Government of Canada
Gouvernement du Canada

# CONSULTATION PAPER ON APPROACH TO REVISING THE PROJECT LIST

## A PROPOSED IMPACT ASSESSMENT SYSTEM

Canada

# INTRODUCTION

## WE WANT YOUR VIEWS

The Government of Canada is beginning public consultations on what type of projects would be subject to impact assessment under the proposed Impact Assessment Act. The Government is committed to reviewing and revising the *Regulations Designating Physical Activities*[1] currently established under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012), known as the ''Project List''. The goal is to establish clear criteria and a transparent process to periodically review and update the Project List to ensure that projects with the greatest potential to cause effects in areas of federal jurisdiction are assessed.

The purpose of this paper is to seek views on the proposed criteria to revising the Project List prior to any formal changes being made to the regulations. This paper builds upon feedback received during the Canada-wide consultation sessions held over the last 14 months in proposing a criteria-based approach to guide the review and revision process of the existing list of projects as laid out in the Project List.

Following this first round of consultation, we will share a proposed Project List for a second round of consultation. Discussions on the proposed Project List will enable us to effectively engage stakeholders before entering into the formal regulatory process where we would post the draft regulation for public comment and ultimately publication in order for the regulation to come into force.

## CONTEXT

In January 2016, the Government of Canada announced an interim approach that included principles and plans to guide its decision-making on major natural resource projects while it undertook a review of environmental assessment processes. The objective of the review is to rebuild public trust, protect the environment, advance reconciliation with Indigenous peoples, and ensure good projects get built and create jobs and economic opportunities for Canadians.

In June 2016, the Government of Canada launched a review of environmental assessment processes under CEAA 2012. One year later, following the report of the Expert Panel and extensive consultation, the Government released a discussion paper in June 2017 outlining the changes it was considering for Canada's environmental assessment and regulatory processes and undertook further consultations.

Through the proposed Impact Assessment Act, the Government is proposing new rules that protect the environment, recognize and respect Indigenous rights, and strengthen our economy. These new rules will involve a shift from environmental assessment to impact assessment. While federal environmental assessment under CEAA 2012 focuses strictly on effects on the environment or other types of effects resulting from changes to the environment, the new impact assessment process will serve as a planning tool that takes into consideration the whole range of environmental, health, social and economic effects of projects. This new regime will shift away from decisions based solely on the significance of effects and focus instead on whether the adverse effects in areas of federal jurisdiction are in the public interest.

[1] Text of the *Regulations Designating Physical Activities* is included in Annex C for reference.

The public interest determination will be guided by a project's contribution to sustainability, the extent to which these effects are adverse, measures to mitigate adverse effects, impacts on Indigenous groups and their rights and impacts on Canada's ability to meet its environmental obligations and climate changes commitments. The Government will be launching a strategic assessment of climate change in the coming months which will lay out how climate change considerations would be integrated in the impact assessment process and in determining whether a project is in the public interest.

In addition to the broader review of project effects under the proposed Impact Assessment Act there will be an emphasis on early planning and engagement with Indigenous peoples, the public and stakeholders to identify and discuss potential effects and benefits early, leading to better project design.

Impact assessments under this new regime will be led by the Impact Assessment Agency of Canada. Where projects link to life-cycle regulators such as the Canadian Energy Regulator, the Canadian Nuclear Safety Commission and Offshore Boards, the Impact Assessment Agency of Canada will work collaboratively with the life-cycle regulators to draw upon their expert capacity and ensure that safety and other key regulatory factors are considered as part of a single, integrated review. Making a single agency responsible for leading all impact assessments under the Impact Assessment Act will build trust and provide more clarity and consistency for all stakeholders. It will also give Indigenous groups a clear point of contact for engagement with the Crown.

**The Impact Assessment Agency of Canada will conduct all impact assessments of projects on the Project List**

## THE PROJECT LIST

The Project List identifies the physical activities associated with the carrying out of projects (e.g. construction of a mine or construction of a hydroelectric generation facility) that may require an impact assessment. Each physical activity includes a description and in most cases a corresponding threshold, which serves as a representation of scale or size. For example, in the existing Project List, the threshold is often related to the production capacity of physical activities (e.g., a metal mine with an ore production capacity of 3 000 tonnes/day or more, or a hydroelectric generation facility with a production capacity of 200 MW or more). Certain entries in the existing Project List also include conditions to require or exempt an activity from assessment when those conditions are present (e.g., the requirement for an activity to be located on a new right of way).

