

## FACT SHEET: Environmental Assessments

This fact sheet is intended to answer common questions that members of the public might have about the environment assessment process. This fact sheet describes the environmental assessment process under the *Canadian Environmental Assessment Act (CEAA)* and under Alberta's *Environmental Protection and Enhancement Act (EPEA)*.

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### **What is environmental assessment?**

Environmental assessment is a process used by governments to predict the environmental effects of a proposed project before it is carried out. It is also used to determine how to mitigate environmental impacts by providing that activities take place in a specified manner. Governments use the information gathered from an environmental assessment to decide whether or not the proponent of a project can apply for a licence, approval or other permission so that the project may go ahead.

In Alberta, an environmental assessment of a project may be required by the federal government under the *Canadian Environmental Assessment Act (CEAA)* or by the provincial government under Alberta's *Environmental Protection and Enhancement Act (EPEA)*.

Environmental assessment is different from other types of environmental studies such as environmental site assessments and environmental audits. An "environmental site assessment" (ESA) is an investigative process that can determine whether it is likely a property is contaminated, the extent of contamination and the options for cleaning it up. For more information on this topic, please see the Environmental Law Centre's fact sheet on Protecting Yourself in Land Purchases.

An "environmental audit" is used to evaluate the environmental management and compliance of a specific operation. Commonly, it is used to verify a company's compliance with both legal requirements and internal organizational policies and standards on environmental matters.

## **What is the *Canadian Environmental Assessment Act (CEAA)*?**

*CEAA* is the legal basis for the federal environmental assessment process. This Act sets out the responsibilities and procedures for carrying out the environmental assessment of projects that involve the federal government. *CEAA* is administered by the Canadian Environmental Assessment Agency.

## **When is a federal environmental assessment required?**

A federal environmental assessment is required whenever a "federal authority," such as a federal department or agency, has one or more of the following powers or duties in relation to a project:

- proposes a project;
- provides financial assistance to a project;
- sells, leases or otherwise transfers control of federal lands to enable a project to be carried out; or

- provides a permit, licence or an approval listed under the *Law List Regulations*, SOR/94-636 that enables a project to be carried out.

The *Law List Regulations* lists sections of federal legislation that trigger the environmental assessment process. For example, a person who applies for an approval to build a weir across navigable water under the *Navigable Waters Protection Act* triggers the federal environmental assessment process.

In addition to the federal powers and duties listed above, a project may also require a federal environmental assessment if it has transboundary or international effects.

## What is a project?

The application of *CEAA* is limited to “projects”. A “project” can be either:

- an undertaking in relation to a physical work; (for example, the construction of a bridge or dam with federal involvement); or
- an undertaking included in the *Inclusion List Regulations*, SOR/94-637 (for example, certain projects in national parks or on Aboriginal lands).

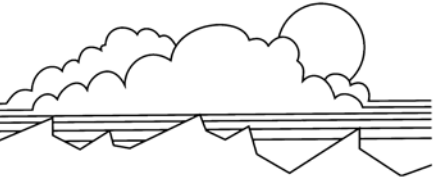
Projects that do not require an environmental assessment under *CEAA* are listed under the *Exclusion List Regulations*, SOR/94-639.

## What types of federal environmental assessments are available?

There are four types of environmental assessments under *CEAA*: (1) screenings; (2) comprehensive studies; (3) mediations; and (4) panel reviews.

Most projects are subject to screening. Once the responsible federal authority has prepared a screening report, it is decided whether the project is approved to go ahead or rejected, or it is sent for further review by mediation or a review panel.

Larger projects having the potential for significant adverse environmental effects are listed in the *Comprehensive Study List Regulations*, SOR/94-638. The



responsible federal authority prepares a scoping report outlining any public concerns, the project's potential to cause adverse environmental effects and the ability of the comprehensive study to address the issues raised. The responsible authority recommends to the federal Minister of Environment (the Minister) whether the assessment should proceed as a comprehensive study or whether it should be referred to mediation or a review panel. The Minister decides how to proceed. Once the Minister refers a project to a comprehensive study, he or she may no longer refer it to a review panel or a mediator.

Some projects that are screened or are listed in the *Comprehensive Study List Regulations* may be referred to mediation or a panel review. In either case, the mediator or review panel prepares a report for the Minister and the responsible federal authority. The responsible federal authority decides whether the project may go ahead or not.

