



Canadian Environmental
Assessment Agency

Agence canadienne
d'évaluation environnementale

Strengthening Environmental Assessment for Canadians

Report of the Minister of the Environment to the Parliament of Canada
on the Review of the *Canadian Environmental Assessment Act*



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Minister's Message

This report on the review of the *Canadian Environmental Assessment Act* represents the views of a broad cross section of the more than 1,200 Canadians who took part in extensive national consultations over the past year. In addition, a specially designed interactive web site received over 40,000 visits.

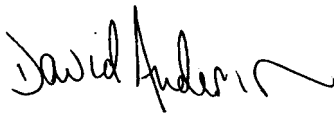
Canadians spoke clearly about the importance of protecting the environment and confirmed their support for a strong and revitalized federal environmental assessment process. Of particular significance was the broad consensus among business, environmental and local groups and individuals consulted on how the federal process can be strengthened. In preparing this report, I carefully considered all views presented.

My recommendations for improving the federal environmental assessment process are practical, fair and realistic. These balanced proposals will result in an assessment process that provides for more meaningful public participation and delivers assessments in a more certain, predictable and timely manner.

Environmental assessment is an evolving practice not just here, but around the world. Improvements to the federal process have been made steadily since the passage of the Act five years ago. I fully expect improvements will continue.

Human activity has a profound effect on our global environment. While pursuing economic growth, we have realized that growth unchecked could push Earth's carrying capacity past the breaking point. Effective environmental assessment can help us avoid damaging our natural heritage by providing a systematic tool to integrate environmental considerations into project planning. A revitalized environmental assessment process will be an important tool in a 21st century approach to environmental management.

The improvements to the federal environmental assessment process that I am proposing in this report will help assure a more sustainable future for Canada.



David Anderson, P.C., M.P.
Minister of the Environment



Executive Summary

This report to Parliament conveys the findings and recommendations of the review of the *Canadian Environmental Assessment Act* (the Act). The report provides the context for the federal government's bill, *An Act to Amend the Canadian Environmental Assessment Act*.

Conducting the Review

In late 1999, as required under the Act, the Minister of the Environment launched a review of the Act's first five years of experience. From the start, the Minister determined that the review would be open and transparent, and would provide a forum where concerned individuals and organizations could present their views. To help meet these objectives, an interactive web site was established early in the review process.

As background to the review, the Canadian Environmental Assessment Agency conducted preliminary consultations with representatives of interested groups, and commissioned and published independent background studies of many of the Act's key provisions. In December 1999, the Minister released a discussion paper to support the national consultations. The paper provided extensive summary data on the Act's operations, reviewed the major issues and concerns arising from the first five years of experience with the Act, and offered options for consideration.

National consultations were held in early 2000, providing a variety of opportunities for interested Canadians to contribute to the review of the Act, including general public sessions, specialized workshops and an interactive web site. More than 1,200 Canadians participated in these national consultations. Parallel discussions were held for Aboriginal organizations.

Opportunities to Strengthen the Federal Environmental Assessment Process

The review confirmed that there is support for an effective and efficient environmental assessment process at the federal level. Canadians look to the federal government for leadership in ensuring that environmental assessment remains an important tool for making decisions in support of sustainable development.

The review found many strengths in the current environmental assessment process, including the fundamental purposes and principles of the Act, the basic structure of the process, the factors that must be addressed and the role of the Agency. As a result, the Minister proposes to retain these features of the Act as the foundation of a revitalized federal environmental assessment process.

There also was general agreement among Canadians who participated in the review about how the process could be strengthened. The Minister proposes three goals for a renewed process.

Goal 1: A Certain, Predictable and Timely Process

A renewed federal environmental assessment process must bring a greater measure of certainty, predictability and timeliness to all participants. A more efficient and effective process can save time, money and effort for industry, government authorities and the public. Clarity and predictability of the process will also help build greater confidence in the decisions of federal authorities, improving the overall climate for private sector investment in Canada. The review identified opportunities to improve certainty, predictability and timeliness through initiatives in three key areas: focussing the federal process on those projects likely to result in environmental effects, establishing clear lines of accountability for the co-ordination of assessments and simplifying several steps in the process to reduce much of the current uncertainty.

Goal 2: High-Quality Environmental Assessments

A renewed federal environmental assessment process must enhance the quality of assessments. High-quality assessments can contribute to better decisions in support of sustainable development, and can help build a more accountable planning process. The Minister proposes to promote quality environmental assessments through initiatives in three areas: improving compliance with the Act, strengthening the role of follow-up and improving the consideration of cumulative effects.

Goal 3: More Meaningful Public Participation

The fundamental value of meaningful public participation in the environmental assessment process was one of the strongest messages emerging from the review. The Minister is committed to ensuring that the federal environmental assessment process remains one worthy of the trust and involvement of all Canadians. The Minister proposes to work toward this goal through actions in the three priority areas identified in the review: making sure Canadians have the information they need to participate in assessments involving the federal government, better incorporating Aboriginal perspectives in environmental assessments and providing expanded opportunities for Canadians to participate.

The review proposals respond to the range of ideas and concerns expressed by Canadians in the national consultations. Taken as a whole, the proposals are practical, fair, balanced and realistic. They are neither a beginning nor an ending. Rather, they represent a continuation of an important effort that dates back more than 25 years in Canada – bringing environmental factors to the table when governments make decisions.

Part 1: The Review

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.

s.72, Canadian Environmental Assessment Act

Introduction

This report to Parliament conveys the findings and recommendations of the review of the *Canadian Environmental Assessment Act* (the Act). The report provides the context and rationale for the federal government's bill, *An Act to Amend the Canadian Environmental Assessment Act*.

The report is organized into two parts.

Part 1 describes how the review was conducted, and presents the results of the review—the key lessons from the last five years of experience with the Act, including the core strengths of the Act that should be retained and the challenges that need to be addressed.

Part 2 looks to the future—to the goals the Minister proposes for strengthening the current federal environmental assessment process and to the legislative, policy and regulatory measures needed to realize those goals.

Environmental Assessment in Canada

Over the last 30 years, environmental assessment has evolved as an important planning and decision-making tool used in more than 100 countries and international organizations. Through environmental assessment, the environmental effects of a proposed project can be identified, assessed and mitigated early in project planning. Environmental assessment can help project proponents reduce risks and liabilities through early identification of potential environmental problems. It can provide interested persons and organizations with an opportunity to voice their concerns and offer suggestions. It can help decision makers better integrate a project's environmental, social and economic considerations.

In Canada, constitutional responsibility for the environment and environmental assessment is shared between the federal and provincial governments. All provinces have established their own environmental procedures and standards. New assessment processes also are emerging as a result of self-government initiatives, land claims and land management agreements with Aboriginal peoples.

The federal environmental process was introduced in 1974 under a Cabinet directive, and later formalized in 1984 through a guidelines order. Over time, it became apparent that the process needed to be strengthened and given the force of legislation. Following national consultations and a comprehensive review by Parliament, the *Canadian Environmental Assessment Act* received Royal Assent in 1992. In early 1995, following a second round of consultations, the Act and its enabling regulations came into force.



