



ENVIRONMENTAL ASSESSMENT REVITALIZATION REVIEWABLE PROJECTS REGULATION INTENTIONS PAPER

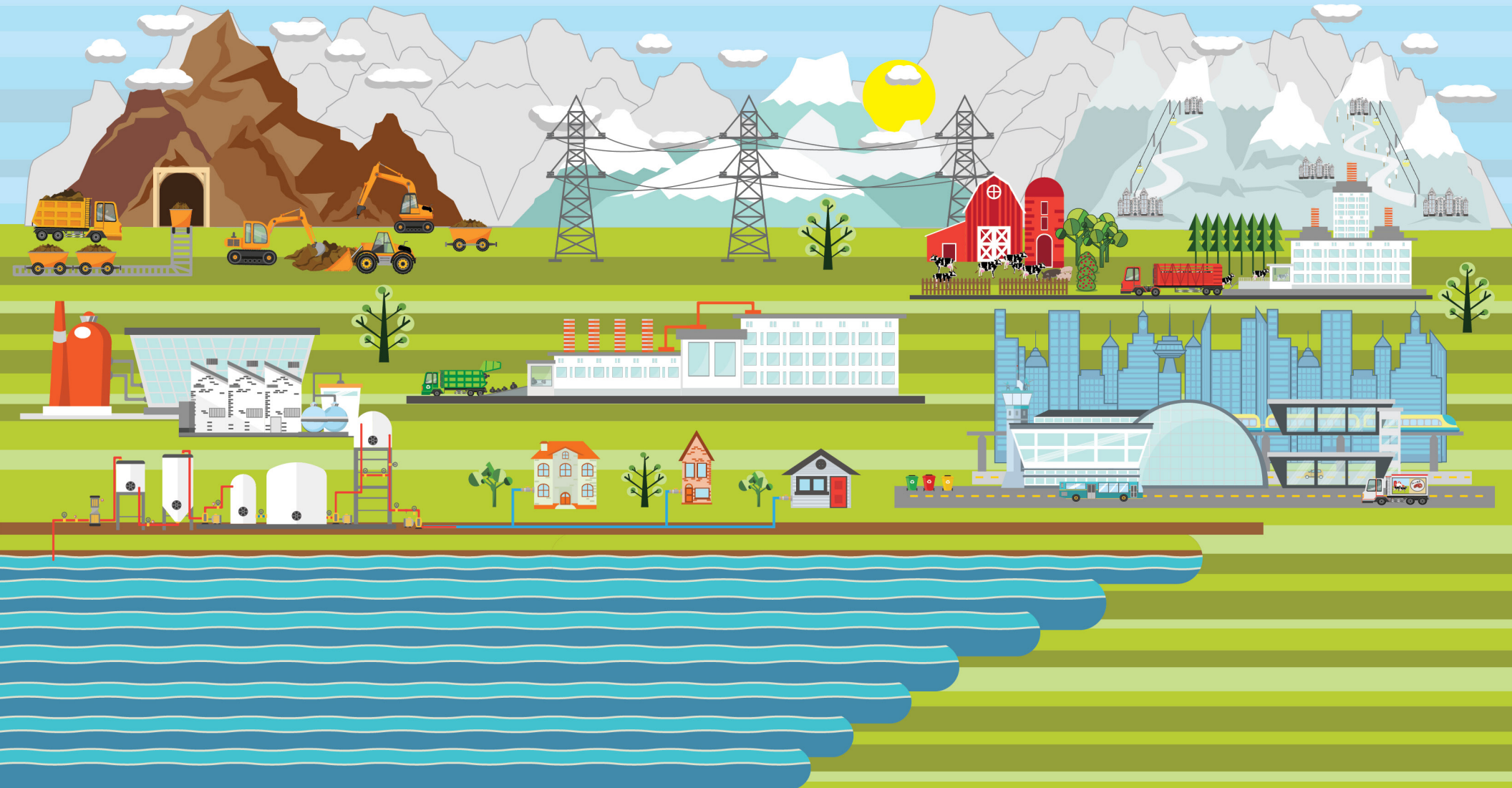


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Introduction

The Environmental Assessment Office (EAO) is developing a new Reviewable Projects Regulation (RPR) to replace the current RPR. This regulation sets out the criteria for determining which projects should be reviewable and required to undergo an environmental assessment (EA)¹. EAs are conducted across Canada by provinces, territories and the federal government to assist in determining whether proposed major projects should proceed to construction and, if so, under which terms and conditions. In British Columbia, the EAO assesses major projects for potential environmental, social, economic, health and cultural effects.

Any project that matches the description of a project category and meets or exceeds the established thresholds in the RPR would be a “reviewable project” and would be subject to an EA.

Through extensive engagement with provincial agency partners, Indigenous nations, industry, EA practitioners, and stakeholders, the EAO has heard concerns that the current RPR can lack clarity, is sometimes difficult to interpret, requires modernization to reflect recent changes in technology and the regulatory environment, and does not include some projects that the public would like to see undergo an EA. It has also been suggested that the RPR thresholds should also be based on project effects rather than project size or production capacity. [Appendix II](#) provides a summary of what we have heard so far, and how we are responding.

The new RPR will make clear which major projects require an EA, and every attempt is being made to align the regulation with the public’s expectation of which major projects need an

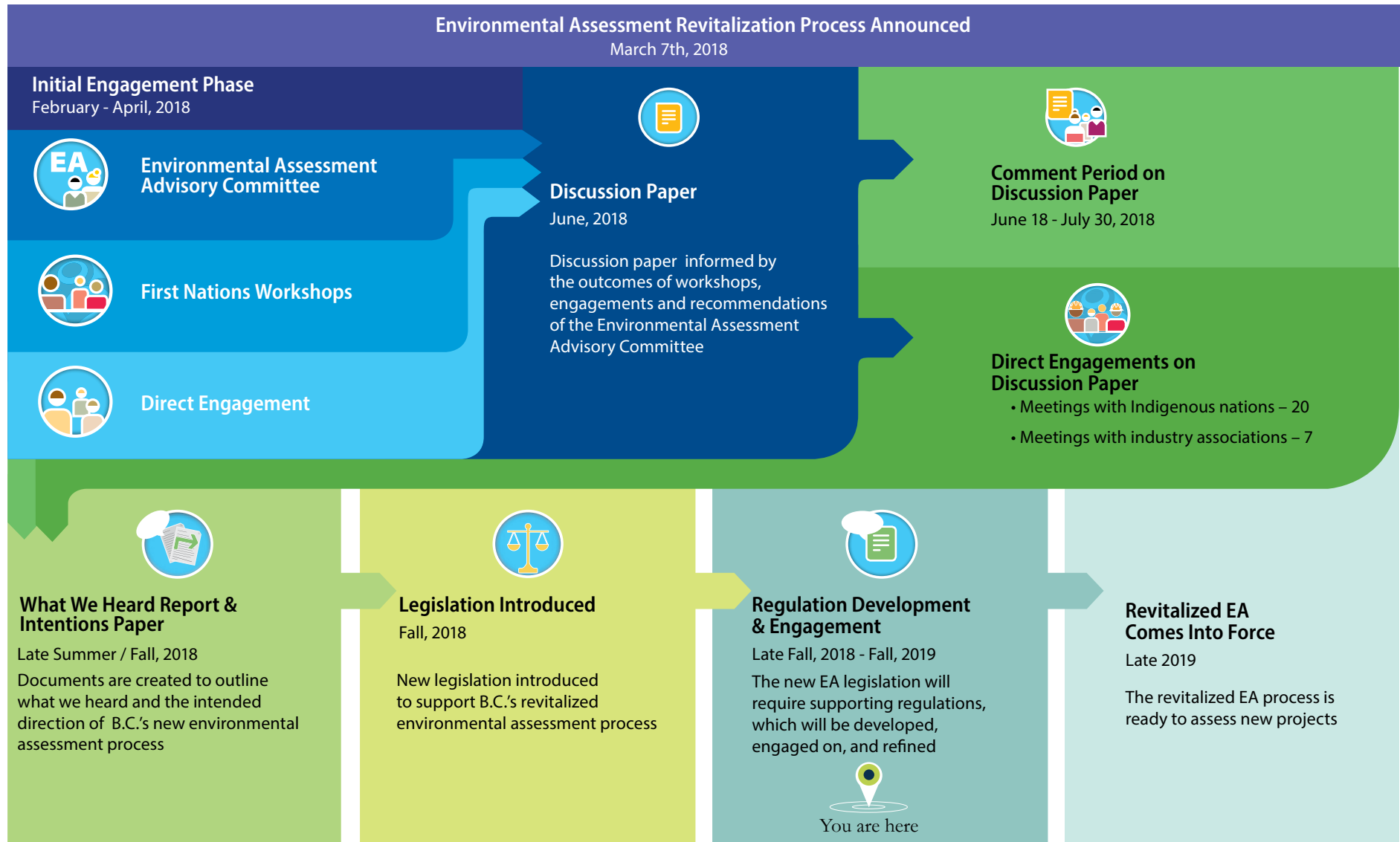
¹ Under the Environmental Assessment Act, projects are reviewable in three different ways: if the criteria of the RPR are met; if a request is made by an Indigenous nation or the public and the Minister deems it reviewable; or when a proponent requests that a project, not automatically reviewable under the RPR, undergo an EA and it is deemed reviewable by the Minister.