## **What is a joint review panel?**

When a project requires a decision from the federal government and another level of government, they may choose to conduct the assessment through a joint review panel to save time and money. For example, a joint review panel is used to assess the large oil sands projects in northern Alberta which is made up of members of both the Canadian Environmental Assessment Agency and the Alberta Energy and Utilities Board (EUB).

The government has developed harmonization agreements with some provinces to facilitate such joint reviews. In Alberta, this is done under the *Canada-Alberta Agreement for Environmental Assessment Cooperation (2005)*.

## **How can the public participate in a federal environmental assessment?**

CEAA gives varying levels of public participation depending on the type of federal environmental assessment.

For screenings, public participation is discretionary. However, if the responsible federal authority decides to solicit public input as part of the screening process, it



must provide an opportunity for the public to examine and comment on the screening report. Public input must also be considered by the responsible authority in making its decision.

For comprehensive reviews, public participation is mandatory. The public must be notified of the scoping report and be given an opportunity to provide comments before any decisions are made about the project. If the project proceeds as a comprehensive study, the public must be given additional opportunities to participate.

In mediations, the mediator may allow “interested parties” to participate in the mediation. “Interested parties” means any person or body having an interest in the outcome of the environmental assessment for a purpose that is neither frivolous nor vexatious.

In panel reviews, members of the public may participate in scoping meetings to identify issues that need to be addressed by the panel. There are also opportunities later in the process to appear before the review panel in public hearings to present evidence, concerns and recommendations.

## **How do I get information on environmental assessments occurring in my area?**

The Canadian Environmental Assessment Agency maintains a registry with information about projects undergoing environmental assessment. This information can be accessed on the Agency’s website at <[http://www.ceaa-acee.gc.ca/050/index\\_e.cfm](http://www.ceaa-acee.gc.ca/050/index_e.cfm)>. The registry can be searched by keyword and by province or territory.

## **Can I get my costs covered?**

CEAA requires that a participant funding program be established to facilitate public participation in comprehensive studies, mediations and review panels. Individuals and incorporated not-for-profit organizations may apply for participant funding under the program, providing they can demonstrate that they meet at least one of the following criteria:

- they have a direct, local interest in the project, such as living or owning property in the project area;
- they have community knowledge or Aboriginal traditional knowledge relevant to the environmental assessment; or
- they plan to provide expert information relevant to the anticipated environmental effects of the project.

A guide to participant funding is available from the Canadian Environmental Assessment Agency or from the Agency's website at <<http://www.ceaa-acee.gc.ca/>>.

## **What is the *Environmental Protection and Enhancement Act (EPEA)*?**

*EPEA* is the main environmental law in Alberta. It sets out the responsibilities and procedures for carrying out the environmental assessment of projects in Alberta. Under this Act, environmental assessments are called environmental impact assessments (EIAs). The EIA process is administered by Alberta Environment.

## **When is an Alberta environmental impact assessment (EIA) required?**

*EPEA* has three categories of activities relating to EIAs: (1) mandatory; (2) exempt; and (3) discretionary. The *Environmental Assessment (Mandatory and Exempted Activities) Regulation*, Alta. Reg. 111/93 lists mandatory activities that automatically require an EIA and those activities that are exempt from EIAs. For example, many large scale projects such as pulp mills, oil refineries and dams are always subject to the EIA process; other projects such as the drilling of water wells, oil wells and gas wells are always exempt from the EIA process.

All other activities may be subject to an EIA at the discretion of Director. The Director is a government officer with Alberta Environment. In exercising this discretion, the Director must consider:

- the location, size and nature of the proposed activity;

- the complexity of the proposed activity and the technology to be employed in it;
- any concerns in respect of the proposed activity that have been expressed by the public of which the Director is aware;
- the presence of other similar activities in the same general area;
- any other criteria established in the regulations; and
- any other factors the Director considers to be relevant.

## **What are the steps in the EIA process?**

In Alberta, the EIA may consist of up to three stages: (1) an initial review; (2) a screening report; and (3) an EIA report. An initial review begins when the Director, a government officer with Alberta Environment, becomes aware of a proposed activity. There are three potential outcomes of the initial review process:

- the project is a mandatory activity and automatically requires an EIA;
- the Director decides that an EIA is not required, and the proponent proceeds with applying for any approvals that may be required; or
- the Director determines that more information is required and orders a screening report.

A screening report considers factors such as the complexity of the project, the nature of the technology involved, the sensitivity of the location and the presence of other similar activities in the area. The two potential outcomes of the screening process are either that the Director decides that an EIA report is required or the Director decides that an EIA report is not required, and the proponent proceeds with applying for any approvals that may be required for the project.