The Act introduced important changes to the federal government's decision-making process. For the first time, the obligations of federal departments and agencies to conduct environmental assessments were enshrined in legislation. The Act identified the factors that needed to be addressed in such assessments. It established sustainable development as a fundamental goal of the assessment process. It put in place formal opportunities for the public to participate in federal environmental assessments of projects that affected their livelihoods and communities.

The Act also provides the Minister of the Environment with opportunities to enter into agreements with other jurisdictions in order to better harmonize environmental assessment approaches and reduce the potential for any unproductive overlap, duplication and conflict. Federal and provincial governments have made substantial progress towards this goal in recent years. In 1998, the Canadian Council of Ministers of the Environment (with the exception of Quebec) signed the *Canada-Wide Accord on Environmental Harmonization* and the Sub-agreement on Environmental Assessment. The accord is a framework agreement that establishes the common vision, objectives and principles that will govern the partnership among jurisdictions.

The Sub-agreement on Environmental Assessment promotes the effective application of environmental assessment when two or more governments are required by law to assess the same proposed project. It includes provisions for shared principles, common information elements, a defined series of assessment stages and a provision for a single assessment and public hearing process. The Sub-agreement is implemented through bilateral agreements between the federal government and individual provinces. To date, bilateral agreements have been signed with four provinces: British Columbia, Alberta, Saskatchewan and Manitoba. In other provinces, project-specific arrangements are in place to prevent duplication.

The Need for the Review

Over the last five years, a great deal of experience has been gained under the Act—by federal government departments, private sector proponents, non-governmental organizations and other groups. Much of this experience has been positive. There are many examples of assessments helping protect sensitive environmental features, encouraging efficient project planning and incorporating the priorities of local communities.

Yet there also have been concerns about some areas of the Act's operations.

In late 1999, as required by the Act, the Minister of the Environment launched a review of the Act's first five years of operation. Independent studies of many of the Act's key provisions were commissioned and published. Through wide-ranging national consultations, interested Canadians were invited to take a close look at how the Act is working and offer their recommendations for improvement.

The review has provided invaluable insights and ideas. Above all, it has identified broad and deep support among Canadians for an effective and efficient environmental assessment process at the federal level.

Overview of the Canadian Environmental Assessment Act

The purposes of the Act are:

- (a) to ensure that the environmental effects of projects receive careful consideration before responsible authorities take actions in connection with them;
- (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;
- (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 an opportunity for public participation in the environmental assessment process.

s.4, Canadian Environmental Assessment Act

The Act applies to projects for which the federal government has a decision-making authority—whether as proponent, land manager, source of funding or regulator. The department or agency responsible for the decision is called the responsible authority.

For projects within Canada, the Act establishes a number of environmental assessment types or tracks, depending on the nature of the project and the likely environmental effects. Most projects are assessed by responsible authorities through a screening. Larger projects that have the potential for greater environmental effects may require a more detailed assessment by the responsible authority through a comprehensive study. Assessments by an independent review panel or mediator appointed by the Minister of the Environment may be required when warranted by public concerns or when the environmental effects are uncertain or likely to be significant.

In addition, several regulations have been established under the Act to clarify the responsibilities of various parties and to improve the efficiency of the process.

- The *Law List Regulations* list the federal permits, licences and approvals that “trigger” the need for an environmental assessment under the Act.
- The *Inclusion List Regulations* identify activities not related to physical works that are to be defined as a project under the Act, and require an environmental assessment (such as dredging to ensure navigation through a waterway).
- The *Comprehensive Study List Regulations* list the types of projects that need to undergo a comprehensive study, such as larger electrical generating stations and pulp mills.
- The *Exclusion List Regulations* identify the types of projects that do not require an environmental assessment under the Act, because they are considered to have insignificant effects on the environment.
- The *Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements* seek to ensure that the federal environmental assessment process is timely and predictable, and that there is only one federal environmental assessment conducted for a project.
- The *Projects Outside Canada Environmental Assessment Regulations* ensure that projects involving the federal government and occurring outside Canada comply with the spirit and principles of the Act. There are several variations to the Act under these regulations.

For example, comprehensive studies are not included and there are different allowances for projects at the panel review stage.

- The *Canada Port Authority Environmental Assessment Regulations* apply federal environmental assessment principles to Canada Port Authorities, but with certain variations that take into account their unique competitive situations and federally regulated land bases.
- The *Federal Authorities Regulations* ensure that the Act covers activities related to the extraction of oil and gas from federal lands in offshore Newfoundland and Nova Scotia.

The Act established the Canadian Environmental Assessment Agency (the Agency), which reports directly to the Minister of the Environment and operates independently of all federal departments and agencies, including Environment Canada. The Agency's major objectives are to administer the federal environmental assessment process; advocate high-quality environmental assessment through leadership, training and research; promote uniformity and harmonization in the assessment of environmental effects across Canada with federal departments, provinces and Aboriginal groups; and ensure opportunities are provided for public participation in the environmental assessment process.

Summary of Environmental Assessments January 1995–January 2000

Number of assessments conducted under the Act	5,500–6,000/year
Number of federal departments and agencies that have conducted assessments	30
Percentage of total assessments that were screenings	more than 99
Number of class screening reports	
Declared	2
In development	15
Number of comprehensive studies	
Completed	27
Active	19
Number of panel reviews	
Completed	5
Active	5

Conducting the Review

The review had two distinct phases: analysis of the Act's operations and national consultations. From the start, the Minister determined that the review would:

- be open and transparent;
- be broad and extensive;
- be open to new issues being raised;
- provide a forum where concerned individuals and organizations could present their views; and
- provide a forum for iterative discussions on key issues and options.

To help meet these objectives, a review web site¹ was established early on to provide ready access to extensive information on the review, including copies of all the background studies, the schedule of public meetings and reports on the consultations.

Analysis of the Act's Operations

The Agency co-ordinated preparations for the review, beginning in early 1998. As a first step, the Agency prepared a framework for guiding the review, based on consultations with the federal Senior Management Committee on Environmental Assessment, provincial environmental assessment administrators and the Minister's Regulatory Advisory Committee. The committee is made up of representatives of the federal and provincial governments, Aboriginal and environmental groups and industry associations.

As part of the preparations, two major workshops were held with federal departments. The first considered the major issue areas related to the experience with the Act and possible approaches for addressing key concerns. The second explored the special issues arising from the application of the Act and its regulations to projects outside Canada involving the federal government.

The Agency also held a series of consultations with interested organizations to identify, from their perspective, the major issues arising from the first five years of experience with the Act. These discussions included representatives of environmental groups, Aboriginal organizations and industry.

These meetings identified the need for additional research to provide key information on a range of provisions and operations of the Act. Background studies to provide the necessary data and analysis were commissioned in the following areas from independent contractors:

- trends in environmental assessment;
- ongoing monitoring program of the *Canadian Environmental Assessment Act*;
- public participation in screenings and comprehensive studies;
- the public registry and Federal Environmental Assessment Index;
- the four enabling regulations under the *Canadian Environmental Assessment Act*;
- the operations of the *Canadian Environmental Assessment Act* as it applies to projects outside Canada;
- Section 5 "triggers";
- multi-jurisdictional environmental assessments;
- cumulative effects assessment;
- the federal co-ordination regulations;
- follow-up; and
- compliance monitoring.