EA. Under the new RPR, Ministers will continue to be able to designate a project as reviewable, ensuring that projects that may not have been contemplated when drafting the RPR can still be required to undergo an assessment. The goal is to have projects with the potential for significant adverse effects undergo EAs, while projects with a low likelihood of causing significant adverse effects are assessed and regulated through the appropriate regulatory and permitting processes.

This Intentions Paper sets out the current policy recommendations for the new proposed RPR, and includes proposed criteria for the regulations, and supporting materials in the appendices. This paper has been produced to support engagement on the new regulation. Feedback received during this public comment period will be analyzed, and where appropriate, incorporated in the final regulation. The EAO will provide a final draft of the regulation to Cabinet, which will ultimately decide whether or not to approve. The finalized RPR will come into effect at the same time the new Environmental Assessment Act comes into force, expected in late 2019.



Environmental Assessment Revitalization Process



Reviewable Projects Regulation Engagement and Development

JUNE 2018 – SEPTEMBER 2019



WHO WE MET WITH

EAO COLLEAGUES

PROVINCIAL AGENCY PARTNERS

INDIGENOUS NATIONS

INDUSTRIES/INDUSTRY
ASSOCIATIONS

ENVIRONMENTAL NON-
GOVERNMENTAL ORGANIZATIONS

ENVIRONMENTAL ASSESSMENT
PRACTITIONERS

STAKEHOLDER IMPLEMENTATION
COMMITTEE

INDIGENOUS IMPLEMENTATION
COMMITTEE

**TOTAL –
ALL ENGAGEMENT**



APPROXIMATE NUMBER OF MEETINGS

10 =

50 =

16 =

20 =

4 =

2 =

4 =

2 =

**OVER 100
MEETINGS**



OVER **130** SUGGESTIONS

A complete list of the suggestions provided and how they are being addressed in the RPR can be found in [Appendix II](#).



25 SUBSTANTIVE CHANGES TO
PROPOSED REGULATION



OVER **200** HOURS OF MEETINGS



9 CLARIFICATIONS

The Role of the Reviewable Projects Regulation in the Environmental Assessment Process

The environmental assessment (EA) process provides a comprehensive and rigorous framework to assess projects with the potential for significant adverse effects. The EA process is designed to assess large, individual, complex projects (as bigger projects typically have the potential for bigger adverse effects) and is one element of a larger framework for regulation of development activities in B.C., referred to as the *regulatory continuum* (see below).

The Reviewable Projects Regulation (RPR) sets out the criteria for determining which projects should be required to undergo an environmental assessment (EA), by defining prescribed project categories and providing thresholds for each category that seek to indicate the potential for adverse effects for their specific project type. Projects that fall into a prescribed category and meet the thresholds specific to its category require an assessment under the RPR. These are called *reviewable projects*.

If a project meets the thresholds for its specific category and is considered a reviewable project, it enters into the first phase of the EA process: Early Engagement. At the end of the Early Engagement phase a decision is made for the project to either:

1. Undergo an EA;
2. Be exempted from an EA (and go directly to permitting reviews conducted by other agencies); or,
3. Be terminated from the EA process.

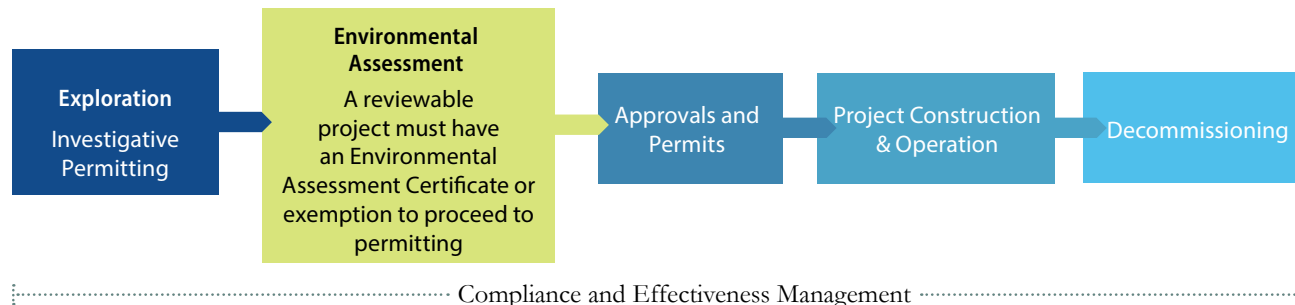
Termination would only ever take place if the minister determines that a project would have extraordinarily adverse effects, be incompatible with a government policy, or that issues for which the project was previously declined or terminated have not been adequately addressed.

The EA process is not designed to assess or regulate diffuse activity across the landscape. Activities or projects that do not undergo an EA are still subject to the oversight of other ministries and regulatory agencies. Activities or projects in B.C. that have the potential to impact the environment are governed by a regulatory framework that includes legislation, regulations, authorizations, and ongoing compliance and enforcement monitoring processes tailored to those specific industries or activities.