**A project list provides clarity and predictability**

Whereas the Project List currently includes entries related to the National Energy Board and the Canadian Nuclear Safety Commission, going forward all projects prescribed in the Project List would be assessed by the Impact Assessment Agency of Canada in cooperation with life-cycle regulators. Details on how the Project List would function within the new impact assessment regime are outlined in Annex A.

## CRITERIA-BASED APPROACH TO REVISING THE PROJECT LIST

The Government is developing a criteria-based approach to revising the Project List that would focus federal impact assessment on projects that have the most potential for adverse environmental effects in areas of federal jurisdiction. Consideration of the full spectrum of positive and negative social, health, environmental and economic effects will take

place for those project types that are designated on the Project List. This will take place as part of the impact assessment process, as such fulsome assessment can only be appropriately done in the context of a specific project and its location.

**Transparency and clear criteria will be central in the development of the Project List**

Projects with potential for smaller effects in areas of federal jurisdiction would continue to be subject to other federal regulatory processes such as those under life-cycle regulators (e.g. the proposed Canadian Energy Regulator, Canadian Nuclear Safety Commission and the Offshore Boards) or through protections found under other legislation (e.g. *Fisheries Act*, *Parks Canada Act* and the *Canadian Environmental Protection Act, 1999*). Projects may also be designated for an impact assessment by the Minister of Environment and Climate Change, taking into consideration the potential for adverse effects on areas of federal jurisdiction, including impacts on Indigenous rights, or public concerns and any relevant regional or strategic assessment. This could help ensure an appropriate review in situations where a proposed project, which is not captured by the Project list, may have the potential for adverse effects as a result of the specific circumstances of the project. In addition, these types of projects may also be subject to provincial regulatory and environmental assessment processes. For projects proposed on federal lands, there would also be a requirement to conduct an assessment of environmental effects under the proposed Impact Assessment Act.

***The basic principle guiding the review of the Project List is the potential for adverse effects in an area of federal jurisdiction related to the environment.***

If it is determined that there is the potential for a project type to lead to adverse effects in an area of federal jurisdiction related to the environment, the extent to which the effects are adverse would then be considered. This analysis would be guided by relevant measures and environmental standards. Following this analysis a determination would be made regarding inclusion on the Project List. The existing Project List will be used as a starting point for the review, as the typical scope and complexity of the project types listed have shown, based on experience to date, to have the potential for adverse effects in areas of federal jurisdiction related to the environment.

## FEDERAL JURISDICTION FOR THE PURPOSES OF REVIEWING THE PROJECT LIST

In the context of impact assessment, federal jurisdiction derives from the established jurisdiction the Government has over the environment, which is a shared responsibility with provinces and its responsibilities with respect to federally regulated projects.

**Federal jurisdiction will be central in reviewing and revising the Project List**

The Government's criteria-based approach to revising the Project List aims to focus federal impact assessment on projects that have the most potential for adverse effects in areas of federal jurisdiction related to the environment. Under the proposed Impact Assessment Act, the Government of Canada would consider projects that may have impacts on the following components of the environment that are within the legislative authority of the federal government:

- Fish and fish habitat
- Species at risk (e.g. aquatic species)
- Migratory birds

- Changes to the environment on federal lands,(e.g. including the lands of Indigenous peoples (e.g., reserve lands)
- Changes to the environment in a province other than the one where the project is taking place
- Changes to the environment outside of Canada
- Environmental effects arising from federally regulated projects such as nuclear, rail, ports, airports, interprovincial pipelines and offshore energy activities.

## *POTENTIAL NATURE OF EFFECTS*

For project types that may have effects on one or more matters of federal jurisdiction, a determination would be made on the potential nature of those effects. This will involve qualifying the potential extent to which those effects may be adverse by considering the following:

## *FACTORS*

- *magnitude* – the amount of change in a measurable parameter relative to baseline conditions or other standards, guidelines or objectives;
- *geographic extent* - the spatial area over which the effect is predicted to occur;
- *timing* - when an effect could occur, for example during a breeding season, or during a period of species migration through an area;
- *frequency* - how often the effect could occur within a given time period;
- *duration* - the length of time that an effect could be noticeable (e.g. day, month, year, decade, permanent); and
- *reversibility* - a reversible effect is one where the valued component is expected to recover from the effects caused by the project.