¹ The review web site is accessible directly from the site of the Canadian Environmental Assessment Agency: www.ceaa-acee.gc.ca

Locations of National Public Consultations

General Public Sessions

Calgary AB
Charlottetown PE
Edmonton AB
Fredericton NB
Halifax NS
Iqaluit NT
Montreal QC
Ottawa ON
Quebec City QC
Regina SK
Saskatoon SK
St. John's NF
Thunder Bay ON
Toronto ON
Vancouver BC
Victoria BC
Whitehorse YT
Winnipeg MB
Yellowknife NT

Regional Workshops

Edmonton AB
Halifax NS
Montreal QC
Ottawa ON
Toronto ON
Vancouver BC
Winnipeg MB

Together, these reports (all available through the review web site) represent a comprehensive and independent analysis of the Act's first five years of operation.

On the basis of these preliminary consultations and background studies, the Agency prepared a major discussion paper to support the national consultations phase of the review. The discussion paper, released by the Minister in December 1999 (and also available through the review web site), provided extensive summary data on the Act's operations. It reviewed the major issues and concerns arising from the first five years of experience with the federal environmental assessment process, and offered analysis and options for improvement in three general areas:

- making the process more predictable, consistent and timely;
- improving the quality of environmental assessments; and
- strengthening opportunities for public participation.

The Consultations

The review provided a variety of opportunities for interested Canadians to contribute to the review of the Act, from general meetings to specialized workshops to an interactive web site. Individual reports on all of these consultation sessions, as well as copies of the formal submissions received by the Agency, are posted on the review web site.

National Public Consultations

National public consultations were held from January to March 2000, independently managed and facilitated by two Canadian consulting firms.

General Public Sessions: Afternoon and evening information sessions were held in 19 locations, including every provincial and territorial capital. The sessions were open to the general public, and individuals were encouraged to raise any issues, concerns or recommendations. About 800 persons attended these general public sessions, with nearly 80 making presentations.

Regional Workshops: One-day workshops were held in seven cities. At these sessions, invited representatives of industry associations, environmental organizations, provincial governments and federal departments explored, in detail, the issues and options presented in the public discussion paper. A separate regional workshop dealt exclusively with issues associated with the environmental assessment of projects outside Canada. More than 350 persons participated in these regional workshops.

Formal Submissions to the Agency: In addition to the public sessions and regional workshops, more than 100 formal submissions were made to the Agency from individual Canadians and organizations.

Review Web Site

In an effort to promote an open and transparent process and, in particular, to open up the review to Canadians in rural areas and those unable to attend the public consultation sessions, the review established an interactive web site as part of its consultations. The site allowed for convenient access to, and distribution of, background information and reports. It also included an electronic bulletin board for posting comments and submissions. To date, the site has received more than 40,000 visits.

Consultations with the Provinces

Bilateral and joint meetings between the Agency and representatives of the provincial environmental assessment agencies or branches have been held regularly for several years to discuss matters of mutual interest. During the review consultations, special meetings were held with provincial representatives to seek their ideas for improving the federal process. These meetings focussed on the co-ordination among governments of assessments involving more than one jurisdiction.

The provincial governments, with the exception of Quebec, submitted a joint report to the Minister of the Environment with recommendations based on an analysis of 44 case studies.

Discussions with Aboriginal Groups

The Assembly of First Nations, the Inuit Tapirisat of Canada and the Métis National Council facilitated discussions with Aboriginal peoples to develop recommendations for change. The Agency also conducted discussions with 13 regional Aboriginal organizations.

Regulatory Advisory Committee

The Minister's Regulatory Advisory Committee also made a substantial contribution to the review. The committee established working groups to review options and develop recommendations in five areas: improving the efficiency and effectiveness of the process, improving the quality of environmental assessments, improving public participation, assessing projects outside Canada and addressing issues related to Aboriginal involvement with the Act. Each working group held a series of meetings and workshops to discuss issues, develop consensus recommendations and identify important issues where further work is recommended.

Federal Departments and Agencies

The review also included extensive consultations on the experience and perspectives of federal departments and agencies, primarily through the Senior Management Committee on Environmental Assessment.

There is general support for the basic structure of the Act. While there may be opportunities to improve the operation of specific provisions, the Act's structure, including the factors to be considered and the types of environmental assessment, has proven to be solid.

Looking Back on Five Years of Experience

The review of the Act identified a number of strengths and important concerns associated with the current federal environmental assessment process under the Act.

Core Strengths of the Act

The review found that much of the current federal environmental assessment process continues to work well. These core strengths can form the foundation of an even stronger process.

1. Fundamentals of the Act

Many Canadians who participated in the review believe that the fundamental purposes and guiding principles of the Act are sound. They support the goals of sustainable development, accountability and public participation in decision making, and they see the environmental assessment process as a proven means of contributing to these goals.

There is general support, as well, for the basic structure of the Act. While there may be opportunities to improve the operation of specific provisions, the Act's structure, including the factors to be considered and the types of environmental assessment, has proven to be solid.

2. Panel Reviews

Panel reviews conducted under the Act have proven to be a core strength of the federal environmental assessment process. Their value was acknowledged by many individuals and organizations throughout the review consultations.

These reviews have encouraged meaningful public participation. They have been proactive in informing the public and in providing flexible, appropriate ways of involving specific groups likely to be affected by a project. They have consistently provided independent, high-calibre advice to the government.

Participant funding is also seen as a major strength of panel reviews. Funding is available to help interested individuals and groups review documents and participate in scoping activities and panel hearings. The funding program has helped bring many groups into the assessment process that otherwise may not have been able to participate, and improved the quality of their submissions.

3. Contribution to Sustainable Development

There is support for the Act as a tool to contribute to sustainable development by encouraging sound economic development that reduces adverse effects on the environment. Careful consideration of potential adverse environmental effects during the planning stages of a project has introduced mitigation measures that have promoted economic development while enhancing environmental protection.

4. Role of the Canadian Environmental Assessment Agency

The review indicated support for an enhanced role for the Agency to strengthen management of the federal environmental assessment process. For example, there were recommendations for an enhanced Agency mandate to promote quality assessments, improve co-ordination when several departments or governments are involved in an assessment and ensure that the public has adequate opportunities to participate in assessments.

The establishment of regional offices by the Agency has been seen as a positive step as well, allowing for much better informal “on the ground” co-operation and co-ordination among federal departments and between federal and provincial departments.

The Concerns of Canadians

The public discussion paper outlined three areas of concern about the Act and the federal environmental assessment process:

- inconsistency and uncertainty;
- quality of assessments; and
- public participation.

The review consultations confirmed that, in looking at the last five years, Canadians share these concerns.

1. Inconsistency and Uncertainty

Many Canadians participating in the consultations expressed concern about inconsistency and uncertainty in the manner of applying the current federal environmental assessment process. They believe the process is complex, and carries a high potential for overlap and duplication when several departments or governments are involved. There was general agreement that clearer lines of accountability for co-ordination were needed.

It was also noted during consultations that, as in other areas of public policy, the courts have played a role in shaping the federal environmental assessment process. Use of the courts may be inevitable in an area of law where a delicate balance between different interests is made.

Despite good progress on federal-provincial harmonization of assessments, problems remain in co-ordinating timing, information requirements and public participation in joint assessments. Industry representatives, for example, noted that project proponents cannot always be certain of the information requirements they would need to meet in assessments or even when a final decision would be made. The result can be delays in project planning and increases in costs, affecting competitiveness and leading to an uncertain climate for investors.