THE PROPOSED REVIEWABLE PROJECTS REGULATION INCLUDES THE FOLLOWING CATEGORIES:

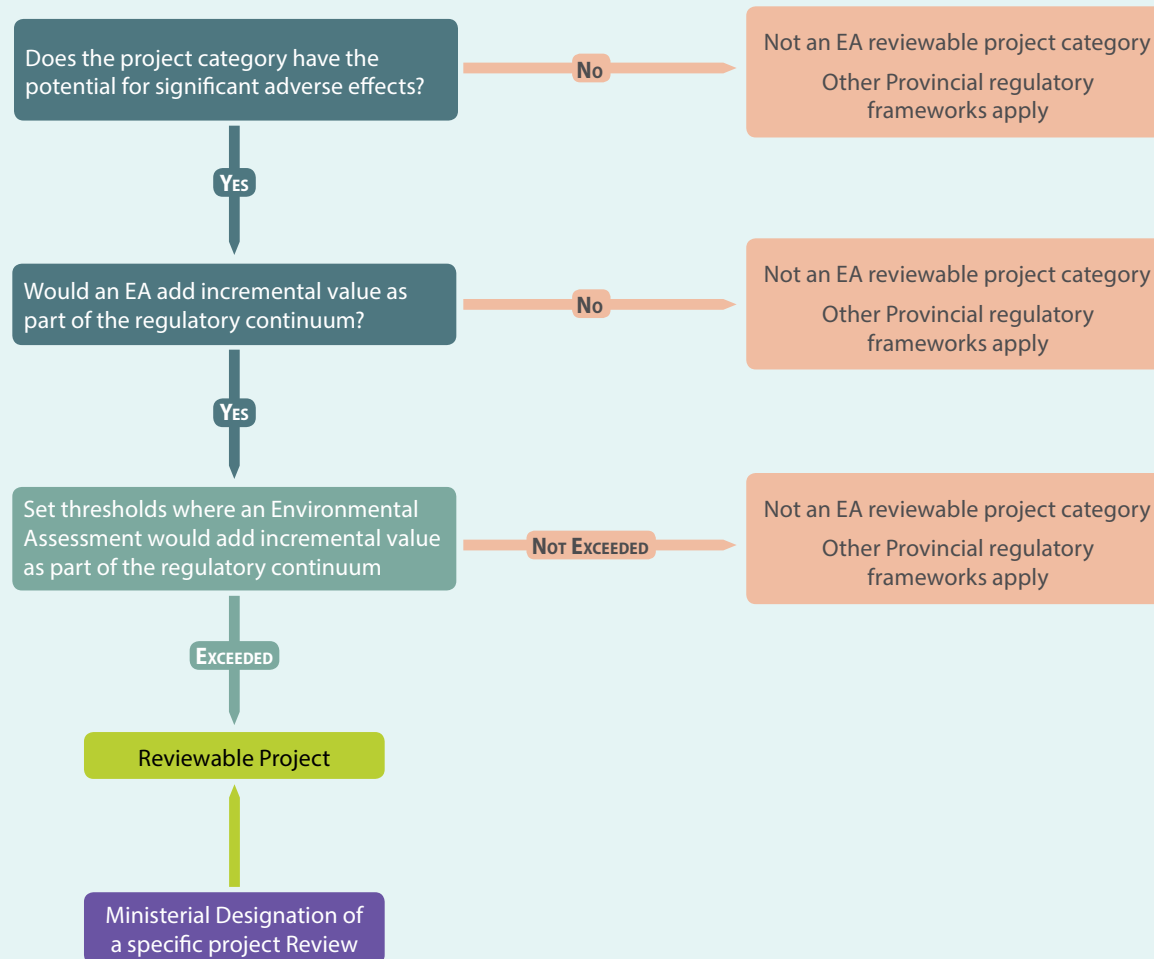
- Industrial
- Mining
- Energy
- Water management
- Waste disposal
- Transportation
- Tourist destination resorts

Regulatory Continuum for Projects that Undergo an EA



Determining Which Project Categories Should be Included in The Reviewable Projects Regulation

The objective of the Reviewable Projects Regulation (RPR) is to capture those major projects with the greatest potential for significant adverse effects without duplicating other regulatory processes. In developing the prescribed categories of projects, the EAO applied the following decision framework:



Reviewable Projects Regulation Proposed Model

Reviewable Projects Regulation Proposed Model

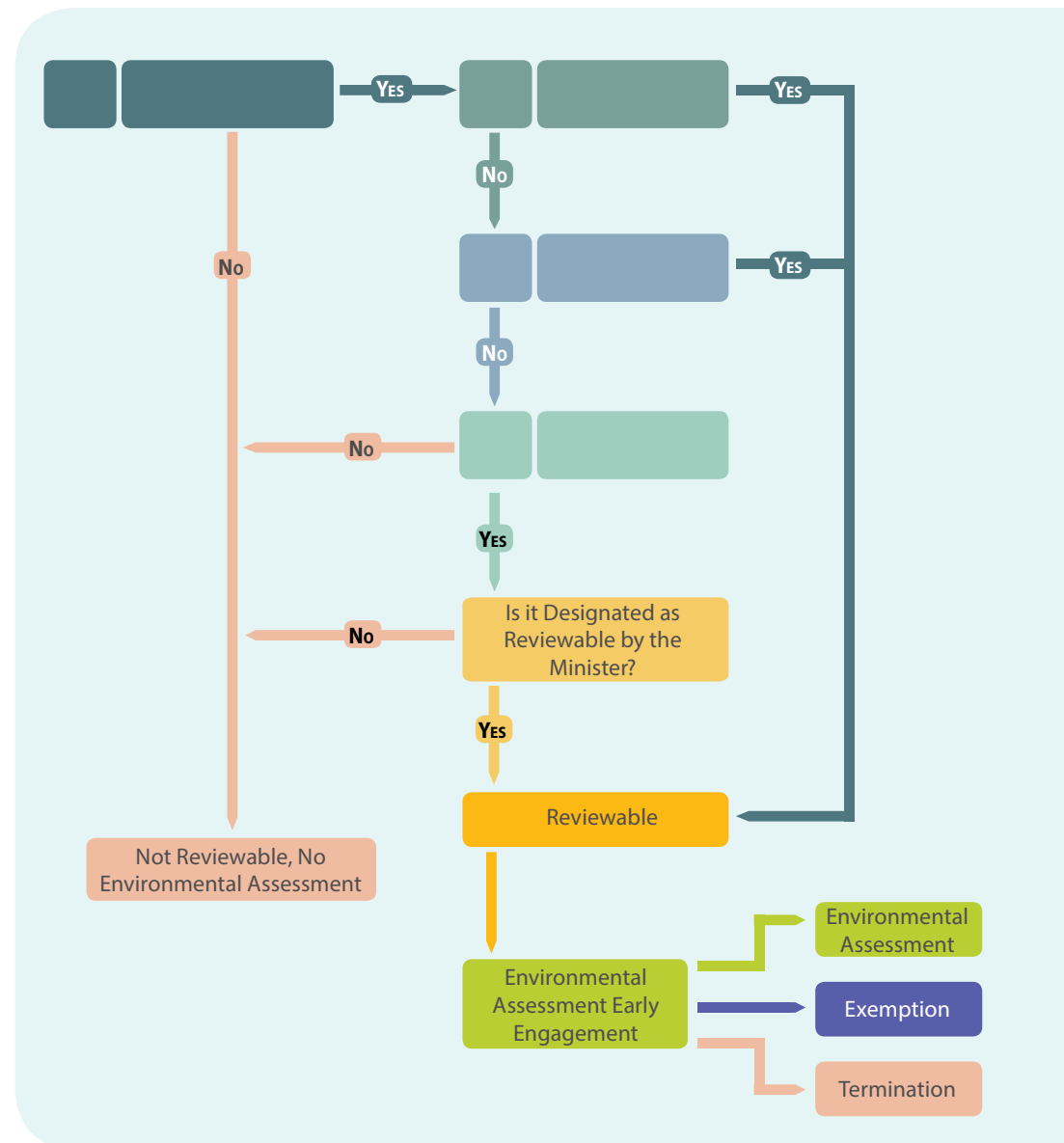
Under the new *Environmental Assessment Act*, projects will continue to be reviewable in three different ways:

1. The criteria of the Reviewable Projects Regulation (RPR) are met;
2. A request is made by an Indigenous nation or members of the public to designate a project reviewable and, after considering required factors, the Minister decides to designate the project reviewable (s. 11); or,
3. When a proponent requests that a project, not automatically reviewable under the RPR, be deemed reviewable on the basis there is potential for adverse effects, and the Minister decides to grant this request (s. 12).

