for a loan or any other form of financial assistance for the purpose of enabling the project to be carried out in whole or in part.

Replacement for environmental assessment

(3) The application of subsection 5(1) to the Canadian International Development Agency is suspended while regulations referred to in subsection (1) are in force.

2003, c. 9, s. 5.

Responsible Authority

Timing of assessment

11. (1) Where an environmental assessment of a project is required, the federal authority referred to in section 5 in relation to the project shall ensure that the environmental assessment is conducted as early as is practicable in the planning stages of the project and before irrevocable decisions are made, and shall be

	referred to in this Act as the responsible authority in relation to the project.
No power, etc., to be exercised until assessment is complete	(2) A responsible authority shall not exercise any power or perform any duty or function referred to in section 5 in relation to a project unless it takes a course of action pursuant to paragraph 20(1)(a) or 37(1)(a).
Ministerial orders	11.1 (1) The Minister or the minister through whom the responsible authority is accountable to Parliament for the conduct of its affairs in respect of a project being assessed under this Act -- or, if there is more than one responsible authority in respect of a project, the ministers together -- may, by order, prohibit a proponent from doing, until the day on which the responsible authority or authorities take a course of action under paragraph 20(1)(a) or (b) or subsection 37(1), any act or thing that carries out the project being assessed in whole or in part and that would alter the environment.
Order in force	(2) An order under subsection (1) takes effect on the day on which it is made.
Approval of Governor in Council	(3) The order ceases to have effect 14 days after it is made unless, within that period, it is approved by the Governor in Council.
Exemption from application of <i>Statutory Instruments Act</i>	(4) The order is exempt from the application of sections 3, 5 and 11 of the <i>Statutory Instruments Act</i> and shall be published in the <i>Canada Gazette</i> within 23 days after it is approved by the Governor in Council.
	2003, c. 9, s. 6.
Injunction	11.2 (1) If, on the application of the Attorney General of Canada or any interested person, it appears to a court of competent jurisdiction that an order made under section 11.1 has been, is about to be or is likely to be contravened, the court may issue an injunction ordering any person named in the application to refrain from doing any act or thing that would contravene the order, until the day on which the responsible authority or authorities referred to in that section take a course of action under paragraph 20(1)(a) or (b) or subsection 37(1).
Notice	(2) At least forty-eight hours before an injunction is issued under subsection (1), notice of the application shall be given to persons named in the application, unless the urgency of the situation is such that the delay involved in giving the notice would not be in the public interest.
	2003, c. 9, s. 6.
More than one responsible authority	12. (1) Where there are two or more responsible authorities in relation to a project, they shall together determine the manner in which to perform their duties and functions under this Act and the regulations.
Disagreement	(2) In the case of a disagreement, the Agency may advise responsible authorities and other federal authorities with respect to their powers, duties and functions under this Act and the manner in which those powers, duties and functions may be determined and allocated among them.
Participation by federal authorities	(3) Every federal authority that is in possession of specialist or expert information or knowledge with respect to a project shall, on request, make available that information or knowledge to the responsible authority or to a mediator or a review panel.
Cooperation with other jurisdictions	(4) Where a screening or comprehensive study of a project is to be conducted and a jurisdiction has a responsibility or an authority to conduct an assessment of the environmental effects of the project or any part thereof, the responsible authority may cooperate with that jurisdiction respecting the environmental assessment of the project.

Definition of
"jurisdiction"

(5) In this section, "jurisdiction" means

(a) the government of a province;

(b) an agency or a body that is established pursuant to the legislation of a province and that has powers, duties or functions in relation to an assessment of the environmental effects of a project;

(c) a body that is established pursuant to a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and that has powers, duties or functions in relation to an assessment of the environmental effects of a project; or

(d) a governing body that is established pursuant to legislation that relates to the self-government of Indians and that has powers, duties or functions in relation to an assessment of the environmental effects of a project.

1992, c. 37, s. 12; 1993, c. 34, s. 20(F).

Federal Environmental Assessment Coordinator

Role

12.1 The role of a federal environmental assessment coordinator is to coordinate the participation of federal authorities in the environmental assessment process for a project where a screening or comprehensive study is or might be required and to facilitate communication and cooperation among them and with provinces, persons or bodies referred to in sections 8 to 10, jurisdictions referred to in paragraph 12(5)(c) or (d) or 40(1)(e) or (f) and other participants.

2003, c. 9, s. 7.

Duties

12.2 The federal environmental assessment coordinator shall

(a) ensure that the federal authorities that are or may be responsible authorities and those that are or may be in possession of specialist or expert information or knowledge with respect to the project are identified;

(b) coordinate their involvement throughout the environmental assessment process;

(c) coordinate the responsible authorities' fulfilment of their obligations under subsection 55.3(1), paragraph 55.4(1)(a) and section 55.5;

(d) ensure that federal authorities fulfil their obligations under this Act in a timely manner; and

(e) coordinate the federal authorities' involvement with other jurisdictions.

2003, c. 9, s. 7.

Powers

12.3 In carrying out duties under section 12.2, the federal environmental assessment coordinator may

(a) establish and chair a committee composed of the federal authorities that are or may be responsible authorities for the project and those that are or may be in possession of specialist or expert information or knowledge with respect to the

project;

(b) after consulting with the authorities referred to in paragraph (a), establish time lines in relation to the assessment; and

(c) in consultation with the federal authorities that are or may be responsible authorities, determine the timing of any public participation.

2003, c. 9, s. 7.

Agency as coordinator

12.4 (1) Subject to subsection (3), the federal environmental assessment coordinator for a project is the Agency if

(a) the project is subject to the environmental assessment process of another jurisdiction referred to in paragraph 12(5)(a), (c) or (d) or 40(1)(e) or (f); or

(b) the project is described in the comprehensive study list.

Responsible authority as coordinator

(2) Subject to subsections (1) and (3), the federal environmental assessment coordinator for a project is

(a) the sole responsible authority in relation to the project; or

(b) if there is more than one responsible authority in relation to the project, the one that is selected by the responsible authorities or, if they have not selected one within a reasonable time, the one that is designated by the Agency.

Coordinator by agreement

(3) No person or body other than the coordinator designated under subsections (1) and (2) may assume any of the powers, duties or functions of the federal environmental assessment coordinator except

(a) the Agency, if the responsible authorities referred to in paragraph (2)(b) and the Agency agree; or

(b) a responsible authority, in a case referred to in paragraph (1)(a) or (b), if the Agency and the responsible authority agree.

For greater certainty

(4) For greater certainty, agreements contemplated by subsection (3) may apply generally and not be specific to a particular project.

2003, c. 9, s. 7.

Obligation to comply with coordinator's requests

12.5 Every federal authority shall comply in a timely manner with requests and determinations made by the federal environmental assessment coordinator in the course of carrying out its duties or functions.

2003, c. 9, s. 7.

Action of Federal Authorities Suspended

Action suspended

13. Where a project is described in the comprehensive study list or is referred to a mediator or a review panel, notwithstanding any other Act of Parliament, no power, duty or function conferred by or under that Act or any regulation made thereunder shall be exercised or performed that would permit the project to be carried out in whole or in part unless an environmental assessment of the project has been completed and a course of action has been taken in relation to the

project in accordance with paragraph 37(1)(a).

ENVIRONMENTAL ASSESSMENT PROCESS

General

Environmental
assessment process

14. The environmental assessment process includes, where applicable,

(a) a screening or comprehensive study and the preparation of a screening report or a comprehensive study report;

(b) a mediation or assessment by a review panel as provided in section 29 and the preparation of a report; and

(c) the design and implementation of a follow-up program.

Scope of project

15. (1) The scope of the project in relation to which an environmental assessment is to be conducted shall be determined by

(a) the responsible authority; or

(b) where the project is referred to a mediator or a review panel, the Minister, after consulting with the responsible authority.

Same assessment for
related projects

(2) For the purposes of conducting an environmental assessment in respect of two or more projects,

(a) the responsible authority, or

(b) where at least one of the projects is referred to a mediator or a review panel, the Minister, after consulting with the responsible authority,

may determine that the projects are so closely related that they can be considered to form a single project.

All proposed
undertakings to be
considered

(3) Where a project is in relation to a physical work, an environmental assessment shall be conducted in respect of every construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work that is proposed by the proponent or that is, in the opinion of

(a) the responsible authority, or

(b) where the project is referred to a mediator or a review panel, the Minister, after consulting with the responsible authority,

likely to be carried out in relation to that physical work.

1992, c. 37, s. 15; 1993, c. 34, s. 21(F).

Factors to be
considered

16. (1) Every screening or comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors:

(a) the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and

	<p>any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;</p> <p>(b) the significance of the effects referred to in paragraph (a);</p> <p>(c) comments from the public that are received in accordance with this Act and the regulations;</p> <p>(d) measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project; and</p> <p>(e) any other matter relevant to the screening, comprehensive study, mediation or assessment by a review panel, such as the need for the project and alternatives to the project, that the responsible authority or, except in the case of a screening, the Minister after consulting with the responsible authority, may require to be considered.</p>
Additional factors	<p>(2) In addition to the factors set out in subsection (1), every comprehensive study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors:</p> <p>(a) the purpose of the project;</p> <p>(b) alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means;</p> <p>(c) the need for, and the requirements of, any follow-up program in respect of the project; and</p> <p>(d) the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future.</p>
Determination of factors	<p>(3) The scope of the factors to be taken into consideration pursuant to paragraphs (1)(a), (b) and (d) and (2)(b), (c) and (d) shall be determined</p> <p>(a) by the responsible authority; or</p> <p>(b) where a project is referred to a mediator or a review panel, by the Minister, after consulting the responsible authority, when fixing the terms of reference of the mediation or review panel.</p>
Factors not included	<p>(4) An environmental assessment of a project is not required to include a consideration of the environmental effects that could result from carrying out the project in response to a national emergency for which special temporary measures are taken under the <i>Emergencies Act</i>.</p>
Community knowledge and aboriginal traditional knowledge	<p>1992, c. 37, s. 16; 1993, c. 34, s. 22(F).</p> <p>16.1 Community knowledge and aboriginal traditional knowledge may be considered in conducting an environmental assessment.</p> <p>2003, c. 9, s. 8.</p>
Regional studies	<p>16.2 The results of a study of the environmental effects of possible future</p>

projects in a region, in which a federal authority participates, outside the scope of this Act, with other jurisdictions referred to in paragraph 12(5)(a), (c) or (d), may be taken into account in conducting an environmental assessment of a project in the region, particularly in considering any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out.