Another concern was the obligation of federal authorities to conduct assessments for many smaller-scale, routine projects which are known to have insignificant environmental effects. Some participants in the review consultations noted that such assessments could divert scarce resources and time away from the assessments of other projects that have greater potential for serious environmental effects.

In addition, some Aboriginal and environmental groups expressed serious concerns about gaps in the application of the current process to certain types of projects, including those projects undertaken by Crown corporations and projects funded by the federal government on Indian reserve lands.



2. Inconsistent Quality of Assessments

The review identified concerns about the inconsistent quality of environmental assessments conducted under the Act arising, for example, from methodological difficulties such as the consideration of cumulative environmental effects.

A number of groups called for greater efforts by the Agency and responsible authorities to monitor compliance with the provisions of the Act and to strengthen the role of follow-up to improve the quality of assessments.

3. Limitations to Public Participation

The Act has helped individuals and organizations participate in assessments of projects that could affect their communities and interests. There are numerous examples in which public participation has led to improvements in projects and reductions in adverse effects, particularly in the area of mitigation measures.

During the review, however, many individuals and groups expressed concern about public participation in environmental assessments. In particular, they cited limited opportunities for meaningful public involvement in screenings and comprehensive studies. Public participation in screenings is at the discretion of the responsible authority, while in a comprehensive study the report must be made available for public review and comment.

Another concern expressed in this area was the difficulty faced by the public in accessing information on federal environmental assessments through departmental public registries and the Agency's Federal Environmental Assessment Index.

In addition, there was the broader concern that the Act has not involved Aboriginal peoples in the environmental assessment process in a way they deem meaningful. Important issues here include the role of traditional knowledge in environmental assessments, and the need for special consultative and advisory approaches to incorporate Aboriginal perspectives.

Part 2: Opportunities to Strengthen the Federal Environmental Assessment Process

The Minister shall ... submit a report on the review to Parliament including a statement of any changes the Minister recommends.

s.72 (2), Canadian Environmental Assessment Act

Part 2 of this report sets out three goals for strengthening the federal environmental assessment process by building on the core strengths and values of the current Act, and responding to the concerns identified through the review. It also summarizes proposed initiatives in nine key areas to meet these goals.

An Overview

The review confirmed that there is support for an effective and efficient environmental assessment process at the federal level. Canadians look to the federal government for leadership and action in ensuring that environmental assessment remains an important tool for making decisions in support of sustainable development.

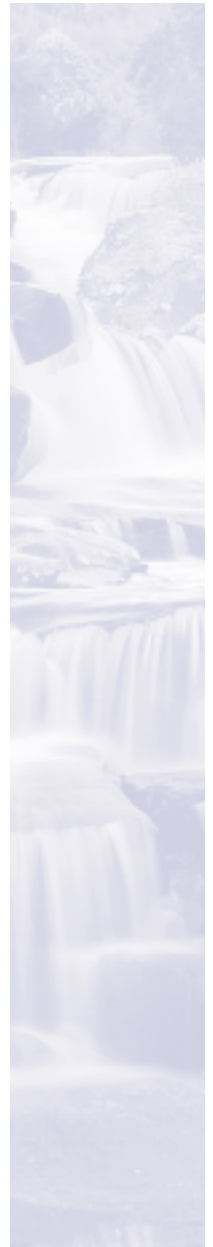
The review found many strengths in the current process: the fundamental purposes and principles of the Act, the basic structure of the process and the types of environmental assessments that can be undertaken, the general factors that must be addressed, and the role of the Agency. All these are sound. As a result, the Minister proposes to retain these features of the Act as the foundation of a revitalized federal environmental assessment process.

There also was general agreement among Canadians who participated in the review about how the process could be strengthened. The Minister proposes three goals for a renewed process:

1. a certain, predictable and timely process;
2. high-quality environmental assessments; and
3. more meaningful public participation.

To realize these goals, the Minister proposes a number of specific amendments to the Act—detailed in the accompanying bill—as well as associated policy and regulatory initiatives, in nine key action areas:

- focussing the Act on appropriate projects;
- improving coordination among participants;
- increasing certainty in the process;
- improving compliance with the Act;
- strengthening the role of follow-up;
- improving the consideration of cumulative effects;
- providing more timely access to information;
- better incorporating Aboriginal perspectives; and
- expanding opportunities for public participation.



The remainder of this report provides details on these proposed initiatives.

Taken together, the proposals reflect the need to address the concerns of all participants in the federal environmental assessment process: to build greater flexibility and accountability into the process; to bring greater certainty and timeliness to project proponents; to ensure opportunities for meaningful public participation; to simplify and clarify the obligations of responsible authorities; and to ensure that Canadians can count on the process to lead consistently to environmental assessments of the highest quality.



Goal 1: A Certain, Predictable and Timely Process

A renewed federal environmental assessment process must bring a greater measure of certainty, predictability and timeliness to all participants. A more efficient and effective process can save time, money and effort for industry, government authorities and the public. Clarity and predictability of the process would also help build greater confidence in the decisions of federal authorities, improving the overall climate for private sector investment in Canada.

The review identified a range of opportunities to improve certainty, predictability and timeliness through amendments to the Act and supporting policy and regulatory changes in three key areas:

- focussing the federal process on those projects likely to result in environmental effects;
- establishing clear lines of accountability for the co-ordination of assessments involving more than one federal department or agency; and
- simplifying several steps in the process to reduce much of the current uncertainty.

Proposed Initiative 1: Focus on Appropriate Projects

The review found a general concern that the Act, as it currently stands, requires assessments of many projects known to have inconsequential environmental effects with the application of proven mitigation measures. There is the additional challenge of ensuring that the Act's coverage is fair and consistent.

Reducing the need to assess many smaller, routine projects can free up time and scarce public resources that can then be applied to the assessment of projects with a greater likelihood of adverse environmental effects. The Minister believes that smaller, routine projects represent at least one third of all project-specific assessments under the Act, and that these assessments can be reduced through a combination of initiatives.

1. Encourage Greater Use of Class Screenings

The class screening type of assessment under the Act has the potential to reduce the time and resources needed to conduct screenings on many routine projects with known effects. In the first few years after the Act came into force, use of the class screening tool at the federal level was slow to develop. More recently, however, interest in class screenings has increased.

As detailed in the bill, the Minister wants to encourage much greater application of the class screening tool by amending the Act to add a new use for a class screening report. Under this new use, the Agency would have the power to declare, based on a class screening report, that some classes of projects do not warrant project-specific assessment. The class screening report would need to demonstrate that, when a project in the class is carried out within accepted design standards and using standard mitigation measures, it is not likely to cause significant adverse environmental effects. Responsible authorities would be able to determine which projects fall within the class screening report, and would be required to ensure that the conditions set out in the declared class screening report are applied to the project.

A more efficient and effective federal process can save time, money and effort for industry, government authorities and the public. Clarity and predictability of the process also would help build greater confidence in the decisions of federal authorities, improving the overall climate for private sector investment in Canada.