The Environmental Assessment Office (EAO) is proposing a new model for determining a project's reviewability under the RPR that has the following features:

- **Resolves interpretation challenges**
 - E.g. mines' "production capacity" not defined – clarify it does not include waste rock
- **Reflects change in provincial legislation or regulation**
 - E.g. introduction of *Water Sustainability Act*
- **Addresses gaps**
 - E.g. solid waste management category no longer restricted to only local governments
- **Revises some project design thresholds**
 - E.g. placer mine threshold reduced by 50%
- **Expands use of project effect thresholds**
 - E.g. consistent application of greenhouse gas emissions, linear/area of disturbance, protected areas thresholds across project categories
- **Introduces notification thresholds**
 - E.g. the EAO must be notified of certain project proposals, despite not meeting automatic reviewability thresholds.

In order to implement the new effects and notification thresholds, a four-step process has been developed to assist in determining reviewability, outlined in the following pages.



Reviewable Project Regulation Draft Proposed Model

Step 1

Determine if the project is in a prescribed category of projects

The proposed Reviewable Projects Regulation (RPR) will continue to have prescribed categories of land-based activities that have been identified for their potential for significant adverse effects (including their contribution to cumulative effects) for a range of environmental, economic, social, health and cultural values.

If a proposed project falls into a prescribed category, the next step is to consider whether the thresholds for its category are met. If the project does not fall into a prescribed category under the RPR, then the project is not considered reviewable and does not require an environmental assessment (EA).

Most projects and activities in B.C. that have the potential for environmental impacts are already subject to government regulations, permitting processes, and compliance and enforcement monitoring protocols. These regulations, processes, and protocols are specifically designed to evaluate and address the adverse effects of the project or activity on an ongoing basis. In considering whether a project type should be reviewable under the *Act*, the Environmental Assessment Office (EAO) considered what value the EA process would add as both a planning and a regulatory tool, and whether the issues identified for the project type or activity are sufficiently addressed under existing regulatory regimes.

The EAO has heard that there should be a new “catch-all” project category for those projects that do not fall into a prescribed RPR category but meet one or more of the proposed effects thresholds. The EAO is not currently recommending this proposal, as it has the potential to bring projects already governed by rigorous legislative and regulatory frameworks into the EA process, creating duplication.

Step 2

Are the project design thresholds met?

The proposed Reviewable Projects Regulation (RPR) identifies project categories and associated thresholds that determine which projects are required to undergo an environmental assessment (EA). The second step in determining a project’s reviewability is to consider whether it meets the thresholds for its specific category.

Project design thresholds reflect characteristics or attributes of projects that are indicators of a project’s potential for adverse effects. For example, a measure of the total amount produced or extracted by the project over a given time (e.g. mine production capacity), or a physical attribute of the project (e.g. dam height or energy storage capacity).

Proposed adjustments to project design thresholds are described starting on [page 13](#).

If the project meets the project specific thresholds, then it is reviewable. If it does not, go to step 3.

Reviewable Project Regulation Draft Proposed Model

Step 3 Are the effects thresholds met?

The proposed Reviewable Projects Regulation (RPR) includes effects thresholds that would apply to all RPR project categories and be directly linked to the effects of projects.

Effects thresholds must be reasonably measurable and known at the early stages of the initial project description

Effects thresholds under consideration are:

- At least 60 km of new linear disturbance;
- At least 600 ha of new land disturbance;
- At least 382,000 tonnes per year of greenhouse gas emissions (1% of 2030 emissions target); or,
- Overlap with a prescribed protected area.

Final values for thresholds will be established subject to feedback received during this engagement.

See [page 21](#) for more details on the rationale for these proposals

If a project in a prescribed category meets one or more of the effects thresholds, then it is reviewable. If it does not, go to step 4.

Step 4 Notification requirements

The new *Act* enables the Environmental Assessment Office (EAO) to require that proponents of certain projects submit a notification of their intention to develop those projects (s. 10). This enables the EAO to better track projects that could be potentially considered for an environmental assessment (EA), despite being below the automatic reviewability threshold and,

where appropriate, bring these projects to the Minister's attention so it can be determined whether the project should be required to undergo an EA. Those proposed projects providing notification to the EAO in respect of these thresholds will be posted publicly on the EAO's website.

Proposed notification thresholds are noted below. See [page 22](#) for more details on the rationale for these proposals

- Federal EA is required and not wholly on federal land;
- Within 15% of project design or effects thresholds; or,
- Maximum annual direct employment of at least 250 people.

We are also considering a notification requirement when a modification to an existing project would result in exceedance of the threshold for new projects in that category, subject to feedback received during this engagement.

Modifications to an existing project

For each prescribed project category in the Reviewable Projects Regulation (RPR) there are thresholds for modifications to existing projects that have never received an Environmental Assessment (EA) Certificate (i.e., they were either initially constructed prior to the first *Environmental Assessment Act* coming into force in 1995, or below the EA reviewability thresholds). The proposed RPR clarifies that a project with an existing EA certificate is not required to undergo a second EA. Any significant changes or expansions proposed for a project with an EA certificate would be subject to the amendment provisions of the *Act*, under which the proposal can be thoroughly assessed, and appropriate mitigations required.

Significant changes or expansions of existing projects without an EA certificate require an EA, where the proposal meets one or more of the effects thresholds, and/or the proposal meets the modification thresholds set out for the project's specific category.

Proposed Changes to Project Design Thresholds Proposed effects & Notification Thresholds

Proposed Changes to Project Design Thresholds

INDUSTRIAL PROJECTS

Step 2



The current Reviewable Projects Regulation (RPR) requires that many types of industrial manufacturing facilities are reviewable, including those for organic and inorganic chemicals, primary metal products, non-metallic mineral products and forest products industries². Environmental assessment (EA) thresholds for this sector are based on production capacity, bringing in large industrial facilities with the potential for significant adverse effects. Discharge from industrial projects is also regulated through the Environmental Management Act.

² Forest Products Industries are those that process wood after harvesting, e.g. pulp and paper mills, saw mills, etc.

Proposed change: Replace Standard Industrial Classification codes with North American Industrial Classification System codes

The current RPR uses the Standard Industrial Classification (SIC) codes to determine types of projects that are reviewable within the industrial sectors. The SIC system is now out of date and has been replaced with the North American Industrial Classification System (NAICS). NAICS was most recently updated in 2017, providing more flexibility for emerging industries. The proposed RPR continues to require that the same industrial project categories are reviewable – there is no substantive change other than the classification updates.