The final stage of the EIA process is the preparation of the EIA report. To help determine the contents of the report, the proponent must propose “terms of reference”. After a reasonable time for public comment, the Director then finalizes the terms of reference and provides public notice of the final terms of reference.

*EPEA* sets out the general requirements for what must be included in the EIA report including:

- a description of the environmental, social, economic and cultural impacts of the project;
- an analysis of the significance of these impacts;
- the plans that have been or will be developed to mitigate the negative impacts identified; and
- a consideration of alternatives to the project.

After notice is given to the public, the EIA report is reviewed by Alberta Environment and may be forwarded to other applicable decision-makers. In most cases, the decision-maker will be either the Alberta Energy and Utilities Board (EUB) or the Natural Resources Conservation Board (NRCB). For further information on the EUB, please see the Environmental Law Centre's fact sheet on the Alberta Energy and Utilities Board.

## **How can the public participate in Alberta's EIA process?**

There are opportunities for public participation during the later stages of the EIA process.

In the initial review stage, there is no opportunity for public notice or comment. If, following this stage, the project will be subject to further assessment and a screening report, the public is given notice and "directly affected" individuals can submit a statement of concern about the project within 30 days of the notice. For further information on submitting a statement of concern and the meaning of "directly affected", please see the Environmental Law Centre's fact sheet on Environmental Approvals and Licences.

In the final stage, the public is given notice of the proposed terms of reference and finalized terms of reference and given the opportunity to review and comment on both documents. The public is also given notice of the EIA report and where it can be obtained free of charge.



After the EIA process is complete, if the proponent needs to apply for an approval or licence under *EPEA* or the *Water Act* there are opportunities for directly affected members to submit statements of concern about the project. If the approval or licence is later appealed, directly affected members may participate in the appeal before the Alberta Environmental Appeals Board. For further information on this topic, please see the Environmental Law Centre's fact sheet on the Alberta Environmental Appeals Board.

## **How do I get information on EIAs occurring in my area?**

Alberta Environment maintains a register of information related to EIAs, which can be accessed from the Alberta Environment website at <http://www3.gov.ab.ca/env/protenf/assessment/>. Information can also be obtained by contacting Alberta Environment at 780-427-5828.

## **Where can I get more information?**

For general information about legal rights and processes related to environmental assessment, please contact the Environmental Law Centre. Further resources are included below.

### Environmental Law Centre Library Resources and Online Catalogue:

Canadian Environmental Assessment Agency. *The Canadian Environmental Assessment Act: Training Compendium* (Hull: Canadian Environmental Assessment Agency, 1995).

Hobby, Beverly, et al., eds., *Canadian Environmental Assessment Act: An Annotated Guide*, looseleaf (Aurora, Ont.: Canada Law Book, 1997).

### Online Resources:

Canadian Environmental Assessment Agency, online:  
<<http://www.ceaa.gc.ca/>> - this website provides information on the federal environmental assessment process.

Canadian Environmental Assessment Agency Registry, online:  
<[http://www.ceaa.gc.ca/050/index\\_e.cfm](http://www.ceaa.gc.ca/050/index_e.cfm)> - this website contains information about projects undergoing environmental assessment under the *Canadian Environmental Assessment Act*.

Alberta Environment, online:  
<<http://www3.gov.ab.ca/env/protenf/assessment/>> - this website provides information about Alberta's environmental impact assessment process and also provides a link to the provincial register which contains information about projects undergoing assessment in Alberta.

## **A word of caution about your use of this material**

The information provided in this fact sheet is current to December 31, 2006. While every effort has been made to ensure the accuracy and timeliness of the information, the information provided is of a general nature and is not a substitute for legal advice. The Environmental Law Centre encourages individuals to seek specific advice on matters of concern and not to rely solely on the information in this document.

## **The Environmental Law Centre**

The Environmental Law Centre (Alberta) Society is a registered charitable organization that was incorporated in 1982 to provide Albertans with an objective source of information on environmental and natural resources law. The Centre, which is staffed by four full-time lawyers, a librarian and a small support staff, provides services in environmental law education, assistance, research and law reform. The Centre maintains an extensive library and online catalogue of environmental law materials that is accessible by the public free of charge.

Funding for the Environmental Law Centre is provided by the Alberta Law Foundation and through the generous support of the public. The Centre also accepts private and government research contracts for work relevant to and consistent with the Centre's objectives.

**ENVIRONMENTAL LAW CENTRE**



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