2003, c. 9, s. 8.

Publication of determinations

16.3 The responsible authority shall document and make available to the public, pursuant to subsection 55(1), its determinations pursuant to section 20.

2003, c. 9, s. 8.

Delegation

17. (1) A responsible authority may delegate to any person, body or jurisdiction within the meaning of subsection 12(5) any part of the screening or comprehensive study of a project or the preparation of the screening report or comprehensive study report, and may delegate any part of the design and implementation of a follow-up program, but shall not delegate the duty to take a course of action pursuant to subsection 20(1) or 37(1).

Idem

(2) For greater certainty, a responsible authority shall not take a course of action pursuant to subsection 20(1) or 37(1) unless it is satisfied that any duty or function delegated pursuant to subsection (1) has been carried out in accordance with this Act and the regulations.

Screening

Screening

18. (1) Where a project is not described in the comprehensive study list or the exclusion list made under paragraph 59(c), the responsible authority shall ensure that

(a) a screening of the project is conducted; and

(b) a screening report is prepared.

Source of information

(2) Any available information may be used in conducting the screening of a project, but where a responsible authority is of the opinion that the information available is not adequate to enable it to take a course of action pursuant to subsection 20(1), it shall ensure that any studies and information that it considers necessary for that purpose are undertaken or collected.

Public participation

(3) Where the responsible authority is of the opinion that public participation in the screening of a project is appropriate in the circumstances -- or where required by regulation -- the responsible authority

(a) shall, before providing the public with an opportunity to examine and comment on the screening report, include in the Internet site a description of the scope of the project, the factors to be taken into consideration in the screening and the scope of those factors or an indication of how such a description may be obtained;

(b) shall give the public an opportunity to examine and comment on the screening report and on any record relating to the project that has been included in the Registry before taking a course of action under section 20 and shall give adequate notice of that opportunity; and

	(c) may, at any stage of the screening that it determines, give the public any other opportunity to participate.
Timing of public participation	(4) The responsible authority's discretion under subsection (3) with respect to the timing of public participation is subject to a decision made by the federal environmental assessment coordinator under paragraph 12.3(c). 1992, c. 37, s. 18; 1993, c. 34, s. 23(F); 2003, c. 9, s. 9.
Class screening reports	19. (1) Subject to subsection (3), the Agency may declare a report to be a class screening report if projects of the class described in the report are not likely, in the opinion of the Agency, to cause significant adverse environmental effects when the design standards and mitigation measures described in the class screening report are applied.
Use of class screening report	(2) The declaration shall include a statement that the class screening report may be used as (a) a replacement for the screening required by section 18, and the decision required by section 20, for projects of the class; or (b) a model for streamlining the screening required by section 18 for projects of the class.
Public notice and consideration of public comments	(3) The Agency shall, before making a declaration pursuant to subsection (1), (a) publish, in any manner it considers appropriate, a notice setting out the following information, namely, (i) the date on which the draft report will be available to the public, (ii) the place at which copies of it may be obtained, and (iii) the deadline and address for filing comments on the appropriateness of its use as a replacement or model for screenings for projects of that class; and (b) take into consideration any comments filed under subparagraph (a)(iii) and include in the Registry any comments filed by the public.
Publication of declaration	(4) Any declaration made pursuant to subsection (1) shall be published in the <i>Canada Gazette</i> and, together with the report to which it relates or a description of how a copy of the report may be obtained, shall be included in the Internet site.
Use of a class screening report as a replacement	(5) Where a responsible authority is satisfied that a project falls within a class in respect of which a class screening report has been made to which paragraph (2)(a) applies, no further action is required under section 18 or 20 with respect to the project, as long as the responsible authority ensures that the design standards and mitigation measures described in the report are implemented.
Use of class screening report as a model	(6) Where a responsible authority is satisfied that a project or part of a project falls within a class in respect of which a class screening report has been made to which paragraph (2)(b) applies, the responsible authority may use or permit the use of that report and any screening on which it is based to whatever extent the responsible authority considers appropriate for the purpose of complying with section 18.
Necessary	(7) Where a responsible authority uses or permits the use of a class screening

adjustments report to which paragraph (2)(b) applies, it shall ensure that any adjustments are made to the report that are necessary to take into account local circumstances and any cumulative environmental effects that may result from the project in combination with other projects or activities that have been or will be carried out.

Declaration to remove class screening report (8) Where the Agency determines that a class screening report is no longer appropriate to be used as a replacement or model in conducting screenings of other projects within the same class, the Agency may declare the report not to be a class screening report.

Publication (9) Any declaration made pursuant to subsection (8) shall be published in the *Canada Gazette* and included in the Internet site.

1992, c. 37, s. 19; 1993, c. 34, s. 24(F); 2003, c. 9, s. 10.

Decision of responsible authority following a screening **20.** (1) The responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the screening report and any comments filed pursuant to subsection 18(3):

(a) subject to subparagraph (c)(iii), where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is not likely to cause significant adverse environmental effects, the responsible authority may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part;

(b) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the responsible authority shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the project to be carried out in whole or in part; or

(c) where

(i) it is uncertain whether the project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, is likely to cause significant adverse environmental effects,

(ii) the project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, is likely to cause significant adverse environmental effects and paragraph (b) does not apply, or

(iii) public concerns warrant a reference to a mediator or a review panel,

the responsible authority shall refer the project to the Minister for a referral to a mediator or a review panel in accordance with section 29.

Mitigation measures -- extent of authority (1.1) Mitigation measures that may be taken into account under subsection (1) by a responsible authority are not limited to measures within the legislative authority of Parliament and include

(a) any mitigation measures whose implementation the responsible authority can ensure; and

(b) any other mitigation measures that it is satisfied will be implemented by

Responsible authority to ensure implementation of mitigation measures	<p>another person or body.</p> <p>(2) When a responsible authority takes a course of action referred to in paragraph (1)(a), it shall, with respect to any mitigation measures it has taken into account and that are described in paragraph (1.1)(a), ensure their implementation in any manner that it considers necessary and, in doing so, it is not limited to its duties or powers under any other Act of Parliament.</p>
Assistance of other federal authority	<p>(2.1) A federal authority shall provide any assistance requested by a responsible authority in ensuring the implementation of a mitigation measure on which the federal authority and the responsible authority have agreed.</p>
Prohibition of actions in furtherance of project	<p>(3) Where the responsible authority takes a course of action pursuant to paragraph (1)(b) in relation to a project, the responsible authority shall publish a notice of that course of action in the Registry and, notwithstanding any other Act of Parliament, no power, duty or function conferred by or under that Act or any regulation made under it shall be exercised or performed that would permit that project to be carried out in whole or in part.</p>
Time for decision	<p>(4) A responsible authority shall not take any course of action under subsection (1) before the 15th day after the inclusion on the Internet site of</p> <p>(a) notice of the commencement of the environmental assessment;</p> <p>(b) a description of the scope of the project; and</p> <p>(c) where the responsible authority, in accordance with subsection 18(3), gives the public an opportunity to participate in the screening of a project, a description of the factors to be taken into consideration in the environmental assessment and of the scope of those factors or an indication of how such a description may be obtained.</p>

1992, c. 37, s. 20; 1993, c. 34, s. 25(F); 2003, c. 9, s. 11.

Comprehensive Study

Public consultation	<p>21. (1) Where a project is described in the comprehensive study list, the responsible authority shall ensure public consultation with respect to the proposed scope of the project for the purposes of the environmental assessment, the factors proposed to be considered in its assessment, the proposed scope of those factors and the ability of the comprehensive study to address issues relating to the project.</p>
Report and recommendation	<p>(2) After the public consultation, as soon as it is of the opinion that it has sufficient information to do so, the responsible authority shall</p> <p>(a) report to the Minister regarding</p> <p>(i) the scope of the project, the factors to be considered in its assessment and the scope of those factors,</p> <p>(ii) public concerns in relation to the project,</p> <p>(iii) the potential of the project to cause adverse environmental effects, and</p> <p>(iv) the ability of the comprehensive study to address issues relating to the project; and</p>

(b) recommend to the Minister to continue with the environmental assessment by means of a comprehensive study, or to refer the project to a mediator or review panel in accordance with section 29.

1992, c. 37, s. 21; 1993, c. 34, s. 26(F); 2003, c. 9, s. 12.

Minister's decision

21.1 (1) The Minister, taking into account the things with regard to which the responsible authority must report under paragraph 21(2)(a) and the recommendation of the responsible authority under paragraph 21(2)(b), shall, as the Minister considers appropriate,

(a) refer the project to the responsible authority so that it may continue the comprehensive study and ensure that a comprehensive study report is prepared and provided to the Minister and to the Agency; or

(b) refer the project to a mediator or review panel in accordance with section 29.

Decision final

(2) Despite any other provision of this Act, if the Minister refers the project to a responsible authority under paragraph (1)(a), it may not be referred to a mediator or review panel in accordance with section 29.

2003, c. 9, s. 12.

Public participation

21.2 Where a project has been referred to a responsible authority under paragraph 21.1(1)(a), the responsible authority shall ensure that the public is provided with an opportunity, in addition to those provided under subsection 21(1) and section 22, to participate in the comprehensive study, subject to a decision with respect to the timing of the participation made by the federal environmental assessment coordinator under paragraph 12.3(c).

2003, c. 9, s. 12.

Public notice

22. (1) After receiving a comprehensive study report in respect of a project, the Agency shall, in any manner it considers appropriate to facilitate public access to the report, publish a notice setting out the following information:

(a) the date on which the comprehensive study report will be available to the public;

(b) the place at which copies of the report may be obtained; and

(c) the deadline and address for filing comments on the conclusions and recommendations of the report.

Public concerns

(2) Prior to the deadline set out in the notice published by the Agency, any person may file comments with the Agency relating to the conclusions and recommendations and any other aspect of the comprehensive study report.

Decision of Minister

23. (1) The Minister shall, after taking into consideration the comprehensive study report and any comments filed pursuant to subsection 22(2), refer the project back to the responsible authority for action under section 37 and issue an environmental assessment decision statement that

(a) sets out the Minister's opinion as to whether, taking into account the implementation of any mitigation measures that the Minister considers appropriate, the project is or is not likely to cause significant adverse environmental effects; and

(b) sets out any mitigation measures or follow-up program that the Minister considers appropriate, after having taken into account the views of the responsible authorities and other federal authorities concerning the measures and program.

More information
required

(2) Before issuing the environmental assessment decision statement, the Minister shall, if the Minister is of the opinion that additional information is necessary or that there are public concerns that need to be further addressed, request that the federal authorities referred to in paragraph 12.3(a) or the proponent ensure that the necessary information is provided or actions are taken to address those public concerns.