Further details on these factors to guide the determination of the nature of effects are outlined in Annex B.

## *ENVIRONMENTAL OBJECTIVES AND STANDARDS*

When looking at the potential nature of the effects, consideration will be given to environmental objectives and standards set in relevant legislation, regulations and policy such as those under the *Fisheries Act, Parks Canada Act* and the *Canadian Environmental Protection Act, 1999,* or under federal-provincial-territorial agreements (e.g., Air Quality Management System, Pan-Canadian Framework on Clean Growth and Climate Change).

**We are considering areas of environmental importance such as climate change, biodiversity, air and water quality, and protected areas**

The following are areas with environmental objectives or standards to which the factors set out above will apply; in some cases, thresholds may be used in applying the factors. Proposed areas include:

- Potential for direct greenhouse gas emissions above a defined level;
- Potential for transboundary air emissions in another province or the United-States;
- Potential for effluent discharge above a defined level into a waterbody; and
- Potential for projects to hinder federal protection objectives in:
  - Migratory Birds Sanctuaries
  - National Parks
  - National Wildlife Areas
  - National Marine Conservation Areas
  - Marine Protected Areas

Applying these environmental objectives and standards in the analysis could both influence the types of projects considered for the Project List but also the potential for creating

environmentally-based thresholds and entries in the Project List itself. Consideration is being given to environmentally-based entries that would encourage proponents to adopt best available practices and technologies early in project planning. Such actions could be taken into account when determining whether an impact assessment is required and subsequent scoping of an assessment during the early planning phase.

Recognizing and supporting the conservation objectives of designated protected areas is important. Consideration will be given to the types of activities that would warrant impact assessments if located in, or with the potential to cause effects on, one of these listed federal protected areas.

In addition to these protected areas, projects on federal lands, including reserve lands, will be examined to ensure that appropriate projects are included for impact assessment.

In terms of understanding and analyzing the potential nature of a project type's adverse environmental effects, the approach would focus on the potential for effects without mitigation measures as these would be considered and identified through an impact assessment. However, if a project type has well defined standard mitigation measures that are always adopted as a matter of practice, are subject to stringent federal or provincial regulatory requirements and have proven to be effective in mitigating the effects, then these would be considered when determining the potential nature of those effects.

Consideration of a project's potential adverse environmental effects will also be based on those that are typical of a project type, such as the typical risks of accidents and malfunctions related to the project type. At the same time, effects can vary depending on individual project proposals and the location where they are proposed. Consideration will be given to whether regional or location-specific factors could be used in refining project entries. For example, offshore exploratory wells in a defined area where a regional assessment has been undertaken and approved by the Minister for that area could potentially be excluded from assessment.