MINES



Mining activities are primarily authorized and regulated by the Ministry of Energy, Mining and Petroleum Resources (EMPR) and the Ministry of Environment and Climate Change Strategy (ENV). The types of mining activities considered to have the greatest potential for adverse effects include coal mines, mineral mines, sand and gravel operations, placer mines, construction stone and industrial mineral quarries, and off-shore mines. Each one of these activities has its own prescribed RPR project category with a production capacity reviewability threshold.

Proposed change: Lower threshold for placer mining

Given that no placer mines have entered the EA process at the current reviewability threshold, we recognize that the current threshold may not be an accurate indication of the potential for significant adverse effects. The Environmental Assessment Office (EAO) is proposing to lower the threshold for placer mines from 500,000 to 250,000 tonnes of pay dirt per year. Because the effects of placer mining are similar in nature to those of sand and gravel pits, or construction stone and industrial mineral quarries,

the proposed threshold aligns with the threshold for those project categories as all of these projects consist of similar activities and potential for adverse effects.

Proposed change: Revise modification thresholds to reflect new effects thresholds

Currently, some mining project categories trigger an EA for modification if a proposal meets both the increase to production capacity threshold AND one of following:

1. a disturbance to at least 750 ha of land; or,
2. a disturbance to an area at least 50 % of the area previously permitted for disturbance.

Under the proposed effects thresholds, any project that exceeds the area of disturbance threshold (under consideration at 600 ha) would require an EA, regardless of whether it meets this project category thresholds..

Proposed change: Clarity of definitions

We are proposing to clarify the definitions for *production capacity* and *clean coal*, to ensure consistency of interpretation. *Production capacity* for mine projects means the quantity of product that has value, expected from a given mining operation. It does not include waste materials generated. *Clean coal* means coal that has undergone a washing process to remove waste, before being transported from the mine site for marketing or testing.

PAY DIRT:

Mined placer gravel that is, or could be processed in a sluice box, wash plant, or other device for extracting precious metals.

REGULATORY CONTINUUM FOR PLACER MINES:

The EAO will also continue to work with our colleagues at EMPR as they evaluate their own regulatory framework for placer mining. EMPR has engaged Indigenous nations through a number of Placer Mining Forums which included the possibility of introducing tiered information requirements and the utilization of multi-party reviews for large and more complex placer mining applications. As those discussions continue and as the EAO assesses whether the proposed threshold is a more effective indication of the potential for significant adverse effects from placer mines, the EAO will make further adjustments to the placer mine threshold as appropriate.

ENERGY – ELECTRICITY PROJECTS



The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) is the agency with project specific responsibility for authorizing and regulating Electricity Projects. The environmental assessment (EA) process is part of the overall regulatory continuum for these projects, applicable to major projects with the potential for significant adverse effects – namely, power plants and transmission lines. Each of these has a prescribed project category in the Reviewable Projects Regulation.

Proposed change: Revise power plant thresholds

The Environmental Assessment Office (EAO) has heard that the wide diversity of electrical project types is not appropriately addressed by the current single threshold for power plants of 50 mega-watt (MW) rated nameplate capacity. We have heard that this threshold does not reflect the wide range of project effects produced by the different types of electricity power plants (wind, hydro power, thermal, etc.), and can be a disincentive to using more efficient technology. For example, wind power projects using more efficient technology could meet or exceed the 50 MW threshold with fewer turbines, and consequently less land disturbance, than projects using less efficient technology and more turbines, meaning the EA requirement may be a

disincentive to using, or upgrading to, more efficient technology. We are proposing that the current 50 MW threshold, currently applicable to all power plants, be replaced by the following:

Hydroelectric, thermal electric, or other power plant, not including wind and tidal plants: rated nameplate capacity	> 50 MW
Land-based wind generating facility:	≥ 15 turbines
Marine or freshwater wind generating facility	≥ 10 turbines
Any new tidal (excluding in-stream tidal) power generating facility	All
In-stream tidal power facility: rated nameplate capacity of	> 15 MW

These proposals are also largely in alignment with federal thresholds under the new *Impact Assessment Act*, allowing for the opportunity to coordinate or substitute assessments between the two jurisdictions.

In addition, the EAO is recommending that an exception to the modification threshold be developed for the power plant category for replacement of generators or turbines, or other repairs to an existing power plant primarily for maintenance purposes.

Changes Under Consideration: Adjust electric transmission line thresholds

Currently, only electric transmission lines of at least 500kV and at least 40km length are reviewable according to the RPR. We have heard that smaller voltage transmission lines have similar impacts, but with slightly narrower rights of way. We are considering to require that electric transmission lines of at least 230kV and 60km length are also reviewable, subject to feedback received during this engagement. This length aligns with the threshold already in place for smaller diameter pipelines ([Table 8, line 4 of Appendix IV](#)) that have a similar right of way to 230kV transmission lines.

NAMEPLATE CAPACITY

Measure of maximum capacity to produce energy

Draft

ENERGY - PETROLEUM AND NATURAL GAS PROJECTS



Petroleum and natural gas projects are primarily regulated by the Oil and Gas Commission (OGC). The EA process is part of the overall framework for regulating these projects, applicable to major projects with the potential for significant adverse effects. Projects within this sector considered to have the greatest potential for adverse effects include energy storage facilities and natural gas processing plants, transmission pipelines, and off-shore oil or gas facilities. Each of these activities has its own prescribed project category within the RPR.

Proposed changes: Clarifications to energy storage thresholds

Liquefied natural gas (LNG) facilities and oil refineries typically become reviewable through the energy storage project category, but are not specifically mentioned in the RPR. For clarity, we propose the following changes:

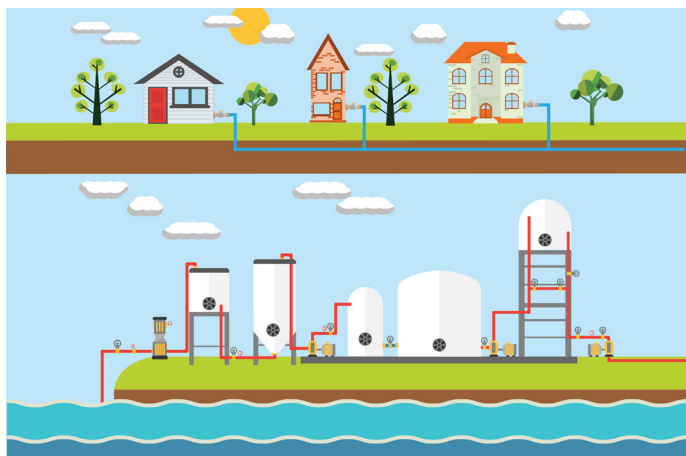
- Specify that LNG facilities are reviewable under the energy storage category with the volumetric equivalent of 136,000m³ for the existing 3 peta-joule (PJ) threshold;

- Establish a new project category for oil refineries with a threshold that aligns with the federal threshold: an input capacity of 10 000 m³/day or more; and,
- Otherwise retain the 3 PJ threshold for all other energy storage projects in this category.

Proposed changes: Adjustments to natural gas processing thresholds

Projects in this category are currently reviewable based on either production capacity or sulphur emissions thresholds. Our view is that the new effects threshold for greenhouse gas emissions is a better indicator of the potential for significant adverse effects than the current processing threshold, and therefore propose to retain only the sulfur emissions threshold for this category going forward. We also propose to clarify the definition of sulphur for the sulphur emission threshold to ensure clarity and consistency in application.