Time for statement

(3) The Minister shall not issue the environmental assessment decision statement before the 30th day after the inclusion on the Internet site of

(a) notice of the commencement of the environmental assessment;

(b) a description of the scope of the project;

(c) where the Minister, under paragraph 21.1(1)(a), refers a project to the responsible authority to continue a comprehensive study,

(i) notice of the Minister's decision to so refer the project, and

(ii) a description of the factors to be taken into consideration in the environmental assessment and of the scope of those factors or an indication of how such a description may be obtained; and

(d) the comprehensive study report that is to be taken into consideration by a responsible authority in making its decision under subsection 37(1) or a description of how a copy of the report may be obtained.

1992, c. 37, s. 23; 2003, c. 9, s. 13.

Use of previously
conducted
environmental
assessment

24. (1) Where a proponent proposes to carry out, in whole or in part, a project for which an environmental assessment was previously conducted and

(a) the project did not proceed after the assessment was completed,

(b) in the case of a project that is in relation to a physical work, the proponent proposes an undertaking in relation to that work different from that proposed when the assessment was conducted,

(c) the manner in which the project is to be carried out has subsequently changed, or

(d) the renewal of a licence, permit, approval or other action under a prescribed provision is sought,

the responsible authority shall use that assessment and the report thereon to whatever extent is appropriate for the purpose of complying with section 18 or 21.

Necessary
adjustments

(2) Where a responsible authority uses an environmental assessment and the report thereon pursuant to subsection (1), the responsible authority shall ensure that any adjustments are made to the report that are necessary to take into

account any significant changes in the environment and in the circumstances of the project and any significant new information relating to the environmental effects of the project.

1992, c. 37, s. 24; 1993, c. 34, s. 27(F); 1994, c. 46, s. 2.

Discretionary Powers

Referral to Minister

25. Subject to paragraphs 20(1)(b) and (c), where at any time a responsible authority is of the opinion that

(a) a project, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, may cause significant adverse environmental effects, or

(b) public concerns warrant a reference to a mediator or a review panel,

the responsible authority may request the Minister to refer the project to a mediator or a review panel in accordance with section 29.

Termination by
responsible authority

26. Where at any time a responsible authority decides not to exercise any power or perform any duty or function referred to in section 5 in relation to a project that has not been referred to a mediator or a review panel, it may terminate the environmental assessment of the project.

Termination by
Minister

27. Where at any time a responsible authority decides not to exercise any power or perform any duty or function referred to in section 5 in relation to a project that has been referred to a mediator or a review panel, the Minister may terminate the environmental assessment of the project.

Referral by Minister

28. (1) Where at any time the Minister is of the opinion that

(a) a project for which an environmental assessment may be required under section 5, taking into account the implementation of any appropriate mitigation measures, may cause significant adverse environmental effects, or

(b) public concerns warrant a reference to a mediator or a review panel,

the Minister may, after offering to consult with the jurisdiction, within the meaning of subsection 12(5), where the project is to be carried out and after consulting with the responsible authority or, where there is no responsible authority in relation to the project, the appropriate federal authority, refer the project to a mediator or a review panel in accordance with section 29.

*Mackenzie Valley
Resource
Management Act*

(2) Where a proposal is referred pursuant to paragraph 130(1)(c) of the *Mackenzie Valley Resource Management Act*, the Minister shall refer the proposal to a review panel.

1992, c. 37, s. 28; 1998, c. 25, s. 162.

Mediation and Panel Reviews

Initial referral to
mediator or review
panel

29. (1) Subject to subsection (2), where a project is to be referred to a mediator or a review panel, the Minister shall

(a) refer the environmental assessment relating to the project to

(i) a mediator, or

(ii) a review panel; or

(b) refer part of the environmental assessment relating to the project to a mediator and part of that assessment to a review panel.

Condition on reference to mediator

(2) An environmental assessment or a part thereof shall not be referred to a mediator unless the interested parties have been identified and are willing to participate in the mediation.

Subsequent reference to a mediator

(3) The Minister may, at any time, refer any issue relating to an assessment by a review panel to a mediator where the Minister is of the opinion, after consulting with the review panel, that mediation is appropriate in respect of that issue.

When mediation fails

(4) Where, at any time after an environmental assessment or part of an environmental assessment of a project has been referred to a mediator, the Minister or the mediator determines that the mediation is not likely to produce a result that is satisfactory to all the participants, the Minister shall order the conclusion of the mediation.

1992, c. 37, s. 29; 2003, c. 9, s. 14.

Appointment of mediator

30. (1) Where a reference is made under subparagraph 29(1)(a)(i) in relation to a project, the Minister shall, after consulting with the responsible authority and all parties who are to participate in the mediation,

(a) appoint as mediator any person who

(i) is unbiased and free from any conflict of interest relative to the project and who has knowledge or experience in acting as a mediator, and

(ii) may have been selected from a roster established pursuant to subsection (2); and

(b) fix the terms of reference of the mediation.

Establishment of roster

(2) The Minister may establish a roster of persons to act as mediators to be appointed pursuant to paragraph (1)(a).

Additional participants

31. The mediator may, at any time, allow an additional interested party to participate in a mediation.

Mediation report

32. (1) A mediator shall, at the conclusion of the mediation, prepare and submit a report to the Minister and to the responsible authority.

Privilege

(2) No evidence of or relating to a statement made by a mediator or a participant to the mediation during the course of and for the purposes of the mediation is admissible without the consent of the mediator or participant, in any proceeding before a review panel, court, tribunal, body or person with jurisdiction to compel the production of evidence.

1992, c. 37, s. 32; 2003, c. 9, s. 15(F).

Appointment of review panel

33. (1) Where a project is referred to a review panel, the Minister shall, in consultation with the responsible authority,

	<p>(a) appoint as members of the panel, including the chairperson thereof, persons who</p> <p>(i) are unbiased and free from any conflict of interest relative to the project and who have knowledge or experience relevant to the anticipated environmental effects of the project, and</p> <p>(ii) may have been selected from a roster established pursuant to subsection (2); and</p> <p>(b) fix the terms of reference of the panel.</p>
Establishment of roster	<p>(2) The Minister may establish a roster of persons, to act as members of any review panel to be established pursuant to paragraph (1)(a).</p> <p>1992, c. 37, s. 33; 1993, c. 34, s. 28(F).</p>
Assessment by review panel	<p>34. A review panel shall, in accordance with any regulations made for that purpose and with its term of reference,</p> <p>(a) ensure that the information required for an assessment by a review panel is obtained and made available to the public;</p> <p>(b) hold hearings in a manner that offers the public an opportunity to participate in the assessment;</p> <p>(c) prepare a report setting out</p> <p>(i) the rationale, conclusions and recommendations of the panel relating to the environmental assessment of the project, including any mitigation measures and follow-up program, and</p> <p>(ii) a summary of any comments received from the public; and</p> <p>(d) submit the report to the Minister and the responsible authority.</p>
Powers of review panel	<p>35. (1) A review panel has the power of summoning any person to appear as a witness before the panel and of ordering the witness to</p> <p>(a) give evidence, orally or in writing; and</p> <p>(b) produce such documents and things as the panel considers necessary for conducting its assessment of the project.</p>
Enforcement powers	<p>(2) A review panel has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and other things as is vested in a court of record.</p>
Hearings to be public	<p>(3) A hearing by a review panel shall be public unless the panel is satisfied after representations made by a witness that specific, direct and substantial harm would be caused to the witness or specific harm to the environment by the disclosure of the evidence, documents or other things that the witness is ordered to give or produce pursuant to subsection (1).</p>
Non-disclosure	<p>(4) Where a review panel is satisfied that the disclosure of evidence, documents or other things would cause specific, direct and substantial harm to a witness, the</p>

evidence, documents or things are privileged and shall not, without the authorization of the witness, knowingly be or be permitted to be communicated, disclosed or made available by any person who has obtained the evidence, documents or other things pursuant to this Act.

Non-disclosure

(4.1) Where a review panel is satisfied that the disclosure of evidence, documents or other things would cause specific harm to the environment, the evidence, documents or things are privileged and shall not, without the authorization of the review panel, knowingly be or be permitted to be communicated, disclosed or made available by any person who has obtained the evidence, documents or other things pursuant to this Act.

Enforcement of summonses and orders

(5) Any summons issued or order made by a review panel pursuant to subsection (1) shall, for the purposes of enforcement, be made a summons or order of the Federal Court by following the usual practice and procedure.

Immunity

(6) No action or other proceeding lies or shall be commenced against a member of a review panel for or in respect of anything done or omitted to be done, during the course of and for the purposes of the assessment by the review panel.

1992, c. 37, s. 35; 2003, c. 9, s. 16.

Public notice

36. On receiving a report submitted by a mediator or a review panel, the Minister shall make the report available to the public in any manner the Minister considers appropriate to facilitate public access to the report, and shall advise the public that the report is available.

Decision of Responsible Authority

Decision of responsible authority

37. (1) Subject to subsections (1.1) to (1.3), the responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the report submitted by a mediator or a review panel or, in the case of a project referred back to the responsible authority pursuant to subsection 23(1), the comprehensive study report:

(a) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate,

(i) the project is not likely to cause significant adverse environmental effects, or

(ii) the project is likely to cause significant adverse environmental effects that can be justified in the circumstances,

the responsible authority may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part; or

(b) where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is likely to cause significant adverse environmental effects that cannot be justified in the circumstances, the responsible authority shall not exercise any power or perform any duty or function conferred on it by or under any Act of Parliament that would permit the project to be carried out in whole or in part.

Approval of Governor in Council

(1.1) Where a report is submitted by a mediator or review panel,

(a) the responsible authority shall take into consideration the report and, with

the approval of the Governor in Council, respond to the report;

(b) the Governor in Council may, for the purpose of giving the approval referred to in paragraph (a), require the mediator or review panel to clarify any of the recommendations set out in the report; and

(c) the responsible authority shall take a course of action under subsection (1) that is in conformity with the approval of the Governor in Council referred to in paragraph (a).

Federal authority

(1.2) Where a response to a report is required under paragraph (1.1)(a) and there is, in addition to a responsible authority, a federal authority referred to in paragraph 5(2)(b) in relation to the project, that federal authority may act as a responsible authority for the purposes of that response. This subsection applies in the case of a federal authority within the meaning of paragraph (b) of the definition "federal authority" in subsection 2(1) if the Minister through whom the authority is accountable to Parliament agrees.