## *DETERMINATION*

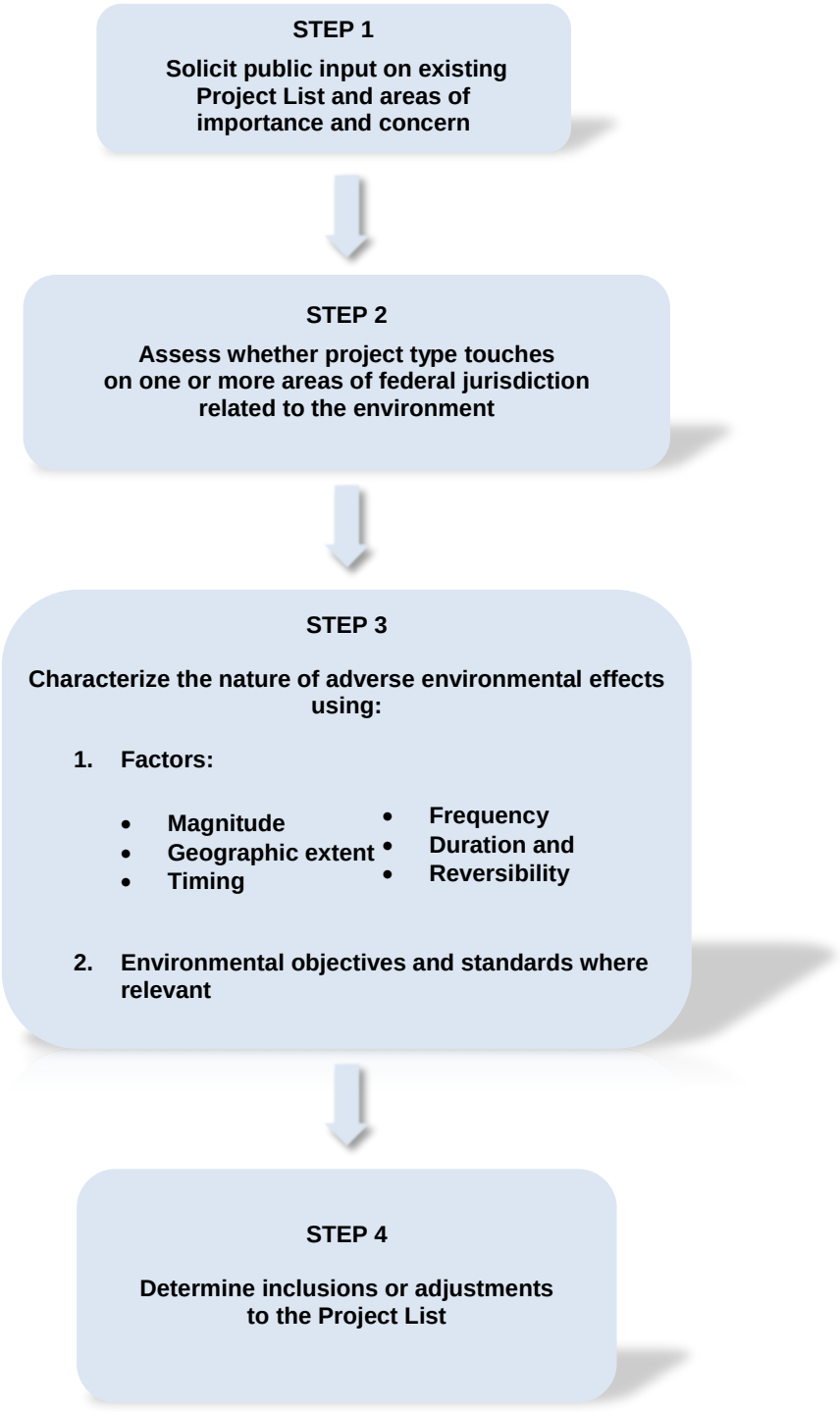
Once it is confirmed that there is the potential for a project type to have adverse effects in an area of federal jurisdiction related to the environment (see Figure Step 2), the nature of the effects will be characterized (see Figure Step 3). Upon completion of this analysis, the interaction of the factors outlined above along with the environmental objectives and standards would determine whether a project type is retained on, added to, deleted from or adjusted on the Project List. A determination to retain or add a project type to the Project List could be made when there are potential project effects in one or more areas of federal jurisdiction and one of the following applies:

- There is potential for such effects to be medium to high (see Annex B);
- Project type effects are complex and may require a complex set of mitigation measures;
- The project type is novel and the severity of effects or mitigations are unknown (use of the precautionary approach).

A determination not to retain or add a project type to the Project List could be made when there are potential project effects in one or more areas of federal jurisdiction and one of the following applies:

- There is potential for such effects to be low; or
- There are standard mitigation measures for the effects identified that are always adopted as a matter of practice, are subject to stringent regulatory requirements and have proven to be effective in mitigating the effects.

# REVISING THE PROJECT LIST:
# PROCESS FOR APPLYING THE CRITERIA-BASED APPROACH



## APPLYING THE APPROACH

The approach outlined would be applied to the existing Project List as a starting point. References to the National Energy Board and the Canadian Nuclear Safety Commission will be removed going forward as all projects prescribed in the Project List would be assessed by the Impact Assessment Agency of Canada, working with and drawing expertise from these life-cycle regulators.

The Government will also consider amending, as appropriate, existing entries and thresholds in the current Project List in light of experience to date, and in consideration of environmental objectives and standards. The approach will include a review of existing entries on the current Project List to confirm whether or not they warrant being subject to the proposed Impact Assessment Act. Potential new project types not on the existing Project List could also be identified (e.g., potash mines based on the potential effects on fish and fish habitat; and large-scale wind power facilities due to potential effects on migratory birds and fish and fish habitat in offshore cases). Thresholds and conditions for existing and proposed entries will be examined in order to ensure that the requirement for an assessment is aligned with the potential effects of a project. For example, for hydroelectric generating facilities, the existing threshold could be reduced to capture smaller facilities tied to the potential for effects to fish and fish habitat. Alternatively, for tidal power generating facilities, recognizing the fact that small-scale demonstration projects are now better understood and have limited environmental effects, the threshold related to this entry could be increased.