To streamline the declaration of class screenings, the bill would remove the requirement for the Agency to publish a notice regarding a draft class screening report in the *Canada Gazette*. Instead, the Agency would be given the authority to determine the most appropriate means of public notice for draft class screening reports. The final class screening report would, however, be published in the *Canada Gazette*. In addition, the proposed bill would require responsible authorities to post, on the new Canadian Environmental Assessment Registry, a statement, every three months, of the projects for which a class screening report was used.

To support these amendments, the Agency, in co-operation with responsible authorities, would periodically review a class screening report after it has been in use to ensure that the impact predictions were accurate and any mitigation measures effective.

2. Expand the *Exclusion List Regulations*

To focus resources further on those projects that may have adverse environmental effects, the Minister would invite federal authorities and Canada Port Authorities to recommend revisions to the existing project types listed on the *Exclusion List Regulations*, and to propose new candidate project types. The *Exclusion List Regulations* would be reviewed regularly to ensure that they remain relevant with respect to changes in government programs and priorities.

The Agency also would provide guidance to help responsible authorities effectively apply the *Exclusion List Regulations*.

3. Provide for Minor Projects Regulations

The bill would establish a clear, practical authority for the development of a regulation to exclude minor projects from an environmental assessment, based on the total cost of the project. Projects below a certain cost threshold would not require an assessment, as long as certain environmental conditions were met. These conditions may relate to such factors as the absence of critical habitat or species at risk.

4. Expand Coverage of the Act

Throughout the review, there were suggestions to bring greater certainty and consistency to the identification of projects covered by the Act. In response to these concerns, the bill seeks to expand the coverage of the Act to address several current gaps.

Reserve Lands

Under the proposed amendments, environmental assessments of all federally funded projects on reserve lands would be carried out when the essential details of the projects are known at the time of funding. As well, the bill would provide additional scope and flexibility in the development of regulations for the assessment of projects on reserve lands by band councils.

Federal Lands

The bill would provide for the development of regulations requiring the assessment of projects carried out on federal lands leased or managed by a third party. In support of this change, the Agency would identify, in consultation with federal departments, those non-federal entities, such as National Airports System Airport Authorities, that should be considered for possible regulations that would require assessments of environmental effects of projects undertaken on federal lands held under lease or other arrangements.

Crown Corporations

Currently, Crown corporations are covered under the Act in the same manner as their private sector counterparts, that is, an assessment is required only when a federal department or agency has a decision to make about a specific project involving the corporation. The Act currently provides the ability to develop regulations for Crown corporations that would set out their environmental assessment requirements. The bill proposes to clarify these provisions to close potential gaps in their application. First, the bill clarifies what would trigger an assessment to better address the unique circumstances of Crowns and to ensure that appropriate projects are captured. Second, the bill clarifies that a regulation could be developed for an individual Crown corporation or for a group of Crown corporations to recognize the important differences that exist among them. The Minister proposes to develop regulations for selected Crown corporations, recognizing their unique and diverse circumstances, so that the projects they undertake have the benefit of an environmental assessment.

Projects with Transboundary Effects

The current Act allows the Minister of the Environment to refer a project to a mediator or review panel, even in the absence of a formal requirement for an assessment, if the project has the potential to cause significant adverse environmental effects in another province, country or on federal lands such as a national park. However, technical problems with the wording of these transboundary provisions have inhibited their application. The bill proposes amendments that would make these sections more operable and consistent with the original intent of the Act. These changes support recommendations in the March 2000 *Report of the Panel on the Ecological Integrity of Canada's National Parks*. In particular, these amendments would help ensure that decisions about projects close to the boundaries of national parks include consideration of impacts on the ecological integrity of the park.

5. Provide Greater Flexibility to the Assessment of Projects Outside Canada

The *Projects Outside Canada Environmental Assessment Regulations* were introduced to ensure that environmental assessments of projects outside Canada involving the federal government comply with the spirit and principles of the Act. However, such assessments are confronted by special constraints and challenges, such as the need to respect the sovereignty and cultural setting of foreign states, the availability of information and the nature of development assistance programs.

In response to these concerns, the bill proposes changes that would provide for new regulations for the application of the Act to projects and activities funded by the Canadian International Development Agency (CIDA). The new regulations would provide CIDA with greater flexibility in assessing its projects and activities. For example, the proposed changes would recognize that Canada often provides development assistance in partnership with other countries and international agencies. The requirement for CIDA to provide information for the new environmental assessment registry in electronic format also may be modified in light of the lack of reliable internet access in some developing countries.

The *Projects Outside Canada Environmental Assessment Regulations* would remain in force for other federal authorities involved in projects outside Canada. In addition, the Minister proposes to amend the Act's current regulation-making authority to allow more flexibility in conducting assessments, reflecting the constraints of operating outside Canada.

One clear message of the review was the need to improve co-ordination among federal authorities, particularly when several are involved in the same environmental assessment. Improved co-ordination can reduce the potential for costly delays in project planning and increase the confidence of proponents.

Proposed Initiative 2: Improve Co-ordination Among Participants

One clear message of the review was the need to improve co-ordination among federal authorities, particularly when several are involved in the same environmental assessment. A related message was to ensure a “single window” co-ordinating role for the federal government in assessments involving more than one jurisdiction.

Improved co-ordination can reduce the potential for costly delays in project planning and increase the confidence of proponents in terms of consistency of information requirements and timing of decisions on their projects.

The Minister proposes to achieve these objectives by strengthening co-ordination on several key fronts.

1. Establish a Federal Environmental Assessment Co-ordinator

The bill would establish the role of a federal environmental assessment co-ordinator for every environmental assessment conducted under the Act. Under the amendment, the co-ordinator would serve as the principal point of contact for federal authorities during the environmental assessment. The co-ordinator would bring together all the federal authorities that may need to be involved and consolidate information requirements for the assessment. It would coordinate the actions of these federal authorities with provincial governments in joint assessments, and with other bodies, such as port authorities and band councils, that may be conducting assessments under the Act’s regulations. The co-ordinator also would be responsible for coordinating the Canadian Environmental Assessment Registry obligations of federal departments.

In carrying out these duties, the federal environmental assessment co-ordinator would be able to:

- establish and chair federal project committees made up of all potential responsible authorities and all interested federal authorities;
- establish timelines for the environmental assessment, after consulting with potential responsible authorities and federal authorities; and
- determine, in consultation with responsible authorities, the timing of any public participation required by the Act or proposed by a responsible authority.

The bill would designate the Agency as federal environmental assessment co-ordinator for multi-jurisdictional screenings and all comprehensive study assessments, unless the Agency and responsible authorities agree that one of the responsible authorities should be the co-ordinator. This designation would respond directly to the need to provide a “single federal window” to avoid overlap and duplication with reviews conducted by provincial governments.

A responsible authority, typically, would act as co-ordinator for federal-only screenings. When two or more responsible authorities are involved, they would collectively decide which would assume the co-ordinator’s role. Alternatively, they would be able to request the Agency to assume the role. In addition, the Agency would be given the authority to designate the co-ordinator, if the responsible authorities have not made the determination in a timely fashion.

The co-ordinator's functions would not replace the decision-making responsibilities of the responsible authority. The latter would remain responsible for determining the scope of the project and scope of assessment, determining the need for public involvement, making a decision on the project and determining the need for follow-up.