Approval of Governor in Council

(1.3) Where a project is referred back to a responsible authority under subsection 23(1) and the Minister issues an environmental assessment decision statement to the effect that the project is likely to cause significant adverse environmental effects, no course of action may be taken by the responsible authority under subsection (1) without the approval of the Governor in Council.

Responsible authority to ensure implementation of mitigation measures

(2) Where a responsible authority takes a course of action referred to in paragraph (1)(a), it shall, notwithstanding any other Act of Parliament, in the exercise of its powers or the performance of its duties or functions under that other Act or any regulation made thereunder or in any other manner that the responsible authority considers necessary, ensure that any mitigation measures referred to in that paragraph in respect of the project are implemented.

Mitigation measures -- extent of authority

(2.1) Mitigation measures that may be taken into account under subsection (1) by a responsible authority are not limited to measures within the legislative authority of Parliament and include

(a) any mitigation measures whose implementation the responsible authority can ensure; and

(b) any other mitigation measures that it is satisfied will be implemented by another person or body.

Responsible authority to ensure implementation of mitigation measures

(2.2) When a responsible authority takes a course of action referred to in paragraph (1)(a), it shall, with respect to any mitigation measures it has taken into account and that are described in paragraph (2.1)(a), ensure their implementation in any manner that it considers necessary and, in doing so, it is not limited to its duties or powers under any other Act of Parliament.

Assistance of other federal authority

(2.3) A federal authority shall provide any assistance requested by a responsible authority in ensuring the implementation of a mitigation measure on which the federal authority and the responsible authority have agreed.

Prohibition: proceeding with project

(3) Where the responsible authority takes a course of action referred to in paragraph (1)(b) in relation to a project, the responsible authority shall publish a notice of that course of action in the Registry and, notwithstanding any other Act of Parliament, no power, duty or function conferred by or under that Act or any regulation made under it shall be exercised or performed that would permit that project to be carried out in whole or in part.

Time for decision

(4) A responsible authority shall not take any course of action under subsection

(1) before the 30th day after the report submitted by a mediator or a review panel or a summary of it has been included on the Internet site in accordance with paragraph 55.1(2)(p).

1992, c. 37, s. 37; 1993, c. 34, s. 29(F); 1994, c. 46, s. 3; 2003, c. 9, s. 17.

Follow-up Program

Consideration of follow-up -- decision under paragraph 20(1)(a)

38. (1) Where a responsible authority takes a course of action under paragraph 20(1)(a), it shall consider whether a follow-up program for the project is appropriate in the circumstances and, if so, shall design a follow-up program and ensure its implementation.

Mandatory follow-up -- decision under paragraph 37(1)(a)

(2) Where a responsible authority takes a course of action under paragraph 37(1)(a), it shall design a follow-up program for the project and ensure its implementation.

Scope of follow-up program

(3) In designing a follow-up program and in ensuring its implementation, a responsible authority is not limited by the Act of Parliament that confers the powers it exercises or the duties or functions it performs.

Assistance of other federal authority

(4) A federal authority shall provide any assistance requested by a responsible authority in ensuring the implementation of a follow-up program on which the federal authority and the responsible authority have agreed.

Follow-up programs

(5) The results of follow-up programs may be used for implementing adaptive management measures or for improving the quality of future environmental assessments.

1992, c. 37, s. 38; 1993, c. 34, s. 30(F); 2003, c. 9, s. 18.

Certificate

Certificate

39. A certificate that states that an environmental assessment of a project has been completed, and that is signed by a responsible authority that exercises a power or performs a duty or function referred to in paragraph 5(1)(c) in relation to the project, is, in the absence of evidence to the contrary, proof of the matter stated.

Joint Review Panels

Definition of "jurisdiction"

40. (1) For the purposes of this section and sections 41 and 42, "jurisdiction" includes

(a) a federal authority;

(b) the government of a province;

(c) any other agency or body established pursuant to an Act of Parliament or the legislature of a province and having powers, duties or functions in relation to an assessment of the environmental effects of a project;

(d) any body established pursuant to a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and having powers, duties or functions in relation to an assessment of the environmental effects of a project;

(e) a government of a foreign state or of a subdivision of a foreign state, or any institution of such a government; and

(f) an international organization of states or any institution of such an organization.

Review panels
established jointly with
another jurisdiction

(2) Subject to section 41, where the referral of a project to a review panel is required or permitted by this Act, the Minister

(a) may enter into an agreement or arrangement with a jurisdiction referred to in paragraph (1)(a), (b), (c) or (d) that has powers, duties or functions in relation to the assessment of the environmental effects of the project, respecting the joint establishment of a review panel and the manner in which the environmental assessment of the project is to be conducted by the review panel; and

(b) shall, in the case of a jurisdiction within the meaning of subsection 12(5) that has a responsibility or an authority to conduct an assessment of the environmental effects of the project or any part of it, offer to consult and cooperate with that other jurisdiction respecting the environmental assessment of the project.

*Mackenzie Valley
Resource
Management Act*

(2.1) Subject to section 41, where the Minister is required by subsection 28(2) to refer a proposal to a review panel, the Minister and the Mackenzie Valley Environmental Impact Review Board shall, in writing, jointly establish a review panel and prescribe the manner of its examination of the impact of the proposal on the environment.

Review panels
established jointly with
another jurisdiction

(3) Subject to section 41, where the referral of a project to a review panel is required or permitted by this Act and a jurisdiction referred to in paragraph (1)(e) or (f) has a responsibility or an authority to conduct an assessment of the environmental effects of the project or any part of it, the Minister and the Minister of Foreign Affairs may enter into an agreement or arrangement with that jurisdiction respecting the joint establishment of a review panel and the manner in which the environmental assessment of the project is to be conducted by the review panel.

Publication of
agreement for joint
panel

(4) Any agreement or arrangement referred to in subsection (2) or (3), and any document establishing a review panel under subsection (2.1), shall be published before the commencement of the hearings conducted by the review panel.

1992, c. 37, s. 40; 1993, c. 34, s. 31(F); 1995, c. 5, s. 25; 1998, c. 25, s. 163; 2003, c. 9, s. 19.

Conditions

41. An agreement or arrangement entered into pursuant to subsection 40(2) or (3), and any document establishing a review panel under subsection 40(2.1), shall provide that the environmental assessment of the project shall include a consideration of the factors required to be considered under subsections 16(1) and (2) and be conducted in accordance with any additional requirements and procedures set out in the agreement and shall provide that

(a) the Minister shall appoint or approve the appointment of the chairperson or appoint a co-chairperson, and shall appoint at least one other member of the panel;

(b) the members of the panel are to be unbiased and free from any conflict of interest relative to the project and are to have knowledge or experience relevant to the anticipated environmental effects of the project;

(c) the Minister shall fix or approve the terms of reference for the panel;

(d) the review panel is to have the powers and immunities provided for in section 35;

(e) the public will be given an opportunity to participate in the assessment conducted by the panel;

(f) on completion of the assessment, the report of the panel will be submitted to the Minister; and

(g) the panel's report will be published.

1992, c. 37, s. 41; 1993, c. 34, s. 32(F); 1998, c. 25, s. 164; 2003, c. 9, s. 20.

Deemed substitution

42. Where the Minister establishes a review panel jointly with a jurisdiction referred to in subsection 40(1), the assessment conducted by that panel shall be deemed to satisfy any requirements of this Act and the regulations respecting assessments by a review panel.

1992, c. 37, s. 42; 1993, c. 34, s. 33(F).

Public Hearing by a Federal Authority

Substitute for review panel

43. (1) Where the referral of a project to a review panel is required or permitted by this Act and the Minister is of the opinion that a process for assessing the environmental effects of projects that is followed by a federal authority under an Act of Parliament other than this Act or by a body referred to in paragraph 40(1)(d) would be an appropriate substitute, the Minister may approve the substitution of that process for an environmental assessment by a review panel under this Act.

Manner of approval

(2) An approval of the Minister pursuant to subsection (1) shall be in writing and may be given in respect of a project or a class of projects.

1992, c. 37, s. 43; 1993, c. 34, s. 34(F).

Conditions

44. The Minister shall not approve a substitution pursuant to subsection 43(1) unless the Minister is satisfied that

(a) the process to be substituted will include a consideration of the factors required to be considered under subsections 16(1) and (2);

(b) the public will be given an opportunity to participate in the assessment;

(c) at the end of the assessment, a report will be submitted to the Minister;

(d) the report will be published; and

(e) any criteria established pursuant to paragraph 58(1)(g) are met.

Deemed substitution

45. Where the Minister approves a substitution of a process pursuant to subsection 43(1), an assessment that is conducted in accordance with that process shall be deemed to satisfy any requirements of this Act and the regulations in respect of assessments by a review panel.

TRANSBOUNDARY AND RELATED ENVIRONMENTAL EFFECTS

Transboundary and related environmental effects

46. (1) Where no power, duty or function referred to in section 5 is to be exercised or performed by a federal authority in relation to a project that is to be carried out in a province and the Minister is of the opinion that the project may cause significant adverse environmental effects in another province, the Minister may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project in that other province.

Agreement

(2) The Minister shall not refer a project to a mediator or a review panel pursuant to subsection (1) where the Minister and the governments of all interested provinces have agreed on another manner of conducting an assessment of the interprovincial environmental effects of the project that

(a) includes a consideration of the factors required to be considered under subsections 16(1) and (2);

(b) includes an opportunity for the public to participate in the assessment;

(c) includes a requirement that the report is to be submitted to the Minister at the end of the assessment;

(d) includes a requirement that the report is to be published; and

(e) meets any criteria established pursuant to paragraph 58(1)(h).

Initiative for reference

(3) The Minister shall consider whether to make a reference pursuant to subsection (1)

(a) on the request of the government of any interested province; or

(b) on the receipt of a petition that is

(i) signed by one or more persons each of whom has an interest in lands on which the project may cause significant adverse environmental effects, and

(ii) accompanied by a concise statement of the evidence supporting the contention of the petitioners that the project may cause significant adverse environmental effects in a province other than the one in which it is to be carried out.

Notice

(4) At least ten days before referring a project to a mediator or a review panel pursuant to subsection (1), the Minister shall give notice of the intention to do so to the proponent of the project, to the governments of all interested provinces and to any person who signed a petition considered by the Minister pursuant to subsection (3).

Meaning of "interested province"

(5) For the purposes of this section and sections 47, 48, 50 and 51, "interested province" means

(a) a province in which the project is to be carried out; or

(b) a province that claims that significant adverse environmental effects may occur in that province as a result of the project.