Where appropriate, and as is the case for certain existing entries, proposed entries could have qualifier conditions associated with them to require an impact assessment when those conditions are present (e.g., section 1 of the current *Regulations Designating Physical Activities* include projects located in a migratory bird sanctuary). Proposed entries may also have conditions associated with them that would exempt the activity from assessment if the conditions are present. For example, in-situ oil sands facilities could be added to the Project List due to potential effects on areas of federal jurisdiction, in particular greenhouse gas emissions, but exempted from federal assessment where a jurisdiction has in place a hard cap on greenhouse gas emissions. Similarly, marine terminals which are currently on the Project List, could be considered for exemption if in conformance with a current land-use plan.

In consideration of the environmental objectives and standards outlined, new environmentally-based entries may also be considered in order to ensure project development activities relevant to these standards are on track.

The Government may also consider specific project types or location-based entries that may merit consideration for the Project List due to location in, or with the potential to cause effects on an area of environmental importance. For example, this could include some projects in federally protected areas.

**Question 1: What are your views on using this criteria-based approach to guide the review of the Project List?**

## SUBSEQUENT REVIEWS

In recognition of the need to ensure the Project List is functioning appropriately to support the impact assessment regime, following the coming into force of a new Project List regulation, the

Project List would be required to undergo periodic reviews. The timeframe for these periodic reviews would be prescribed in regulations.

**Question 2: Do you have suggestions on the frequency for future reviews of the Project List?**

## NEXT STEPS – SEEKING YOUR VIEWS

Over the next year, the Government will be engaging with provincial governments, Indigenous peoples, industry and civil society to ensure we get the approach to the Project List right.

We are interested in your views on the proposed approach and would welcome comments on or before June 1st, 2018. They can be provided to: www.canada.ca/environmentalreviews. The Government will consider all comments received as it further refines its approach and continues engagement on the Project List. The overall objective is to ensure that projects that have the greatest potential adverse effects on areas of federal jurisdiction are assessed.

In the next few months, the Government will conduct a review of potential changes and additions using the approach laid out above and will consider all comments it receives as part of this consultation opportunity. Following this first round of consultation, there will be two other phases of consultation. In the fall of 2018 a proposed Project List will be shared for a subsequent round of consultation with stakeholders, Indigenous people, provinces and territories, and the public. Following this input the proposed Project List will be revised in advance of commencing the formal regulatory process in 2019, ultimately leading to the potential official coming into force of the regulation through publication in the *Canada Gazette.*

## ANNEX A – FUNCTION OF THE PROJECT LIST WITHIN THE IMPACT ASSESSMENT REGIME

### *DETERMINING PROJECT FOR REVIEW*

Proponents who believe their project type is listed in the Project List would be required to submit an initial description of their proposed project to the Impact Assessment Agency of Canada (the Agency). Upon receipt of a project proposal, the Agency would confirm if the project is a designated project as determined by the Project List regulations. If yes, the project would proceed to an early planning phase.

The Minister of Environment and Climate Change would continue to have the option to designate physical activities (i.e. projects) which are not listed in the Project List for review if, in the Minister's opinion, the physical activity may cause adverse environmental, health, social or economic effects on areas of federal jurisdiction, including impacts on Indigenous peoples, or public concerns related to those effects warrant the designation. This could help ensure appropriate review in situations where a proposed project, which is not captured by the Project List, may have the potential for adverse effects as a result of the specific circumstances of the project (e.g., located in an environmentally-sensitive area). When making this determination, the Minister would take into account the impact that the project may have on the rights of the Indigenous Peoples of Canada and the results of any relevant regional and strategic assessments. The Minister's determination would also be informed by consultation with Indigenous peoples whose rights may be impacted. The criteria and approach used to revise the Project List would also structure the approach to guide the review of requests for designation. Projects designated by the Minister would proceed to the early planning phase.

### *EARLY PLANNING PHASE*

The early planning phase will assist in developing the best possible conceptual project design and engagement strategies, and establish stronger relationships between the Agency, industry, Indigenous peoples, regulators, provincial partners and interested stakeholders. It will also confirm whether an impact assessment is required, the stream of assessment (i.e. Agency-led review or Panel Review) and the scope of factors to be considered in the review.