WATER MANAGEMENT PROJECTS



The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) is the agency with project specific responsibility for authorizing and regulating Water Management Projects. The environmental assessment (EA) process is part of the overall regulatory continuum for these projects, applicable to major projects with the potential for significant adverse effects.

The Reviewable Projects Regulation (RPR) prescribes five different water management projects categories, each based on a type of activity. These include: dams; dikes; water diversion projects; groundwater extraction projects; and shoreline modification projects.

Proposed Changes: Groundwater Extraction category

We have heard that the current regulation can be difficult to interpret for this project category. We are proposing clarified language in the regulation – however there is no substantive change to which projects would be reviewable under the revised language.

We are also proposing that the extraction of deep groundwater, as defined in the *Water Sustainability Regulation*, by the oil and gas

industry, not be a reviewable activity. In developing this proposal, the following was considered:

- The EA process duplicates the OGC permitting process;
- Deep groundwater is generally non-potable, and unusable for other purposes;
- Removing the requirement will provide incentive to the oil and gas industry to use deep groundwater, relieving pressure on more accessible water sources that have other uses; and,
- The proposal aligns with changes made to the water management regime under the *Water Sustainability Act*, which created an exemption from requiring an authorization for the extraction of deep groundwater, subject to conditions.

Proposed Changes: Clarification to Shoreline Modification

We are proposing a definition for periodic maintenance dredging in this project category to ensure consistency in interpretation and application.



WASTE DISPOSAL PROJECTS



The Ministry of Environment and Climate Change Strategy (ENV) is the agency with project specific responsibility for regulating Waste Disposal Projects, with the Oil and Gas Commission (OGC) having oversight for certain waste disposal activities related to the oil and gas industry. The environmental assessment (EA) process is part of the regulatory continuum for these projects, applicable to major projects with the potential for significant adverse effects.

The Reviewable Projects Regulation (RPR) prescribes three different waste disposal project categories, based on the type of waste being addressed: hazardous waste management projects; solid waste management projects; and liquid waste management projects.

Proposed Changes: Solid Waste Management

Currently, the criteria for solid waste management facilities apply only to those projects that are components of a Regional Solid Waste Management Plan under the *Environment Management Act*, and the proponent is a local government. Most major municipal where waste management projects in B.C. are part of a regional

solid waste management plan, and meet this definition. We propose to expand reviewability criteria to ensure that all major solid waste management projects, whether part of a regional solid waste management plan or not, and regardless of proponent type, would be captured under the RPR. This inclusion would introduce a reviewability requirement for non-municipal, non-hazardous solid waste management facilities (for example, non-hazardous contaminated soil) that are above the thresholds in the Regulation).

Proposed Changes: Hazardous Waste Projects

We have heard that this part of the regulation can be difficult to interpret. We are proposing changes to clearly exclude two types of projects that we do not consider having the potential for significant adverse effects:

- Clearly exclude the treatment of drilling mud with a mobile thermal treatment facility, that is located at either a drilling pad or a secure landfill. The process involves treating drilling mud, which is classified as a hazardous waste, in a closed loop system (minimal effluent and emissions). The process is considered beneficial; however, there is a reluctance among industry proponents to use it because the EA requirement is currently unclear
- Clearly exclude the disposal of produced water (water or brine that is brought to the surface with the natural gas or oil from a well) by injecting it into deep wells. The EA requirement for this type of activity is currently unclear, and this clarification is required to assist with interpretation.

NON HAZARDOUS CONTAMINATED SOIL
Soil that is contaminated, but does not qualify as hazardous waste under the Hazardous Waste Regulation.

FOOD PROCESSING PROJECTS



The current Reviewable Projects Regulation (RPR) requires that processing facilities for Meat and Meat Products, Poultry Products, and Fish Products are reviewable if they exceed the specified waste discharge threshold.

Proposed Change: Exclusion of food processing project category

No food processing facilities have entered the environmental assessment (EA) process through the existing thresholds. Since the RPR was last updated in 2002, the Waste Discharge Regulation (2004) and Code of Practice for the Slaughter and Poultry Processing Industries (2007) have also been introduced, providing a specific framework for regulation of these facilities. We are proposing to exclude the Food Processing category from the RPR, given that a defined regulatory framework has been developed subsequent to the last substantial review of the RPR.

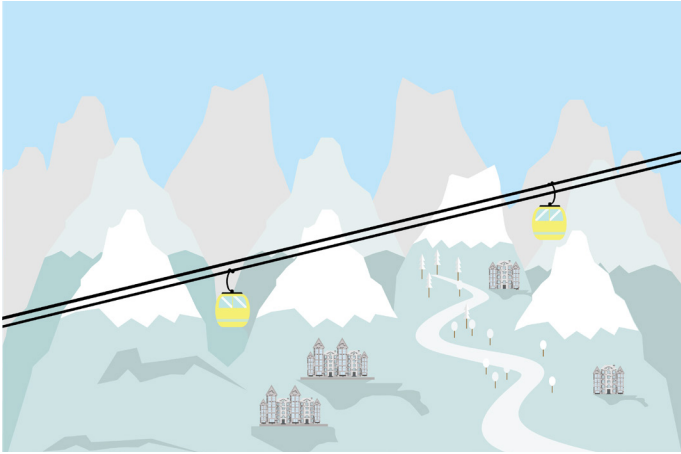
TRANSPORTATION PROJECTS



These projects are regulated primarily by the Ministry of Transportation and Infrastructure. The EA process is part of the overall framework for regulating these projects, applicable to major projects with the potential for significant adverse effects.

The RPR prescribes four different transportation project categories: public highways, railways, ferry terminals, marine port facilities and airports. We are not proposing changes to any of the thresholds for the transportation project categories at this time.

TOURIST DESTINATION RESORT PROJECTS



These projects are regulated by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development's (FLNRORD) Mountain Resorts Branch (MRB). The environmental assessment (EA) process is part of the overall regulatory framework for tourist destination resorts, applicable only to major projects. The Environmental Assessment Office (EAO) and MRB recognize that there is substantial overlap between our two regulatory processes. In the interest of regulatory clarity and transparency, we will continue to work together to align and coordinate the two processes, to ensure that there is appropriate regulatory oversight of resorts, while minimizing unnecessary duplication in the administration of the two major project review processes.

The Reviewable Projects Regulation (RPR) prescribes four different tourist destination resort project categories: resort developments (not golf, marina or ski), golf, marina and ski resorts.

Proposed changes: Clarifications to thresholds

We propose to eliminate all references to commercial bed units, because the term "commercial bed units" has been difficult to interpret. For clarity, we also propose that the linear metres of

moorage threshold for the marina resorts project category be defined as a measurement of the outside perimeter of the berths, and clearly not a measurement inside of each individual berth.

Changes Under Consideration: Modifications to Resort Developments and Ski Resorts:

The MRB has a robust regulatory regime for assessing impacts for, and overseeing the development of, resort projects on Crown land. Each resort on Crown land must undergo the Masterplan Review Process which includes facilitation of an environmental assessment, inter-agency government review, and Indigenous nation and stakeholder engagement. To reflect this substantial overlap and ensure that EA delivery is appropriately targeted on the regulatory continuum, we are considering revising the threshold for modifications to projects in these categories that are subject to the All Season Resort Policy, subject to feedback received during this engagement:

- Increase of 2000 new bed units or more; and,
- Total number of bed units increases by at least 50% from what is already approved in the resort masterplan.