1992, c. 37, s. 46; 2003, c. 9, s. 21.

International

47. (1) Where no power, duty or function referred to in section 5 is to be

environmental effects exercised or performed by a federal authority in relation to a project that is to be carried out in Canada or on federal lands and the Minister is of the opinion that the project may cause significant adverse environmental effects occurring both outside Canada and outside those federal lands, the Minister and the Minister of Foreign Affairs may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project occurring both outside Canada and outside federal lands.

Agreement (2) The Minister and the Minister of Foreign Affairs shall not refer a project to a mediator or a review panel pursuant to subsection (1) where the Minister and the governments of all interested provinces have agreed on another manner of conducting an assessment of the environmental effects of the project occurring both outside Canada and outside federal lands that

(a) includes a consideration of the factors required to be considered under subsections 16(1) and (2);

(b) includes an opportunity for the public to participate in the assessment;

(c) includes a requirement that the report is to be submitted to the Minister at the end of the assessment;

(d) includes a requirement that the report is to be published; and

(e) meets any criteria established pursuant to paragraph 58(1)(h).

Initiative for reference (3) On a request to the Minister to refer a project to a mediator or a review panel pursuant to subsection (1) made by

(a) the government of any province in which the project is to be carried out or that is adjacent to federal lands on which the project is to be carried out, or

(b) the government of a foreign state or a subdivision thereof that claims that significant adverse environmental effects may occur in that foreign state or subdivision thereof as a result of the project,

the Minister and the Minister of Foreign Affairs shall consider whether to make a reference pursuant to subsection (1).

Notice (4) At least ten days before making a reference pursuant to subsection (1), the Minister shall give notice of the intention to do so to

(a) the proponent of the project;

(b) the government of any province in which the project is to be carried out or that is adjacent to federal lands on which the project is to be carried out; and

(c) the government of any foreign state or a subdivision thereof in which, in the opinion of the Minister, significant adverse environmental effects may occur as a result of the project.

1992, c. 37, s. 47; 1995, c. 5, s. 25; 2003, c. 9, s. 22.

Environmental effects
of projects carried out
on lands of federal
interest

48. (1) Where no power, duty or function referred to in section 5 is to be exercised or performed by a federal authority in relation to a project that is to be carried out in Canada and the Minister is of the opinion that the project may cause

significant adverse environmental effects on

(a) lands in a reserve that is set apart for the use and benefit of a band and that is subject to the *Indian Act*,

(a.1) a park or park reserve as defined in subsection 2(1) of the *Canada National Parks Act*,

(b) federal lands other than those mentioned in paragraph (a) or (a.1),

(c) lands that are described in a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and that are prescribed,

(d) lands that have been set aside for the use and benefit of Indians pursuant to legislation that relates to the self-government of Indians and that are prescribed, or

(e) lands in respect of which Indians have interests,

the Minister may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project on those lands.

Ecological integrity

(1.1) In deciding whether or not a project may cause significant adverse environmental effects on a park or park reserve as defined in subsection 2(1) of the *Canada National Parks Act*, the Minister shall take into account its ecological integrity, as that expression is defined in that subsection.

Environmental effects of projects carried out on reserve lands, etc.

(2) Where no power, duty or function referred to in section 5 is to be exercised or performed by a federal authority in relation to a project that is to be carried out on

(a) lands in a reserve that is set apart for the use and benefit of a band and that is subject to the *Indian Act*,

(b) lands that are described in a land claims agreement referred to in section 35 of the *Constitution Act, 1982* and that are prescribed, or

(c) lands that have been set aside for the use and benefit of Indians pursuant to legislation that relates to the self-government of Indians and that are prescribed,

and the Minister is of the opinion that the project may cause significant adverse environmental effects outside those lands, the Minister may refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project outside those lands.

Agreement

(3) The Minister shall not refer a project to a mediator or a review panel pursuant to subsection (1) or (2) where the Minister and the governments of all interested provinces, and

(a) in respect of federal lands referred to in paragraph (1)(b), the federal authority having the administration of those lands,

(b) in respect of lands referred to in paragraph (1)(a) or (2)(a), the council of the band for whose use and benefit the reserve has been set apart,

(c) in respect of lands referred to in paragraph (1)(c) or (e) or (2)(b), the party to the agreement or claim -- or that party's successor -- that was, or was acting on behalf of, an aboriginal people or group, or

(d) in respect of lands that have been set aside for the use and benefit of Indians pursuant to legislation referred to in paragraph (1)(d) or (2)(c), the governing body established by that legislation,

have agreed on another manner of conducting an assessment of the environmental effects of the project on or outside those lands, as the case may be.

Initiative for reference

(4) The Minister shall consider whether to make a reference pursuant to subsection (1) or (2)

(a) on the request of the government of any interested province or the federal authority having the administration of federal lands referred to in paragraph (1)(b); or

(b) on receipt of a petition that is

(i) signed by one or more persons each of whom has an interest in lands on which the project may cause significant adverse environmental effects, and

(ii) accompanied by a concise statement of the evidence supporting the contention of the petitioner that the project may cause significant adverse environmental effects in respect of which a reference may be made pursuant to subsection (1) or (2).

Notice

(5) At least ten days before a reference is made pursuant to subsection (1) or (2), the Minister shall give notice of the intention to do so to

(a) the proponent of the project;

(b) the governments of all interested provinces;

(c) any person who signed a petition considered by the Minister pursuant to subsection (4);

(d) the federal authority, in the case of a reference to be made pursuant to paragraph (1)(b);

(e) in respect of lands referred to in paragraph (1)(a) or (2)(a), the council of the band for whose use and benefit the reserve has been set apart;

(f) in respect of lands referred to in paragraph (1)(c) or (e) or (2)(b), the party to the agreement or claim -- or that party's successor -- that was, or was acting on behalf of, an aboriginal people or group; and

(g) in respect of lands that have been set aside for the use and benefit of Indians pursuant to legislation referred to in paragraph (1)(d) or (2)(c), the governing body established by that legislation.

Meaning of "lands in respect of which Indians have interests"

(6) For the purposes of this section, "lands in respect of which Indians have interests" means

(a) land areas that are subject to a land claim accepted by the Government of Canada for negotiation under its comprehensive land claims policy and that

(i) for the purposes of land claim settlement have been withdrawn from disposal, under the *Territorial Lands Act* in the case of land areas situated in the Northwest Territories or Nunavut, or under a law of the Legislature of Yukon in the case of land areas situated in Yukon, or

(ii) in the case of land areas situated in a province, have been agreed on for selection by the Government of Canada and the government of the province; and

(b) land areas that belong to Her Majesty or in respect of which Her Majesty has the right to dispose and that have been identified and agreed on by Her Majesty and an Indian band for transfer to settle claims based on

(i) an outstanding lawful obligation of Her Majesty towards an Indian band pursuant to the specific claims policy of the Government of Canada, or

(ii) treaty land entitlement.

Reference to lands,
etc.

(7) For the purposes of this section, a reference to any lands, land areas or reserves includes a reference to all waters on and air above those lands, areas or reserves.

1992, c. 37, c. 48; 1993, c. 28, s. 78; 2002, c. 7, s. 123; 2003, c. 9, s. 23.

Rules governing
review panels

49. Sections 29 to 36 and 40 to 42 apply, with such modifications as the circumstances require, in respect of a reference to a mediator or a review panel pursuant to subsection 46(1), 47(1) or 48(1) or (2).

Ministerial orders

50. (1) Where the Minister refers a project to a mediator or a review panel for an assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2), the Minister may, by order, prohibit the proponent of the project from doing any act or thing that would commit the proponent to ensuring that the project is carried out in whole or in part until the assessment is completed and the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures the project is not likely to cause any significant adverse environmental effects referred to in that subsection or that any such effects are justified in the circumstances.

Idem

(2) Where a project is referred to a mediator or a review panel for an assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2) and the mediator or review panel submits a report to the Minister indicating that the project is likely to cause significant adverse environmental effects referred to in that subsection the Minister may, by order, prohibit the proponent of the project from doing any act or thing that would commit the proponent to ensuring that the project is carried out in whole or in part until the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures, the project is not likely to cause any significant adverse environmental effects referred to in that subsection or that any such effects are justified in the circumstances.

Consultation with
interested jurisdictions

(3) The Minister shall, before exercising discretion to make an order under subsection (1) or (2), advise and offer to consult with the governments of all interested provinces and any federal authority, or the band council, party to the agreement or claim or governing body having an interest in the lands where the project is to be carried out, as the case may be.

1992, c. 37, s. 50; 1993, c. 34, s. 35(F).

Injunction

51. (1) Where, on the application of the Attorney General of Canada, it appears to a court of competent jurisdiction that an order made under section 50 in respect of a project has been, is about to be or is likely to be contravened, the court may issue an injunction ordering any person named in the application to refrain from doing any act or thing that would commit the proponent to ensuring that the project or any part thereof is carried out until

(a) with respect to an order made pursuant to subsection 50(1), the assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2) is completed and the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures, the project is not likely to cause any significant adverse environmental effects referred to in that subsection or any such effects are justified in the circumstances; and

(b) with respect to an order made pursuant to subsection 50(2), the Minister is satisfied that, taking into account the implementation of any appropriate mitigation measures, the project is not likely to cause any significant adverse environmental effects referred to in that subsection or any such effects are justified in the circumstances.

Notice

(2) At least forty-eight hours before an injunction is issued under subsection (1), notice of the application shall be given to

(a) persons named in the application, and

(b) the governments of all interested provinces and any federal authority, band council, party to the agreement or claim or governing body having an interest in the lands where the project is to be carried out, as the case may be,

unless the urgency of the situation is such that the delay involved in giving such notice would not be in the public interest.

1992, c. 37, s. 51; 1993, c. 34, s. 36(F).

Order in force

52. (1) An order under section 50 comes into force at the time it is made.

Approval of Governor in Council

(2) The order ceases to have effect fourteen days after it is made unless, within that period, it is approved by the Governor in Council.

Exemption from application of *Statutory Instruments Act*

(3) The order is exempt from the application of sections 3, 5 and 11 of the *Statutory Instruments Act* and shall be published in the *Canada Gazette* within twenty-three days after it is approved by the Governor in Council.

Follow-up program

53. (1) Where the Minister has referred a project to a mediator or a review panel pursuant to subsection 46(1), 47(1) or 48(1) or (2), the Minister shall, in accordance with any regulations made for that purpose, design or approve any follow-up program that the Minister considers appropriate for the project and arrange for the implementation of that program.