In support of these proposed amendments to the Act, changes in the *Federal Coordination Regulations* would be made to provide criteria to guide responsible authorities in determining which would assume the role of co-ordinator.

These changes would ensure that all federal interests are identified at the earliest possible stage of project planning, greatly improving the certainty and timeliness of the process for the proponent.

2. Affirm Role of Co-operative Federal-Provincial Reviews

The federal and provincial governments have made good progress on harmonizing their environmental assessment processes in recent years. Yet, as noted previously, problems remain in several areas.

The bill would affirm the importance of co-operative reviews between the federal and provincial governments. The amendment would recognize, through an addition to the purposes of the Act, the importance of promoting co-operation and co-ordination between federal and provincial governments in conducting environmental assessments.

Co-operative reviews can bring greater certainty to the environmental assessment by, for example:

- clarifying federal and provincial involvement in multi-jurisdictional reviews;
- developing co-operative approaches to scoping the project;
- establishing project-specific work plans; and
- establishing options for resolving disputes.

Proposed Initiative 3: Increase Certainty in the Process

The review identified a number of important opportunities to bring greater certainty to the federal environmental assessment process. While the process must remain open and flexible, greater certainty can promote more effective project planning, while helping the competitive position of Canadian companies by reducing the potential for project delays and cost increases.

The Minister proposes several important changes to bring a greater measure of certainty to the process.

1. Improve the Predictability of the Comprehensive Study Process

Under the current comprehensive study process, there is a chance that a project could be referred to a panel review even after having undergone a comprehensive study. The bill would eliminate this possibility and bring greater certainty to the process for all participants.

The proposed amendment would introduce a new decision-making point early in the comprehensive study process. When the responsible authority, following public consultation, believed it had gathered sufficient information, it would report to the Minister of the Environment on:

- the scope of the project, and the factors to be considered in the assessment;
- public concerns in relation to the project;
- the potential of the project to cause adverse environmental effects; and
- the ability of the comprehensive study process to address issues related to the project.

The responsible authority would recommend to the Minister whether to continue the assessment by means of a comprehensive study or refer the project to a review panel or mediator. The Minister would make the final decision on how to proceed. No subsequent referral to a panel review would be possible once the decision was made to proceed with a comprehensive study.

As a quality assurance step, the bill also proposes to provide the Minister with several options at the end of the comprehensive study. The Minister would set 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 the program. The Minister could also request that the federal authority or the proponent provide additional information or take action to address outstanding public concerns before referring the project back to the responsible authority for action. These decisions made by the Minister would be posted on the Canadian Environmental Assessment Registry in his environmental assessment decision statement.

In support of these changes, the Agency would work with responsible authorities to develop guidance material on the new comprehensive study process. This would include an outline of roles and responsibilities for federal authorities and responsible authorities, and recommended procedures for the revised process including determining the scope of the project and the assessment.

2. Promote the Early Involvement of Federal Authorities

In the past, the involvement of some federal departments in environmental assessments has been delayed because the regulatory decision they must make about the project arises relatively late in the process.

The Minister proposes to reduce this uncertainty through procedural changes that would involve all appropriate federal authorities early in the assessment for projects that may require an assessment as a result of a *Law List Regulations* permit or licence decision. This early involvement would ensure that all the federal government's information needs are conveyed to project proponents as soon as possible.

Under the proposal, federal authorities would adopt an "automatically in" approach with respect to their environmental assessment requirements. This might be accomplished through departmental policy based on an agreement among the affected federal authorities and the Agency. Implementation of the policy could be facilitated by the Federal Environmental Assessment Co-ordinator. A federal authority responsible for issuing a particular permit listed on the *Law List Regulations* would act as if an environmental assessment were required for any project proposal that could be subject to that trigger. The authority's involvement would continue unless it determines that the project would not be subject to that specific *Law List Regulations* entry.

3. Promote Greater Use of Mediation and Dispute Resolution

Mediation and other forms of dispute resolution hold promise for reducing the costs and time demands of environmental assessments. The bill proposes two changes to promote greater use of these approaches to resolving disputes while improving the efficiency of the federal environmental assessment process.

First, a proposed amendment to the Act would remove the current requirement to refer a project to a panel review if the mediation is not likely to produce a result that is satisfactory to all participants. This automatic referral to a panel had been seen as one of the barriers to the use of mediation.

A second amendment in the bill would clarify that the Agency may play a role in building consensus and resolving disputes in the application of the Act, outside the formal mediation track. For example, the Agency could co-ordinate the use of mediation in more informal circumstances during screenings and comprehensive studies, if the parties agreed.

4. Clarify Key Terms and Procedures

The review identified opportunities to bring greater clarity and certainty to the federal process through clarification of key terms and procedures in the Act.

Through the bill, the Act would be amended to clarify that responsible authorities have the authority to ensure the implementation of any mitigation measure as long as, in so doing, they are acting within areas of federal jurisdiction. In addition, the bill would clarify that all federal authorities have a role in implementing mitigation measures that have been agreed upon by the responsible authority and federal authorities, even if those measures are brought into force through an act administered by another federal authority.

Also under the bill, a responsible authority Minister would be able to prohibit a proponent from undertaking activities within the scope of the project being assessed that alter the environment, until the assessment is completed and a decision has been made. This would be used for activities and projects that are subject to federal jurisdiction, including where the responsible authority Minister believes that the activity may cause significant adverse environmental effects on a matter within federal jurisdiction. The decision of the responsible authority Minister would be enforceable through a court order.

Finally, all the Act's regulations would be reviewed regularly and revised when necessary to ensure that they remain relevant with respect to the purposes of the Act, and to broader changes in government programs and priorities.

High-quality assessments can contribute to better decisions in support of sustainable development, and can help build a more accountable planning process. Quality assurance has many facets—compliance, follow-up, methodological advances.

Goal 2: High-quality Environmental Assessments

Beyond bringing greater certainty, predictability and timeliness to federal environmental assessments, a renewed process must enhance the quality of the assessments. High-quality assessments can contribute to better decisions in support of sustainable development, and can help build a more accountable planning process.

Quality assurance has many facets—compliance, follow-up, methodological advances. The Minister proposes to promote quality environmental assessments through initiatives in all three of these areas.

Proposed Initiative 4: Improve Compliance with the Act

Efforts to ensure high-quality environmental assessments must be founded on measures to promote compliance with the Act. The responsibility for compliance is shared by several participants in the process—responsible authorities assess the environmental consequences of their actions and take these consequences into account in their decisions, while the Agency works to ensure the consistency and quality of all environmental assessments involving the federal government.

The review identified strong support among Canadians to promote greater compliance with the Act. In support of this objective, the Minister proposes to amend the Act to establish a clear role for the Agency in promoting and monitoring compliance with the Act. Under the proposed change, the Agency would have the power to request information from responsible authorities in support of a quality assurance program.

Using this authority, the Agency would lead a quality assurance program for assessments done by federal departments and other entities subject to regulations. The program would include an on-going mechanism to monitor compliance with the Act and the overall quality of assessments, and will influence the development of guidance to promote consistency in the application of the Act.

Proposed Initiative 5: Strengthen the Role of Follow-up

Follow-up is an essential component of an effective environmental assessment process. It can help build in accountability and ensure that sound environmental protection measures are in place during construction, operation and decommissioning of a project. Above all, follow-up is a tool for encouraging continuous learning and improvement over the long run—using past experience to improve the quality of future assessments. There is an opportunity to strengthen the application of follow-up in environmental assessments by addressing a number of concerns raised in the review.