Proposed Effects Thresholds

Effects thresholds are criteria that link directly to the effects of a project. There are examples of effects thresholds in the current Reviewable Projects Regulation (RPR) - for example, shoreline modification project thresholds are based on linear disturbance of shoreline or area of disturbance to submerged land. Because certain types of effects are similar regardless of sector or category, the EAO is proposing to establish RPR thresholds that would apply across all project categories on the basis that they are:

- Aligned with impacts experienced across sectors;
- Measurable;
- Knowable at the time of the initial project description; and,
- Supportive of government goals.

GREENHOUSE GASES:

In 2018 the B.C. Government set Greenhouse Gas (GHG) reduction targets. This is a major government policy priority and there is a desire to review projects with the potential to materially affect GHG reduction targets. To support this initiative, the Environmental Assessment Office (EAO) is suggesting for consideration that a project be reviewable if it meets or exceeds 1% of the legislated 2030 target (i.e., 382,000 tonnes of greenhouse gas emissions annually), subject to feedback received during this engagement. We are also seeking feedback on whether this calculation should be based on direct emissions of the project, or whether other sources of emissions should be considered.

PROTECTED AREAS:

The Province of B.C. establishes a variety of designated areas intended to protect the environment. An important aspect of the environmental assessment process is to consider potential impacts of major projects on all types of protected areas. The EAO is proposing that a project in a prescribed project category

that is proposed within certain types of prescribed protected areas that generally exclude all industrial activity must undergo an environmental assessment. The RPR will not draw in activities that are currently legally allowable in the specific designated area (e.g. BC Parks campgrounds and infrastructure). This approach will require that proponents consider how their proposed projects could interact with protected areas from the earliest stages of project design, even prior to entering the environmental assessment process. It provides an opportunity for proponents to consider adjusting project design to avoid overlaps with prescribed areas, therefore avoiding adverse effects to these important areas.

LINEAR DISTURBANCE:

Project components such as transmission pipelines, electric transmission lines, and roads may require new disturbance of associated linear corridors. The longer the linear disturbance, the greater the potential for adverse effects. The current RPR contains thresholds for linear projects that range from 20 to 60 km. To be consistent with the maximum current RPR threshold, we are suggesting for consideration a new, permanent linear disturbance threshold of more than 60 km for all prescribed project categories listed in the RPR, subject to feedback received during this engagement.

AREA OF DISTURBANCE:

The greater the project footprint, the greater potential for a wide variety of effects, regardless of the specific sector. The current RPR already includes land disturbance thresholds for some project categories. Similar to the approach for linear disturbance, the EAO considered the range of existing area-based thresholds and suggests for consideration, that any project within the prescribed categories creating a new, permanent disturbance of 600ha or more should be reviewed, subject to feedback received during this engagement.

See Appendix I for more details on which protected areas we are considering for this list

Step 4

Proposed Notification Thresholds

Under the proposed new Reviewable Projects Regulation (RPR) model, if a project within the prescribed categories does not meet any of the cross-project effects thresholds or thresholds specific to its project category, it may still be required to notify the Environmental Assessment Office (EAO) if it meets one or more of the proposed notification thresholds. Upon notification, the EAO may refer a project to the Minister of Environment and Climate Change Strategy for designation as reviewable. These thresholds are contextual to individual projects, requiring that discretion is applied in a decision to refer for designation rather than being an automatic reviewability threshold.

FEDERAL EA REQUIREMENT

To support opportunities for substitution (a process whereby one level of government uses the EA process of another government as a basis for its decision) the EAO proposes that any project considered reviewable by Canada, but not wholly located on federal lands, be required to notify the EAO.

PROJECT IS WITHIN 15% OF THE RPR THRESHOLDS

Currently, the EAO does not systematically collect data on the number of projects that are initially constructed just below RPR thresholds. We have heard concerns that some new projects may be artificially designed to be sub-threshold and that other existing projects that have never had an Environmental Assessment Certificate, expand sequentially, becoming major projects without ever undergoing an environmental assessment (EA). The EAO proposes the notification requirement be applied to projects designed to be within 15% of the proposed RPR design and effects thresholds. This will help us collect better

data to understand the extent of this perceived issue, and to make referrals to the Minister for designation where appropriate. Those proposed projects providing notification to the EAO in respect of these thresholds will be posted publicly on the EAO's website.

WORKFORCE

The EAO proposes that projects within the prescribed categories with a maximum annual direct employment number of ≥ 250 to be required to notify the EAO. Employment is an important benefit of projects; however, the size of a workforce can also be a key indicator of the potential for a wide range of social impacts. Social impacts are not assessed or regulated by most permitting agencies. The proposed threshold is based on examining examples of workforce size for projects that have undergone an EA, and where it has been shown there is potential for increased social impacts.

UNDER CONSIDERATION FOR MODIFICATIONS TO EXISTING PROJECTS:

For projects that have never received an Environmental Assessment (EA) Certificate (i.e., they were either initially constructed prior to the first *Environmental Assessment Act* coming into force in 1995, or below the EA reviewability thresholds), we are considering applying a notification requirement. Notification would be required when the modified project, as proposed, would exceed the threshold for new projects in that category.

Projects not Found in the Reviewable Projects Regulation

Example Scenarios

Next Steps

Example Scenarios to Determine Reviewability

SCENARIO #1:

A new electrified LNG facility is proposed to be built in northwest B.C. and is designed to store 150 000 m3 of LNG. Is it reviewable? An LNG facility is in a prescribed project category because it is an energy storage facility. The proposed storage capacity is higher than the volumetric threshold of 136,000 m3 for LNG facilities. It is a reviewable project.

SCENARIO #2:

A new metal mine is proposed to have a production capacity of 50,000 tonnes/year, and requires new linear disturbance of 100km for road access and electric transmission lines. Is it reviewable? A metal mine is in a prescribed project category with a new project threshold of 75,000 tonnes/year of production capacity. Although the project design threshold is not met, the linear disturbance effects threshold, currently considered at 60km, is exceeded for the associated road and transmission lines. It is reviewable.

SCENARIO #3:

A company plans to build a run-of-river generating facility with a proposed power production of 48 MW. It does not trigger any effects threshold. Is it reviewable? A run-of-river generating facility is a prescribed category of projects in the RPR. It does not meet the project specific thresholds, nor does it meet any effects threshold; however, it does meet a notification threshold since the proposed project has a production capacity that is 15 % below the RPR threshold for its particular project category (50 MW).

SCENARIO #4:

A municipality built a drinking water well in 1984 prior to the requirement for an EA, with an extraction rate of 50l/s. In 2020, the municipality plans to build an additional well in the same aquifer to meet growing demand for water. The wells would have a combined extraction rate of 100l/s. Is the modification reviewable? Groundwater extraction is a prescribed project category, and the proposed modification would result in the project exceeding the new project threshold (75l/s). The proposed modification also consists of a 100% increase in the extraction rate, which exceeds the modification threshold of 35% increase. The new well is a reviewable project.