Public notice

(2) Following the receipt of the report of the mediator or review panel in respect of the assessment of the environmental effects of the project referred to in subsection 46(1), 47(1) or 48(1) or (2), the Minister shall, in accordance with any regulations made for that purpose, advise the public of

(a) any order or injunction issued under section 50 or 51 in respect of the

project;

(b) any mitigation measures to be implemented with respect to the adverse environmental effects of the project referred to in those subsections;

(c) the extent to which the recommendations set out in the report have been adopted, and the reasons for not having adopted any of those recommendations;

(d) any follow-up program that is designed or approved for the project pursuant to subsection (1); and

(e) any results of any follow-up program.

AGREEMENTS AND ARRANGEMENTS

Provincial agreement
or arrangement

54. (1) Subject to subsection (3), where a federal authority or the Government of Canada on behalf of a federal authority enters into an agreement or arrangement with the government of a province or any institution of such a government under which a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) in relation to projects the essential details of which are not specified, the Government of Canada or the federal authority shall ensure that the agreement or arrangement provides for the assessment of the environmental effects of those projects and that the assessment will be carried out as early as practicable in the planning stages of those projects, before irrevocable decisions are made, in accordance with

(a) this Act and the regulations; or

(b) a process for the assessment of the environmental effects of projects that is consistent with the requirements of this Act and is in effect in the province where the projects are to be carried out.

International
agreement or
arrangement

(2) Subject to subsection (3), where a federal authority or the Government of Canada on behalf of a federal authority enters into an agreement or arrangement with any government or any person, organization or institution, whether or not part of or affiliated with a government, under which a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) or 10.1(2)(b) in relation to projects the essential details of which are not specified and that are to be carried out both outside Canada and outside federal lands, the Government of Canada or the federal authority shall ensure, in so far as is practicable and subject to any other such agreement to which the Government of Canada or federal authority is a party, that the agreement or arrangement provides for the assessment of the environmental effects of those projects and that the assessment will be carried out as early as practicable in the planning stages of those projects, before irrevocable decisions are made, in accordance with

(a) this Act and the regulations; or

(b) a process for the assessment of the environmental effects of projects that is consistent with the requirements of this Act and is in effect in the foreign state where the projects are to be carried out.

Exception

(3) For greater certainty, if a federal authority will be required to exercise a power or perform a duty or function referred to in paragraph 5(1)(b) or 10.1(2)(b) -- in relation to a project in respect of which an agreement or arrangement referred to

in subsection (1) or (2) applies -- after the essential details of the project are specified

(a) subsection (1) or (2), as the case may be, does not apply in respect of the agreement or arrangement; and

(b) section 5 or 10.1, as the case may be, applies.

1992, c. 37, s. 54; 1993, c. 34, s. 37(F); 2003, c. 9, s. 24.

CANADIAN ENVIRONMENTAL ASSESSMENT REGISTRY

Establishment of Registry

Canadian
Environmental
Assessment Registry

55. (1) For the purpose of facilitating public access to records relating to environmental assessments and providing notice in a timely manner of the assessments, there shall be a registry called the Canadian Environmental Assessment Registry, consisting of an Internet site and project files.

Right of access

(2) The Registry shall be operated in a manner to ensure convenient public access to it. This right of access to the Registry is in addition to any right of access provided under any other Act of Parliament.

Copy

(3) For the purpose of facilitating public access to records included in the Registry, in the case of a screening or comprehensive study, the federal environmental assessment coordinator and, in any other case, the Agency shall ensure that a copy of any such record is provided in a timely manner on request.

1992, c. 37, s. 55; 1993, c. 34, s. 38(F); 2003, c. 9, s. 25.

Internet Site

Establishment and
maintenance

55.1 (1) The Agency shall, in accordance with this Act and the regulations, establish and maintain an Internet site to be generally accessible through what is commonly referred to as the Internet.

Contents

(2) Subject to subsection 55.5(1), the Internet site shall include

(a) within 14 days after the commencement of an environmental assessment, notice of its commencement, except where a class screening report is used under subsection 19(5) or (6);

(b) an agreement contemplated by subsection 12.4(3);

(c) a description of the scope of the project in relation to which an environmental assessment is to be conducted, as determined under section 15;

(d) a statement of the projects in respect of which a class screening report is used under subsection 19(5) or (6);

(e) any declaration referred to in subsection 19(4) and the report to which it relates or a description of how a copy of the report may be obtained, and any declaration referred to in subsection 19(9);

(f) notice of termination of an environmental assessment by a responsible

authority under section 26;

(g) notice of termination of an environmental assessment by the Minister under section 27;

(h) any public notices that are issued by responsible authorities or the Agency to request public input into an environmental assessment;

(i) notice of a decision of the Minister to refer a project under paragraph 21.1(1)(a);

(j) where the responsible authority, in accordance with subsection 18(3), gives the public an opportunity to participate in the screening of a project or where the Minister, under paragraph 21.1(1)(a), refers a project to the responsible authority to continue a comprehensive study, a description of the factors to be taken into consideration in the environmental assessment and of the scope of those factors or an indication of how such a description may be obtained;

(k) the screening or comprehensive study report taken into consideration by a responsible authority for the purpose of a decision under section 20 or 37 or a description of how a copy of the report may be obtained, except where a class screening report is used under subsection 19(5) or (6);

(l) an environmental assessment decision statement under subsection 23(1) and any request made under subsection 23(2);

(m) notice of the referral of a project to a mediator or review panel;

(n) the terms of reference of a mediation or a review panel;

(o) if the Minister has ordered the conclusion of a mediation under subsection 29(4), notice of the order;

(p) a report of a mediator or review panel or a summary of the report;

(q) a response under paragraph 37(1.1)(a) to the report of a mediator or review panel;

(r) except where a class screening report is used under subsection 19(5) or (6), the decision of a responsible authority, made under section 20 or 37 concerning the environmental effects of the project, and a statement of any mitigation measures the implementation of which the responsible authority took into account in making its decision;

(s) a notice stating whether or not, pursuant to subsection 38(1), a follow-up program for the project is considered appropriate;

(t) a description summarizing any follow-up program and its results or an indication of how a full description of the program and its results may be obtained;

(u) any other information that the responsible authority or the Agency, as the case may be, considers appropriate, including information in the form of a list of relevant documents in which case a description of how they may be obtained shall be provided; and

- (v) any other record or information prescribed under paragraph 59(h.1).
- Form and manner of Internet site
- (3) The Agency shall determine and notify the public
- (a) what the form of the Internet site is to be and how it is to be kept;
- (b) how records and information are to be included in it;
- (c) what information must be contained in any record referred to in subsection (2);
- (d) what records and information are to be included in the Internet site, in addition to any record referred to in subsection (2);
- (e) when information must be included in the Internet site;
- (f) when information may be removed from the Internet site; and
- (g) how access to the Internet site is to be provided.

2003, c. 9, s. 25.

Duty to contribute records -- Agency

55.2 (1) The Agency shall ensure that the records referred to in paragraphs 55.1(2)(b), (e), (i) and (l) are included in the Internet site.

In the case of mediation or review panel

(2) The Agency shall, in the case of a mediation or an assessment by a review panel, ensure that the records referred to in paragraphs 55.1(2)(c), (g), (h), (m), (n), (o), (p), (q) and (u) and any record or information referred to in paragraph 55.1(2)(v) are included in the Internet site.

2003, c. 9, s. 25.

Duty to contribute records -- responsible authorities

55.3 (1) A responsible authority shall ensure that the records referred to in paragraphs 55.1(2)(a), (f), (j), (k), (r), (s) and (t) and, in the case of a screening or a comprehensive study, the records referred to in paragraphs 55.1(2)(c), (h) and (u) and any record or information referred to in paragraph 55.1(2)(v), are included in the Internet site.

Statement -- paragraph 55.1(2)(d)

(2) A responsible authority shall ensure that the statement referred to in paragraph 55.1(2)(d) is included in the Internet site every three months or with any other greater frequency to which it agrees with the Agency.

Time for inclusion of report

(3) A screening report referred to in paragraph 55.1(2)(k) or a description of how a copy of it may be obtained shall be included in the Internet site not later than the decision referred to in paragraph 55.1(2)(r) that is based on the report, unless otherwise authorized by the Agency.

2003, c. 9, s. 25.

Project Files

Establishment and maintenance

55.4 (1) In respect of every project for which an environmental assessment is conducted, a project file shall be established and maintained, in accordance with this Act and the regulations,

- (a) by the responsible authority from the commencement of the environmental

assessment until any follow-up program in respect of the project is completed;
and

(b) where the project is referred to a mediator or a review panel, by the Agency from the appointment of the mediator or the members of the review panel until the report of the mediator or review panel is submitted to the Minister.

Contents of project file

(2) Subject to subsection 55.5(1), a project file shall contain all records produced, collected or submitted with respect to the environmental assessment of the project, including

(a) all records included in the Internet site;

(b) any report relating to the assessment;

(c) any comments filed by the public in relation to the assessment;

(d) any records relating to the need for, design of or implementation of any follow-up program; and

(e) any documents requiring mitigation measures to be implemented.

2003, c. 9, s. 25.

General

Categories of information that may be made publicly available

55.5 (1) The Registry shall contain a record, part of a record or information only if

(a) it has otherwise been made publicly available; or

(b) the responsible authority, in the case of a record under its control, or the Minister, in the case of a record under the Agency's control,

(i) determines that it would have been disclosed to the public in accordance with the *Access to Information Act* if a request had been made in respect of that record under that Act at the time the record came under the control of the responsible authority or the Agency, including any record that would be disclosed in the public interest pursuant to subsection 20(6) of that Act, or

(ii) believes on reasonable grounds that it would be in the public interest to disclose it because it is required for the public to participate effectively in the environmental assessment -- other than any record the disclosure of which would be prohibited under section 20 of the *Access to Information Act*.

Applicability of sections 27, 28 and 44 of *Access to Information Act* to third party information

(2) Sections 27, 28 and 44 of the *Access to Information Act* apply to any information described in subsection 27(1) of that Act that the Agency or a responsible authority intends be included in the Registry with any modifications that the circumstances require, including the following:

(a) the information is deemed to be a record that the head of a government institution intends to disclose; and

(b) any reference to the person who requested access shall be disregarded.

Deemed application

(3) This section applies with respect to a responsible authority that is a parent Crown corporation but is not a government institution within the meaning of the *Access to Information Act* as if it were such a government institution.

2003, c. 9, s. 25.