The Minister proposes to amend the Act to require responsible authorities to ensure that a follow-up program, consistent with the current definition in the Act, is conducted for projects that have undergone a comprehensive study or panel review. The bill would clarify that responsible authorities could request assistance from federal authorities to ensure the implementation of a follow-up program on which the responsible authority and federal authority have agreed. Responsible

authorities also would be required to consider whether follow-up programs are appropriate for screenings they are conducting.

As well, the bill would clarify that the results of a follow-up program can contribute to the design and implementation of adaptive management measures applicable during the life of the project.

In support of these proposed changes to the Act, the Agency would develop guidelines to advise responsible authorities, federal authorities and others on how to conduct follow-up, how to report results and on how to determine who would be responsible for the various components of the follow-up program. The Agency also would act as a central electronic repository of information gathered during follow-up, allowing others to use the results of follow-up programs to improve their ability to predict effects and design mitigation measures.

Proposed Initiative 6: Improve the Consideration of Cumulative Effects

The analysis and consultations of the review identified the consideration of cumulative effects—the combined effects of many projects in a region over a long period of time—as one of the most important methodological challenges facing environmental assessment in Canada.

Under the current Act, the consideration of cumulative effects is limited to the environmental assessment of individual project proposals. During the review, a number of organizations suggested that regional or area-wide reviews of development activity and proposals within an ecosystem or geographic region may be better able to address cumulative effects, make more efficient use of scientific expertise and local knowledge, and provide more consistent requirements for industry.

There also is the important question of jurisdictional issues in addressing cumulative effects. In attempting to conduct area-wide assessments, the federal government must be aware of the potential for infringing on provincial jurisdiction.

In an effort to improve the systematic consideration of cumulative effects, the bill would recognize the value of regional studies in assessing cumulative environmental effects, and in streamlining project assessments where provinces and territories are in agreement with such an approach. The proposed amendment would recognize that federal authorities could participate in such regional approaches and that the results of these studies could be used in conducting environmental assessments under the Act, including the consideration of any cumulative environmental effects.

In support of these proposed changes, the Agency proposes to work with federal departments to refine cumulative effects guidance material further, and to serve as a clearinghouse for sharing ideas and experiences on best practices and case studies.

Meaningful public participation in the environmental assessment process was one of the strongest messages emerging from the review. The Minister is committed to ensuring that the federal process remains one worthy of the trust and of the involvement of all Canadians.

Goal 3: More Meaningful Public Participation

The fundamental value of meaningful public participation in the environmental assessment process was one of the strongest messages emerging from the review.

Through meaningful public participation, all interested persons and organizations have a fair opportunity to contribute and to see how their contributions have been used. Proponents and government decision makers are provided with better information about possible environmental effects, and can better address public concerns and priorities. Final decisions can better reflect community values. Effective public participation also can build greater public trust, confidence and acceptability in the environmental assessment process and in the decisions that come out of that process.

The Minister is committed to ensuring that the federal environmental assessment process remains one worthy of the trust and of the involvement of all Canadians. The Minister proposes to work toward this goal through actions in the three priority areas identified in the review:

- make sure Canadians have the information they need to participate in assessments involving the federal government;
- better incorporate Aboriginal perspectives in environmental assessments; and
- provide expanded opportunities for Canadians to participate in assessments under the Act.

Proposed Initiative 7: Provide More Timely Access to Information

The current Act requires a responsible authority to establish a public registry for each environmental assessment. The registry is intended to provide convenient public access to the reports and other information about the assessment.

The review found general support for revamping this current approach. There is a need to develop a more user-friendly system, promote greater public use of the public registry, encourage more consistent provision of information across the federal government and ensure the ready availability of important documents in electronic format.

In pursuit of these objectives, the bill would establish a new Canadian Environmental Assessment Registry in place of the current public registry provisions. This would be a single, government-wide electronic registry to be administered by the Agency. The electronic format would be consistent with, and supportive of, the Government of Canada's commitment to provide its information and services on-line.

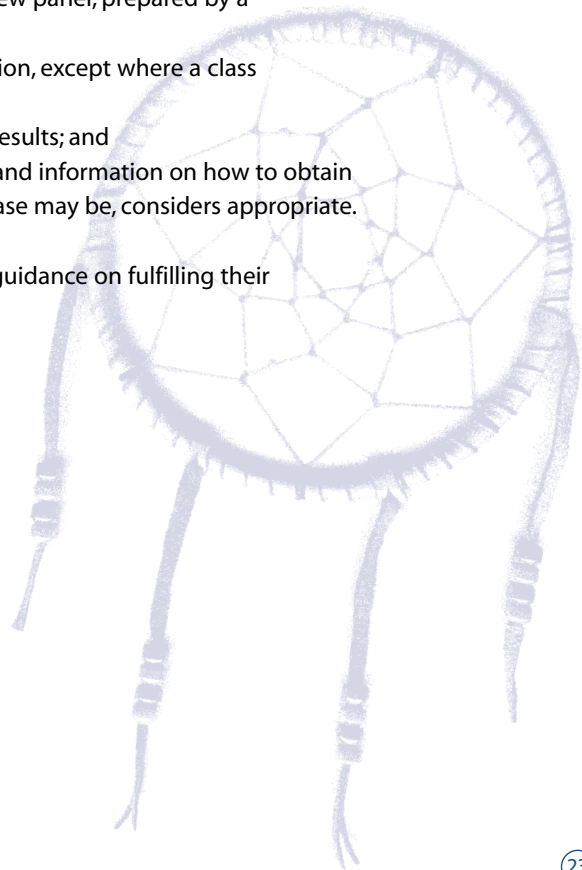
Under the proposed amendment, responsible authorities would be required to post on the new registry a notification of the commencement of an environmental assessment. This requirement would help ensure that all interested individuals and organizations are aware of an assessment from the outset. The notification will present essential information on the assessment, such as the name, location and summary description of the project, including the identities of the proponents and federal departments directly involved in the assessment.

Responsible authorities would be responsible for placing information on the registry for screenings and comprehensive studies. The Agency would be responsible for posting information for mediations and panel reviews, and for posting the Minister's environmental assessment decision statements for comprehensive studies.

In addition to the notification of the commencement of an environmental assessment, the following information would have to be placed on the registry:

- declarations related to a class screening report along with a copy of the class screening report or information on how to obtain a copy of it;
- a statement of the projects for which a class screening report has been used, every three months;
- a copy of any agreement between the Agency and a responsible authority concerning the designation of the federal environmental assessment co-ordinator;
- notices of any termination of an assessment prior to its completion;
- public notices that are issued by the responsible authority or the Agency to request public input into an environmental assessment;
- notice of a decision of the Minister to refer a project to a comprehensive study or to a review panel or mediator;
- the screening or comprehensive study report upon which the responsible authority's decision is based, or information on how to obtain a copy;
- the Minister's environmental assessment decision statement, following review of a comprehensive study report;
- notice of the termination of mediation;
- a report of a mediator or review panel, or a summary of the report;
- the government's response to a report of a mediator or review panel, prepared by a responsible authority or federal authority;
- the responsible authority's environmental assessment decision, except where a class screening report has been used;
- a summary of the design of any follow-up program and its results; and
- any other information, such as a list of relevant documents and information on how to obtain them, that the responsible authority or the Agency, as the case may be, considers appropriate.