In making the determination for Impact Assessment, the Agency will consider whether the designated project may cause adverse environmental, health, social, or economic effects in areas of federal jurisdiction, the results of any relevant regional and strategic assessments, including regional study or plan prepared by other jurisdictions, consultation with Indigenous peoples related to potential effects on Aboriginal and treaty rights, and comments received from the public. If an assessment is required the Agency will indicate to the proponent what information is required for the assessment.

**Considering project on a case-by-case basis ensures the right tools are used to manage potential impacts**

The early planning phase may result in a determination that no impact assessment is required for a proposed project. Any such determinations in the early planning phase will be based on clear criteria and a transparent public process. For example, this could occur when:

- the project is found not to have the potential to cause adverse effects in areas of federal jurisdiction;
- the potential effects on matters within federal jurisdiction, including effects on Indigenous peoples and rights, are considered minor and can effectively be

addressed by another regulatory or assessment process, or can effectively be managed by the proponent (e.g. applying best practices and best available technologies).

Such determinations to not require an impact assessment will be limited if the Project List identifies those projects that have the most potential for adverse effects in areas of federal jurisdiction.

## *COOPERATION WITH OTHER JURISDICTIONS*

The early planning phase will consider any other assessment or regulatory regimes related to a proposed project. In these circumstances, early planning will facilitate cooperation with provinces, Indigenous jurisdiction and life-cycle regulators as the basis for scoping the factors to be considered and managing the subsequent impact assessment process.

A federal impact assessment may be required because of the adverse effects on areas of federal jurisdiction or adverse effects that may result from a federal decision that may allow a project to proceed. Some projects may also require a provincial environmental assessment or need to obtain regulatory approvals with other life-cycle regulators such as the Canadian Nuclear Safety Commission, the proposed Canadian Energy Regulator, the Canada-Nova Scotia Offshore Board and the Canada-Newfoundland and Labrador Offshore Board.

**It is important to consider whether and how another jurisdiction, including an Indigenous jurisdiction, is conducting an assessment of the same project**

To address these circumstances, the proposed Impact Assessment Act includes provisions for cooperation and coordinated action between orders of government and between the Agency and other federal life-cycle regulators. The proposed Impact Assessment Act is intended to achieve the goal of "one project one review".

## LINKING PROJECT ASSESSMENT WITH REGIONAL AND STRATEGIC ASSESSMENT

The proposed Impact Assessment Act includes provisions for the conduct of regional and strategic assessments to help inform project impact assessments. Regional assessments can establish what parts of an ecosystem are valued or important in a region, identify biodiversity-rich or sensitive areas, understand unique local conditions, and identify key threats as well as community needs and economic potential. Strategic assessments can play an important role in providing guidance on issues relevant to the conduct of project impact assessments and how existing or proposed policies, laws, and programs apply at a regional and project level, to set the stage for regional and project-level assessments.

The early planning phase will be used to link project impact assessment and regional or strategic assessments. Regional and strategic assessments will inform and potentially scope and streamline the impact assessment – this could include assisting in determining the appropriate scope of factors to be considered in project-specific assessments, and acting as a venue to address broad policy issues outside the scope of a single project assessment.

**Considering activities proposed in areas subject to significant cumulative effects is essential**

The results of regional and strategic assessment could also be considered in the development and periodic reviews of the Project List. As these types of assessments are completed, the results could inform the project types on the Project List.

## ANNEX B – KEY FACTORS FOR DETERMINING POTENTIAL NATURE OF EFFECTS

When considering potential new project types for a revised Project List, and reviewing those on the existing Project List to confirm that they continue to warrant consideration, determining the nature of the effects on areas of federal jurisdiction would involve qualifying the potential extent to which effects may be adverse by considering the following factors – magnitude, geographic extent, timing, frequency, duration and reversibility.

## MAGNITUDE

Magnitude refers to the amount of potential change to a matter within federal jurisdiction as a result of the activity. The potential magnitude is measured against baseline conditions or other standards, guidelines or objectives and is rated as “low”, “moderate” or “high”. For example, for transboundary air quality effects, the magnitude criteria would consider the potential degree of emissions relative to applicable standards. If the potential for emission is above the applicable standard, then the magnitude would be considered high.