Protection from civil proceeding or prosecution

55.6 Notwithstanding any other Act of Parliament, no civil or criminal proceedings lie against a responsible authority, the Agency or the Minister, or against any person acting on behalf of them or under their direction, or against a director or officer of a Crown corporation to which this Act applies and no proceedings lie against the Crown, the Agency or any responsible authority, for the disclosure in good faith of any record or any part of a record pursuant to this Act or for any consequences that flow from that disclosure or for the failure to give any notice required under section 27 or 28 of the *Access to Information Act* if reasonable care is taken to give the required notice.

2003, c. 9, s. 25.

RELEVANT INFORMATION

Preparation of statistical summary

56. (1) During each fiscal year a responsible authority shall maintain a statistical summary of all of the environmental assessments undertaken or directed by it and all courses of action taken, and all decisions made, in relation to the environmental effects of the projects after the assessments were completed.

Idem

(2) The responsible authority shall ensure that the summary for a fiscal year is completed within one month after the end of that fiscal year.

Information required in support of quality assurance program

56.1 Federal authorities and persons and bodies referred to in sections 8 to 10 shall, if requested to do so by the Agency, provide the Agency with any information respecting the assessments whose conduct they ensure under this Act that the Agency considers necessary in support of a quality assurance program that it establishes.

2003, c. 9, s. 27.

JUDICIAL REVIEW

Defect in form or technical irregularity

57. An application for judicial review in connection with any matter under this Act shall be refused where the sole ground for relief established on the application is a defect in form or a technical irregularity.

ADMINISTRATION

Minister's Powers

Powers to facilitate environmental assessments

58. (1) For the purposes of this Act, the Minister may

(a) issue guidelines and codes of practice respecting the application of this Act and the regulations and, without limiting the generality of the foregoing, establish criteria to determine whether a project, taking into account the implementation of any appropriate mitigation measures, is likely to cause significant adverse environmental effects or whether such effects are justified in the circumstances;

(b) establish research and advisory bodies;

(c) enter into agreements or arrangements with any jurisdiction within the meaning of paragraph 40(1)(a), (b), (c) or (d) respecting assessments of environmental effects;

(d) enter into agreements or arrangements with any jurisdiction, within the meaning of subsection 40(1), for the purposes of coordination, consultation, exchange of information and the determination of factors to be considered in relation to the assessment of the environmental effects of projects of common interest;

(e) recommend the appointment of members to bodies established by federal authorities or to bodies referred to in paragraph 40(1)(d), on a temporary basis, for the purpose of facilitating a substitution pursuant to section 43;

(f) establish criteria for the appointment of mediators and members of review panels;

(g) establish criteria for the approval of a substitution pursuant to section 43;

(h) establish criteria for the purposes of an alternative manner of conducting an assessment of the environmental effects of a project referred to in subsection 46(2) or 47(2); and

(i) make regulations prescribing any project or class of projects for which a comprehensive study is required where the Minister is satisfied that the project or any project within that class is likely to have significant adverse environmental effects.

Participant funding

(1.1) For the purposes of this Act, the Minister shall establish a participant funding program to facilitate the participation of the public in comprehensive studies, mediations and assessments by review panels established under either subsection 33(1) or 40(2).

Power to enter into international agreements

(2) The Minister and the Minister of Foreign Affairs may enter into agreements or arrangements with any jurisdiction within the meaning of paragraph 40(1)(e) or (f) respecting assessments of environmental effects, including, without limiting the generality of the foregoing, for the purposes of implementing the provisions of any international agreement or arrangement to which the Government of Canada is a party respecting the assessment of environmental effects referred to in subsection 47(1).

Opportunity for public to comment

(3) The Minister shall provide reasonable public notice of and a reasonable opportunity for anyone to comment on draft guidelines, codes of practice, agreements, arrangements, criteria or orders under this section.

Availability to public

(4) Any guidelines, codes of practice, agreements, arrangements, criteria or orders shall be made available to the public.

1992, c. 37, s. 58; 1993, c. 34, s. 39(F); 1994, c. 46, s. 4; 1995, c. 5, s. 25; 2003, c. 9, s. 28.

Regulations

Regulations

59. The Governor in Council may make regulations

(a) respecting the procedures and requirements of, and the time periods relating to, environmental assessment and follow-up programs, including the conduct of assessments by review panels established pursuant to section 40 and the timing of taking a course of action pursuant to section 20 or 37 where two or more federal authorities are likely to exercise a power or perform a duty or function referred to in section 5 with respect to the same project;

(a.1) respecting the duties and functions of the federal environmental assessment coordinator, and respecting the selection or designation of the coordinator;

(b) prescribing, for the purpose of the definition "project" in subsection 2(1), any physical activity or class of physical activities;

(c) exempting any projects or classes of projects from the requirement to conduct an assessment under this Act that

(i) in the opinion of the Governor in Council, ought not to be assessed for reasons of national security,

(ii) in the case of projects in relation to physical works, in the opinion of the Governor in Council, have insignificant environmental effects, or

(iii) have a total cost below a prescribed amount and meet prescribed environmental conditions;

(c.1) exempting, in replacement of exemptions made under paragraph (c), in relation to any Crown corporation to which this Act applies or in relation to the Canadian International Development Agency, any projects or classes of projects to be carried out outside Canada and any federal lands from the requirement to conduct an environmental assessment under this Act that

(i) in the opinion of the Governor in Council, ought not to be assessed for reasons of national security,

(ii) in the case of projects in relation to a physical work, in the opinion of the Governor in Council, have insignificant environmental effects, or

(iii) have a total cost below a prescribed amount and meet prescribed environmental conditions;

(d) [Repealed, 2003, c. 9, s. 29]

(e) prescribing any body, other than the government of a province, to be a federal authority for the purposes of this Act;

(f) prescribing, for the purposes of paragraph 5(1)(d), the provisions of any Act of Parliament or any instrument made under an Act of Parliament;

(g) prescribing the provisions of any Act of Parliament or any regulation made pursuant to any such Act that confer powers, duties or functions on the Governor in Council, the exercise or performance of which require an environmental assessment under subsection 5(2);

(h) respecting the dissemination by responsible authorities of information

relating to projects and the environmental assessment of projects and the establishment, maintenance and operation of project files referred to in section 55.4, including facilities to enable the public to examine physical or electronic records contained in the files, the time and manner in which those records may be examined or copied by the public and the transfer and retention of those records after the completion of any follow-up program;

(h.1) prescribing records or information to be included in the Internet site by the Agency or a responsible authority;

(h.2) respecting the charging of fees for providing copies of documents contained in the Registry;

(h.3) for the purposes of subsection 38(1) or (2) or 53(1), prescribing the manner of designing a follow-up program;

(i) varying or excluding, in the prescribed circumstances, any procedure or requirement of the environmental assessment process set out in this Act or the regulations for the purpose of adapting the process in respect of

(i) projects to be carried out on reserves, surrendered lands or other lands that are vested in Her Majesty and subject to the *Indian Act*,

(ii) projects to be carried out outside Canada and either outside of federal lands or on federal lands described in paragraph (a) of the definition "federal lands" in subsection 2(1),

(iii) projects to be carried out under international agreements or arrangements entered into by the Government of Canada or a federal authority,

(iv) projects to be carried out within Canada or on federal lands in respect of which a federal authority exercises a power or performs a duty or function referred to in paragraph 5(1)(b) or (c),

(v) projects in respect of which the Canada-Nova Scotia Offshore Petroleum Board established pursuant to the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, the Canada-Newfoundland Offshore Petroleum Board established pursuant to the *Canada-Newfoundland Atlantic Accord Implementation Act* or other similar boards exercise a power or perform a duty or function referred to in section 5, or

(vi) projects in relation to which there are matters of national security;

(i.1) prescribing, in the case of projects that are to be carried out outside Canada and any federal lands and that are subject to an environmental assessment whose conduct a Crown corporation to which this Act applies must ensure, in prescribed circumstances or on any prescribed terms and conditions,

(i) federal authorities that, notwithstanding subsection 5(1), are not required to conduct environmental assessments of those projects, and

(ii) federal authorities for whom the requirements under this Act in respect of those projects, other than those set out in subsections 20(1) and 37(1), are deemed to be satisfied by the environmental assessment of those projects

whose conduct the Crown corporation ensures;

(i.2) for the purposes of subparagraph (i.1)(ii), varying subsection 20(1) or 37(1) in its application to federal authorities prescribed under that subparagraph in the case of projects that are to be carried out outside Canada and outside any federal lands;

(j) for the purposes of section 8, designating Crown corporations that are not federal authorities individually or by class and respecting the manner in which those corporations or classes of corporations conduct environmental assessments of, and follow-up programs for, projects, as well as any action to be taken in respect of projects during the assessment process, which manners and actions may vary by corporation or class of corporation;

(j.1) for the purposes of section 8, respecting the application to a Crown corporation that is designated, or is a member of a class that is designated, under a regulation made under paragraph (j) of the laws from time to time in force in any province;

(j.2) varying or excluding any procedure or requirement of this Act or the regulations as it applies to Crown corporations that are federal authorities, individually or by class;

(j.3) for projects to be carried out outside Canada and any federal lands, prescribing, in relation to Crown corporations to which this Act applies, any physical activity or class of physical activities in replacement of those prescribed under paragraph (b);

(k) for the purposes of section 9, respecting the manner of conducting environmental assessments of, and follow-up programs for, projects, as well as any action to be taken in respect of projects during the assessment process and, for those purposes, respecting the application of the laws from time to time in force in any province;

(k.1) prescribing the provisions of any Act of Parliament or any regulation made pursuant to an Act of Parliament that confer powers, duties or functions on a person or body referred to in subsection 9(1), the exercise or performance of which requires an environmental assessment under paragraph 9(2)(d);

(k.2) prescribing the circumstances in which an environmental assessment of a project to be carried out in whole or in part on federal lands must be conducted under paragraph 9(2)(e);

(k.3) for the purposes of section 9.1, prescribing by class authorities other than federal authorities and respecting the manner in which those classes of authorities shall conduct environmental assessments of, and follow-up programs for, projects, as well as any action to be taken in respect of projects during the assessment process -- which manners and actions may vary by class of authority -- and, for those purposes, respecting the application of the laws from time to time in force in any province;

(k.4) prescribing the provisions of any Act of Parliament or any regulation made pursuant to an Act of Parliament that confer powers, duties or functions on an authority prescribed in regulations made under paragraph (k.3), the exercise or performance of which requires an environmental assessment under paragraph 9.1(2)(d);