The Agency would work with responsible authorities to develop guidance on fulfilling their obligations under the new registry.



Proposed Initiative 8: Strengthen the Incorporation of Aboriginal Perspectives

Aboriginal peoples in Canada have a unique role to play in many environmental assessments, particularly those involving reserve lands, and treaty and settled land claim areas. However, the current Act contains no special provisions for incorporating the unique perspective of Aboriginal people in environmental assessments.

The discussions conducted with Aboriginal groups identified important concerns such as current gaps in the Act's coverage, the role of traditional knowledge in the federal environmental assessment process and the need for special approaches to consultation to involve Aboriginal people where their communities and traditional lands may be affected.

The proposed amendments to address the assessment of all federally funded projects on reserve lands have been noted previously. The Minister proposes to strengthen the incorporation of Aboriginal perspectives in the federal environmental assessment process, through several additional initiatives.

The Minister proposes to amend the Act to recognize formally the value and use of traditional knowledge in conducting environmental assessments. Responsible authorities and review panels would be encouraged to consider traditional knowledge in their assessments.

To support and complement the effort to better incorporate Aboriginal issues, an Aboriginal advisory committee would be established. The committee would provide advice from Aboriginal groups on environmental assessment issues such as consultation and traditional knowledge, and consider broader issues beyond the scope of the review.

With the advice of an Aboriginal advisory committee, the Agency would continue to develop guidelines to address how traditional knowledge can be accessed and incorporated into an environmental assessment.

Proposed Initiative 9: Expand Opportunities for Public Participation

The current Act established clear opportunities for public participation in federal environmental assessments. Over the last five years, public involvement has contributed to better assessments, better decisions and a greater sense of openness and accountability in the federal government.

In seeking to expand the opportunities for public participation in the federal assessment process, the bill would build on this core value of the Act in screenings, comprehensive studies and panel reviews.

1. Clarify Opportunities for Public Participation in Screenings

Under the Act, public participation in screenings, which account for more than 99 per cent of all environmental assessments conducted under the Act, is at the discretion of the responsible authorities.

The review identified the need to promote greater consistency of public participation opportunities in screenings. For example, there have been questions as to whether public participation in a screening is restricted to the review of, and comment on, a draft screening report, or whether the responsible authority can provide additional opportunities for participation.

The Minister proposes to amend the Act to clarify that a responsible authority may establish opportunities for public participation at any stage in the screening of a project, in addition to consultation on the draft report. As well, under the provisions of the proposed Canadian Environmental Assessment Registry, the responsible authority would have to post a public notification of the commencement of a screening.

In addition, ministerial guidelines would be developed to establish criteria to be considered by responsible authorities in making a determination as to whether public participation in a screening is warranted. Under the guidelines, a responsible authority also would indicate, in its screening report, the basis on which it made the determination on whether to consult the public.

2. Expand the Role of Public Participation in Comprehensive Studies

The review identified strong support for earlier, more substantive public participation in comprehensive studies, given the scale and complexity of the projects undergoing this level of assessment. Under the current process, public involvement in comprehensive studies is required only in the form of public review of, and comment on, the comprehensive study report.

The bill would add two additional opportunities for public participation in a comprehensive study:

- early on in the assessment, when the responsible authority is seeking the information it needs before recommending to the Minister whether the project should continue in a comprehensive study or be referred to mediation or a panel review; and
- during conduct of the comprehensive study.

The existing opportunity for the public to review and comment on the comprehensive study report would remain unchanged.

In addition, the Minister proposes to establish a funding program to facilitate the participation of the public in comprehensive study assessments, similar to the program now in place for panel reviews.

In support of these legislative changes, the Agency would develop guidance material to help responsible authorities develop effective public participation approaches in comprehensive studies.

3. Reaffirm the Co-operative Nature of Panel Reviews

One of the most important trends in environmental assessment in Canada over the last five years has been the establishment of joint panel reviews—harmonized initiatives in which the federal and provincial governments assess a project through a single review. This co-operation has helped avoid duplication of effort in analysis and reporting, and has brought greater certainty to the decision-making process for project proponents. Some questions were raised in the review consultations, however, about opportunities for public participation in such processes.

The Minister believes that the application of joint review panels would increase in the years ahead, and that there would be a need to maintain flexibility and co-operation on all sides. As noted previously, the Minister proposes to reaffirm the government’s commitment to working co-operatively on reviews conducted jointly with provincial governments. At the same time, the Minister wants to clarify that many of the characteristics of the panel review process currently outlined in the Act, such as the provision of funding to enable the public to participate, would continue to apply to joint panels.

The Next Five Years: What the Changes Will Mean for Canadians

The review of the Act has been a challenging, thought-provoking and highly rewarding exercise.

Through the review's analysis and consultations, Canadians now have a better understanding of how the Act has worked in its first five years. Much of that experience has been positive, and there are many features of the process established by the Act that are working well, and that should be retained and reinforced.

The review also has identified ways to strengthen the current process, so it can continue as a dynamic, effective decision-making tool in support of sustainable development.

The proposals for Parliament's consideration, outlined here and in the accompanying bill, respond to the range of ideas and concerns expressed by Canadians in the national consultations. Taken as a whole, the proposals are practical, fair, balanced and realistic. Implementing many of the changes would require some additional resources for federal departments and agencies. The costs of implementation, however, should be seen as a longer-term investment that would pay off in terms of a stronger, more efficient process and better environmental assessments.

In looking ahead, it is fair to ask, What kind of environmental assessment process are the proposals likely to create in the coming years?

There is no single answer ...

- ... A federal environmental assessment process that would work well on behalf of all Canadians, that would represent a prudent and effective use of taxpayers' money, that would ensure environmental concerns are brought to the heart of decisions involving the federal government.
- ... A process that would provide greater certainty, predictability and timeliness for all participants.
- ... A process that would promote the highest possible quality of assessments through a strong commitment to compliance and follow-up.
- ... A process that would provide clear opportunities for Canadians to have a meaningful say in projects that may affect their livelihoods and communities.
- ... A process that would respect the role of provincial governments in environmental assessment and that would encourage and support co-operation between the federal and provincial governments on behalf of all Canadians.
- ... A process that would incorporate the special role of Aboriginal traditional knowledge in environmental assessment.



The proposals outlined here are neither a beginning nor an ending. Rather, they represent a continuation of an important effort that dates back more than 25 years in Canada—bringing environmental factors to the table when governments make decisions.

The first rule of planning is that the environment recognizes no boundaries. So too, a revitalized federal environmental assessment process cannot be realized by any one agency or government acting on its own. Efforts to strengthen environmental assessment in Canada must be built on common goals and co-operative actions.

The federal government is committed to being a strong, dependable partner in this effort, working with provincial governments, Aboriginal groups and governments, proponents, environmental groups and concerned individuals. It is committed to keeping Canadians informed of progress, and continuing to seek their ideas for on-going improvement in the years ahead. And it is committed to leading this effort, so Canadians can count on having the best environmental assessment process in the world working for them and for their special environment.