## GEOGRAPHIC EXTENT

Geographic extent refers to the spatial area over which the effect has the potential to occur. The potential geographic extent would be rated as “low”, “moderate” or “high” depending on how far the effect is expected to occur – site specific, local, regional, provincial, national or global. For example, greenhouse gas emissions from projects are released into the atmosphere and disperse globally. As such the geographic extent of greenhouse gas emissions would be expressed as high.

## TIMING

Timing considerations should be noted when the activity has the potential to cause varying effects depending on the timing. In circumstance where there is potential for additional effects due to timing of the activity, the analysis would consider the potential nature of those effects using the other factors. For example, if a project type has the potential for effects on migratory birds, then the analysis would consider whether the project type has the potential for additional effects to migratory birds during migration periods. To make this determination, the analysis would reconsider the magnitude of those potential effects, geographic area, frequency, etc.

## FREQUENCY

Frequency describes how often the effect has the potential to occur within a given time period (e.g., alteration of aquatic habitat may occur twice per year). The potential frequency would be rated as “low”, “moderate” or “high” depending on how often the effect is expected to occur. Frequency is considered quantitatively where possible, such as daily, weekly or number of times per year. It may also be considered qualitatively such as rare, sporadic, intermittent, continuous, or regular.

## DURATION

Duration refers to the length of time that an effect has the potential to be discernible (e.g. day, month, year, decade, permanent). The potential duration would be rated as “low”, “moderate” or “high” depending on the amount of time required for the area of federal jurisdiction affected to return to baseline conditions through natural recovery or standard mitigation measures, if applicable. For example, the duration would be considered high if a project type would typically have effects that have a duration longer than the duration of the activity that caused the effect (e.g. the discharge of a substance into a water body frequented by fish may occur only during operation of a project, but

the environmental effect to aquatic biota may last beyond the operational lifespan of the project).

## REVERSIBILITY

Reversibility refers to the degree in which the area of federal jurisdiction affected has the potential to recover from the effects caused by the project through natural recovery or standard mitigation measures, if applicable. The potential reversibility would be rated as “low”, “moderate” or “high”.

## Annex C: For Reference - Existing Regulations Designating Physical Activities[2]

**SOR/2012-147**

CANADIAN ENVIRONMENTAL ASSESSMENT ACT, 2012

Registration 2012-07-06

Regulations Designating Physical Activities

The Minister of the Environment, pursuant to paragraphs 84(a) and (e) of the *Canadian Environmental Assessment Act, 2012*Footnote [a], makes the annexed *Regulations Designating Physical Activities*.

S.C. 2012, c. 19, s. 52

Ottawa, July 6, 2012

**Definitions**

**1** The following definitions apply in these Regulations.

***aerodrome*** has the same meaning as in subsection 3(1) of the *Aeronautics Act*. (*aérodrome*)

***area of mine operations*** means the area at ground level occupied by any open pit or underground workings, mill complex or storage area for overburden, waste rock, tailings or ore. (*aire d'exploitation minière*)

***canal*** means an artificial waterway constructed for navigation. (*canal*)

***drilling program*** has the same meaning as in subsection 1(1) of the *Canada Oil and Gas Drilling and Production Regulations*, SOR/2009-315. (*programme de forage*)

***exploratory well*** has the same meaning as in subsection 101(1) of the *Canada Petroleum Resources Act*, but does not include a delineation well or development well as those terms are defined in that subsection. (*puits d'exploration*)

***flowline*** has the same meaning as in subsection 2(1) of the *Canada Oil and Gas Installations Regulations*. (*conduite d'écoulement*)

***hazardous waste*** means ***hazardous waste*** as defined in section 1 of the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations* and ***hazardous recyclable material*** as defined in section 2 of those Regulations but does not include nuclear substances. (*déchets dangereux*)

***marine terminal*** means

**(a)** an area normally used for berthing ships and includes wharves, bulkheads, quays, piers, docks, submerged lands, and areas, structures and equipment that are

[2] Whereas the Project List currently includes National Energy Board and Canadian Nuclear Safety Commission entries, going forward all projects prescribed in the Project List would be assessed by the Impact Assessment Agency of Canada.