(k.5) for the purposes of paragraph 9.1(2)(e), prescribing the circumstances in which an environmental assessment of a project to be carried out in whole or in part on federal lands must be conducted, and specifying the right or interest that the authority prescribed in regulations made under paragraph (k.3) must have in the federal lands;

(l) for the purposes of section 10, designating bands individually or by category and respecting the manner of conducting environmental assessments of, and follow-up programs for, projects that are to be carried out in whole or in part on a reserve that is set apart for the use and benefit of a designated band and that is subject to the *Indian Act*, as well as any action to be taken in respect of projects during the assessment process, which manners and actions may vary by band or category of band;

(l.001) prescribing, for the purposes of paragraph 10(1)(c), provisions of any Act of Parliament or any instrument made under an Act of Parliament that confer powers, duties or functions on a band council;

(l.01) for the purposes of section 10.1,

(i) varying the definition "project" in subsection 2(1),

(ii) respecting the manner of conducting environmental assessments of, and follow-up programs for, projects for which the Canadian International Development Agency exercises a power or performs a duty or function referred to in subsection 10.1(2) and respecting any action to be taken in respect of those projects during the assessment process,

(iii) providing that, in the case of a project in respect of which an agreement or arrangement entered into by the Canadian International Development Agency in accordance with subsection 54(2) applies, no environmental assessment need be carried out by that agency,

(iv) varying or excluding any of the provisions of section 54 in their application to the Canadian International Development Agency, or

(v) providing for the application of section 55.6 to the Canadian International Development Agency as if it were a responsible authority;

(l.02) varying or excluding any of the provisions of sections 55 to 55.5 in their application to the Canadian International Development Agency;

(l.03) prescribing, for the purposes of subsection 18(3), circumstances in which a responsible authority shall give the public an opportunity to participate in the screening;

(l.1) respecting a participant funding program referred to in subsection 58(1.1);

(m) prescribing anything that, by this Act, is to be prescribed; and

(n) generally, for carrying out the purposes and provisions of this Act.

1992, c. 37, s. 59; 1993, c. 34, s. 40(F); 1994, c. 46, s. 5; 1998, c. 10, s. 166; 2003, c. 9, s. 29.

Variation of
procedures

60. Notwithstanding this or any other Act of Parliament, where the Governor in Council is of the opinion that a federal authority on which duties and functions are imposed under this Act is unable to perform those duties and functions by reason of a time limitation or other procedural requirement that is binding on the federal authority under an Act of Parliament other than this Act or any regulation made under such an Act, the Governor in Council may, on the recommendation of the Minister and the Minister responsible for the administration of that other Act, make regulations varying the time limitation or other procedural requirement in so far as it applies to those duties and functions and to the extent necessary to permit the federal authority to perform them.

CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY

Agency established

61. (1) There is hereby established an agency, to be called the Canadian Environmental Assessment Agency, which shall advise and assist the Minister in performing the duties and functions conferred on the Minister by this Act.

Responsibility of
Minister

(2) The Minister is responsible for the Agency.

Objects of Agency

62. The objects of the Agency are

(a) to administer the environmental assessment process and any other requirements and procedures established by this Act and the regulations;

(b) to promote uniformity and harmonization in the assessment of environmental effects across Canada at all levels of government;

(c) to promote or conduct research in matters of environmental assessment and to encourage the development of environmental assessment techniques and practices, including testing programs, alone or in cooperation with other agencies or organizations;

(d) to promote environmental assessment in a manner that is consistent with the purposes of this Act;

(e) to promote, monitor and facilitate compliance with this Act and the regulations;

(f) to promote and monitor the quality of assessments conducted under this Act;

(g) to ensure an opportunity for timely public participation in the environmental assessment process; and

(h) to engage in consultation with aboriginal peoples on policy issues related to this Act.

1992, c. 37, s. 62; 2003, c. 9, s. 30.

Duties of Agency

63. (1) In carrying out its objects, the Agency shall

(a) provide administrative support for mediators and review panels;

(b) provide, on the request of the Minister, administrative support for any research or advisory body that the Minister may establish in the area of environmental assessment;

(c) provide information or training to facilitate the conduct of environmental assessments; and

(d) establish and lead a quality assurance program for assessments conducted under this Act.

Powers of Agency

(2) In carrying out its objects, the Agency may

(a) undertake studies or activities or conduct research relating to environmental assessment;

(b) advise persons and organizations on matters relating to the assessment of environmental effects;

(b.1) coordinate the development of a response to a report required under paragraph 37(1.1)(a);

(c) negotiate agreements referred to in paragraph 58(1)(c) or (d) on behalf of the Minister;

(d) examine and from time to time report to the Minister on the implementation of the environmental assessment process by responsible authorities;

(e) issue guidelines regarding the records to be kept by responsible authorities in relation to the environmental assessment process concerning projects;

(f) assist parties in building consensus and resolving disputes; and

(g) request federal authorities, and persons and bodies referred to in sections 8 to 10, to provide information respecting assessments that they conduct under this Act.

1992, c. 37, s. 63; 2003, c. 9, s. 31.

Government facilities

64. In exercising its powers and performing its duties and functions under this Act, the Agency shall, where appropriate, make use of the services and facilities of departments, boards and agencies of the Government of Canada.

President

65. (1) The Governor in Council shall appoint an officer to be called the President of the Agency, to hold office during pleasure, who shall be, for the purposes of this Act, a deputy of the Minister.

Idem

(2) The President shall be the chief executive officer of the Agency, and may exercise all of the powers of the Minister under this Act as authorized by the Minister.

Acting President

(3) Subject to subsection (5), in the event of the absence or incapacity of the President or a vacancy in that office, the Executive Vice-President shall act as, and exercise the powers of, the President for the time being.

Idem

(4) Subject to subsection (5), the Minister may appoint a person other than the Executive Vice-President to act as the President for the time being.

Approval required

(5) The Executive Vice-President, or a person appointed pursuant to subsection (4), shall not act as the President for a period exceeding ninety days without the approval of the Governor in Council.

Executive Vice-President	66. (1) The Governor in Council may appoint an officer, to be called the Executive Vice-President of the Agency, to hold office during pleasure.
Powers, duties and functions	(2) The Executive Vice-President shall exercise such powers and perform such duties and functions as the President may assign.
Remuneration	67. The President and the Executive Vice-President shall be paid such remuneration as the Governor in Council may fix.
Appointment under the <i>Public Service Employment Act</i>	68. The officers and employees necessary to carry out the work of the Agency shall be appointed in accordance with the <i>Public Service Employment Act</i> .
Head office	69. The head office of the Agency shall be in the National Capital Region described in the schedule to the <i>National Capital Act</i> .
Contracts, etc., binding on Her Majesty	70. (1) Every contract, memorandum of understanding and arrangement entered into by the Agency in its own name is binding on Her Majesty in right of Canada to the same extent as it is binding on the Agency.
Legal proceedings	(2) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Agency, whether in its own name or in the name of Her Majesty in right of Canada, may be brought or taken by or against the Agency in the name of the Agency in any court that would have jurisdiction if the Agency were a corporation that is not an agent of Her Majesty.

ANNUAL REPORT

Annual report to Parliament	71. (1) The Minister shall report annually to Parliament, within four months after the end of the fiscal year being reported, on the activities of the Agency and the administration and implementation of this Act and regulations during that year.
Statistical summary to be included	(2) The annual report to Parliament referred to in subsection (1) shall include a statistical summary of all environmental assessments conducted or completed, under the authority of this Act during the fiscal year being reported.

REVIEW

Review	72. (1) Five years after the coming into force of this section, a comprehensive review of the provisions and operation of this Act shall be undertaken by the Minister.
Report to Parliament	(2) The Minister shall, within one year after a review is undertaken pursuant to subsection (1) or within such further time as the House of Commons may authorize, submit a report on the review to Parliament including a statement of any changes the Minister recommends.

1992, c. 37, s. 72; 1993, c. 34, s. 41(F); 1994, c. 26, s. 24(F).

TRANSITIONAL

Employment continued	73. (1) Each person employed in the Federal Environmental Assessment Review Office, or seconded to that Office from any portion of the public service of Canada, on the day preceding the day on which section 61 comes into force is deemed to have been appointed pursuant to section 68 or seconded, as the case may be, to a position in the Agency of the same occupational nature and at the same level as the position occupied by the person on that preceding day.
Probation	(2) Notwithstanding section 28 of the <i>Public Service Employment Act</i> , no

person who is deemed under subsection (1) to have been appointed to a position in the Agency is subject to probation unless the person was subject to probation on the day preceding the day of the deemed appointment, and any person who was so subject to probation continues subject thereto only for as long as would have been the case but for this section.

1992, c. 37, s. 73; 1993, c. 34, s. 42(F).

Guidelines Order
continued

74. (1) The *Environmental Assessment and Review Process Guidelines Order*, approved by Order in Council P.C. 1984-2132 of June 21, 1984 and registered as SOR/84-467, shall continue to apply in respect of any proposal that prior to the coming into force of this section was referred to the Minister for public review and for which an Environmental Assessment Panel was established by the Minister pursuant to that Order.

Idem

(2) The Order referred to in subsection (1) shall continue to apply in respect of any proposal for which an environmental screening or initial assessment under that Order was commenced before the coming into force of this section, but where any such proposal is referred to the Minister for public review pursuant to section 20 of that Order, this Act shall thereupon apply and the Minister may refer the project to a mediator or a review panel in accordance with section 29.

Idem

(3) Where a proponent proposes to carry out, in whole or in part, a project for which an environmental screening or an initial assessment was conducted in accordance with the Order referred to in subsection (1), and

(a) the project did not proceed after the assessment was completed,

(b) in the case of a project that is in relation to a physical work, the proponent proposes an undertaking in relation to that work different from that proposed when the assessment was conducted,

(c) the manner in which the project is to be carried out has subsequently changed, or

(d) the renewal of a licence, permit, approval or other action under a prescribed provision is sought,

the responsible authority may use or permit the use of the environmental screening or initial assessment and the report thereon to whatever extent it is appropriate to do so for the purpose of complying with section 18 or 21.

Idem

(4) Where the construction or operation of a physical work or the carrying out of a physical activity was initiated before June 22, 1984, this Act shall not apply in respect of the issuance or renewal of a licence, permit, approval or other action under a prescribed provision in respect of the project unless the issuance or renewal entails a modification, decommissioning, abandonment or other alteration to the project, in whole or in part.

CONSEQUENTIAL AMENDMENTS

75. to 81. [Amendments]

COMING INTO FORCE

Coming into force

***82.** This Act, or any provision of this Act, shall come into force on a day or days to be fixed by order of the Governor in Council.