SCENARIO #5:

A new agriculture operation is proposed in the Fraser Valley. Is it reviewable? Agriculture is not a prescribed project category in the RPR, therefore it is not a reviewable project. It is reviewed, authorized and regulated under permitting and regulatory processes that do not include the EA process

SCENARIO #6:

The holder of an EA certificate proposes an alternate transmission line route for the project that is not authorized in the certificate. Is it reviewable? The RPR does not apply to projects with an EA certificate. The alternate transmission line route would be assessed through an amendment under section 32 of the Act

Projects not found in the Reviewable Projects Regulation

Over time, the EAO has heard that the following types of projects should be considered as reviewable under the *Environmental Assessment Act*. These projects are not proposed as new Reviewable Projects Regulation (RPR) project categories as they are already governed by a regulatory continuum that includes legislation, regulations, permitting processes and ongoing compliance and enforcement monitoring that are specifically tailored to that industry or activity. For each of these projects, the EA process is considered duplicative. Section 11 of the new *Act* continues to provide the Minister with the power to designate projects as reviewable outside of the RPR, regardless of whether the project is in a category specified by the RPR or not.

PROJECT TYPE	RATIONAL FOR NOT INCLUDING IN THE RPR
FINFISH AQUACULTURE (FISH FARMS)	After the Hinkson Decision by the B.C. Supreme Court in 2009, management of finfish aquaculture transferred back to the federal government in 2010. Since 2010, B.C.'s regulatory role has been limited to issuance of Crown Land tenure (FLNRORD) and permitting of waste discharge and pesticide use (Ministry of Environment and Climate Change Strategy - ENV). The federal government has primary regulatory responsibility for aquaculture, and the key potential effects are primarily within federal jurisdiction. B.C. would have very limited jurisdiction to impose conditions on fish farms or enforce those conditions through an EA certificate.
LOGGING	<p>The EA process is designed to assess large, individual, complex projects, and is one element of a larger framework for regulation of development activities in B.C. The EA process is not designed to assess or regulate diffuse activity across the landscape, and therefore would provide limited value in the forestry context.</p> <p>Forest and range activities in BC are conducted under tenure and licensing regimes established under the Forest Act and the Range Act. and <i>The Forest and Range Practices Act (FRPA)</i> governs the sustainability of B.C.'s forest resources. Conditions governing forest practices are established in the <i>FRPA</i> framework and forest stewardship plans and range use plans are required prior to permitting forest harvest and silviculture activities or range use. Further changes are being contemplated to more broadly consider forest and range activities through landscape-scale forest and range management.</p> <p>Once the EAO's regional environmental assessment authorities are operationalized, they could provide additional tools for assessing and mitigating logging impacts.</p>
AGRICULTURE	<p>The EA process is designed to assess large, individual, complex projects, and is one element of a larger framework for regulation of development activities in B.C. The EA process is not designed to assess or regulate diffuse activity across the landscape, and therefore would provide limited value in the agriculture context.</p> <p>An appropriate review process exists through Ministry of Agriculture, with regulation under <i>Environmental the Environmental Management Act</i> including Waste Discharge Regulation and Code of Practice for Agricultural Environmental Management, and the <i>Water Sustainability Act</i>.</p>

PROJECT TYPE	RATIONAL FOR NOT INCLUDING IN THE RPR
CANNABIS PRODUCTION FACILITY (CONSIDERED BY ENV TO BE AGRICULTURAL)	<p>The cannabis production industry is not a stand-alone industry but rather is considered within the context of other industry categories. Each aspect of cannabis production and associated waste generation is regulated within the scope of the <i>Environmental Management Act</i> and its associated regulations. For example, cultivation operations as a sector are considered agricultural operations and as such the associated waste is managed within the scope of the Code of Practice for Agricultural Environmental Management.</p> <p>Licensed cannabis producers must go through a rigorous accreditation process as mandated by the federal <i>Cannabis Act</i> and regulations to be able to operate. This process is administered by Health Canada who continue to regulate the industry throughout its operation. Licensing requirements dictate that local and provincial approvals must be achieved to obtain and maintain a valid Health Canada production license. With these factors considered the EA process would provide little value, or redundancy by adding cannabis production facilities as a category within its scope.</p>
UPSTREAM OIL AND GAS (FRACKING AND WELL PADS)	<p>The EA process is designed to assess large, individual, complex projects, and is one element of a larger framework for regulation of development activities in B.C. The EA process is not designed to assess or regulate diffuse activity across the landscape, and therefore would provide limited value in the context of upstream oil and gas.</p> <p>All aspects of upstream oil and gas resource development are authorized and regulated by the BC Oil and Gas Commission (OGC) under the <i>Oil and Gas Activities Act</i>, including review processes that are equivalent to the EA process.</p> <p>Hydraulic fracturing is one step in the process of drilling and completing a well, that typically takes place over a two to three week time period. As an oil and gas activity and not a project, hydraulic fracturing is appropriately regulated under the <i>Oil and Gas Activities Act</i> and not the Reviewable Projects Regulation.</p>

Future of the Reviewable Projects Regulation

REGIONAL THRESHOLDS

One of the ways in which reviewable projects may be categorized is on the basis of geographic location. We have heard from some interested parties that they would like to see this authority used more frequently to modify project design thresholds on a regional basis. This would provide a tool to account for specific context of the human or physical environment in a particular location. These regional variations could be proposed through the following mechanisms:

- Regional EA conducted under section 35 of the Act
- Signature of agreement with an Indigenous Nation or other jurisdiction under section 41 of the Act

Upon proposal of a regional threshold through either of these mechanisms, the Environmental Assessment Office (EAO) would conduct engagement with interested parties, and if satisfied that the regional threshold is appropriate for implementation, bring forward a recommendation to cabinet to amend the Reviewable Projects Regulation (RPR) accordingly

Future Updates to the RPR

We recognize that it has been over 15 years since the last substantial update to the RPR, and that some of our thresholds have become outdated during that time (for example, the food processing category). We don't yet have any practical experience applying the effects and notification thresholds that are proposed

in this set of recommendations. There are also some changes suggested in the “what we heard so far” document ([Appendix II](#)) that may be helpful but require further data collection and consideration before implementation.

The RPR will be evaluated regularly moving forward, in order to:

- stay current with industry trends and evolving context of the human and physical environment;
- reflect learnings of the effects/notification thresholds; and,
- further explore suggestions for threshold adjustments that require additional analysis and consultation.

How to Participate

You can help shape the future of environmental assessments in B.C. by reading this Intentions Paper, and letting us know what you think by filling out the [Reviewable Projects Regulation Engagement Survey](#).

Please let us know what you think by completing the engagement survey.

**CLICK HERE TO COMPLETE THE
ENGAGEMENT SURVEY**



Next Steps

Public feedback on this Intentions Paper, in collaboration with feedback from Indigenous nations, industry and stakeholders will inform the development of the final RPR, which will come into force at the same time as the Act. We will release a “what we heard” report along with the final regulation, so that it is clear how feedback is incorporated in the final regulation



You can follow along as environmental assessment revitalization progresses through to completion by signing up to receive updates when you complete the engagement survey.

Appendices

- [I Prescribed protected areas](#)
- [II What we heard so far](#)
- [III Detailed threshold comparison](#)
- [IV Proposed Reviewable Projects Criteria](#)
 - Publication of Appendix IV is not to be construed as a waiver of solicitor-client privilege or any other confidentiality in relation to any other document.



WE WANT TO HEAR FROM YOU!
**PLEASE LET US KNOW WHAT YOU THINK BY
COMPLETING THE ENGAGEMENT SURVEY**