- **(i)** connected with the movement of goods between ships and shore and their associated storage areas, including areas, structures and equipment used for the receiving, handling, holding, consolidating, loading or unloading of waterborne shipments, or
- **(ii)** used for the receiving, holding, regrouping, embarkation or landing of waterborne passengers; and

**(b)** any area adjacent to the areas, structures and equipment referred to in paragraph (a) that is used for their maintenance. (*terminal maritime*)

***migratory bird sanctuary*** means an area set out in the schedule to the *Migratory Bird Sanctuary Regulations*. (*refuge d'oiseaux migrateurs*)

***new right of way*** means land that is subject to a right of way that is proposed to be developed for an electrical transmission line, an oil and gas pipeline, a railway line, or an all-season public highway and that is not alongside and contiguous to an existing right of way. (*nouvelle emprise*)

***nuclear facility*** has the same meaning as in section 2 of the *Nuclear Safety and Control Act*. (*installation nucléaire*)

***nuclear substance*** has the same meaning as in section 2 of the *Nuclear Safety and Control Act*. (*substance nucléaire*)

***offshore*** means located in

**(a)** in a submarine area described in paragraph 3(b) of the *Canada Oil and Gas Operations Act* in respect of which an authorization under that Act is required for the exploration and drilling for, or the production, conservation, processing or transportation of, oil or gas; or

**(b)** an area in respect of which an authorization under the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* or the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* is required for the exploration and drilling for, or the production, conservation, processing or transportation of, oil or gas. (*au large des côtes*)

***oil and gas pipeline*** means a pipeline that is used, or is to be used, for the transmission of hydrocarbons alone or with any other commodity. (*pipeline d'hydrocarbures*)

***uranium mill*** means a mill as defined in section 1 of the *Uranium Mines and Mills Regulations*. (*usine de concentration d'uranium*)

***uranium mine*** means a mine as defined in section 1 of the *Uranium Mines and Mills Regulations*. (*mine d'uranium*)

***waste management system***[Repealed, SOR/2013-186, s. 1]

***water body*** means any water body, including a canal, a reservoir, an ocean and a wetland as that term is defined in *The Federal Policy on Wetland Conservation* published in 1991 by the Department of the Environment, up to the high-water mark, but does not include a sewage or waste treatment lagoon or a mine tailings pond. (*plan d'eau*)

***wildlife area*** has the same meaning as in section 2 of the *Wildlife Area Regulations*. (*réserve d'espèces sauvages*)

**Designated activities — designated projects**

**2** The physical activities that are set out in the schedule are designated for the purposes of paragraph (b) of the definition ***designated project*** in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.

**Designated activities — participant funding program**

**3** The physical activities that are set out in the schedule or that are designated by the Minister under subsection 14(2) of the *Canadian Environmental Assessment Act, 2012* are designated for the purposes of paragraph 58(1)(a) of that Act.

**Activities – Agency**

**4 (1)** The activities set out in items 1 to 30 of the schedule are linked to the Agency when they are not regulated under, or incidental to a physical activity that is regulated under, the *Nuclear Safety and Control Act*, the *National Energy Board Act* or the *Canada Oil and Gas Operations Act*.

**Activities – Canadian Nuclear Safety Commission**

**(2)** The activities set out in items 31 to 38 of the schedule are linked to the Canadian Nuclear Safety Commission when they are regulated under the *Nuclear Safety and Control Act*.

**Activities – National Energy Board**

**(3)** The activities set out in items 39 to 48 of the schedule are linked to the National Energy Board when they are regulated under the *National Energy Board Act* or the *Canada Oil and Gas Operations Act*.

**Coming into force**

**5** These Regulations come into force on the day on which section 52 of the *Jobs, Growth and Long-term Prosperity Act*, chapter 19 of the Statutes of Canada, 2012, comes into force.

**SCHEDULE**

(Sections 2 to 4)

Physical Activities

**Canadian Environmental Assessment Agency**

**1** The construction, operation, decommissioning and abandonment, in a wildlife area or migratory bird sanctuary, of a new

**(a)** electrical generating facility or electrical transmission line;

**(b)** structure for the diversion of water, including a dam, dyke or reservoir;

**(c)** oil or gas facility or oil and gas pipeline;

**(d)** mine or mill;

**(e)** industrial facility;

**(f)** canal or lock;

**(g)** marine terminal;

**(h)** railway line or public highway;

**(i)** aerodrome or runway; or

**(j)** waste management facility.

**2** The construction, operation, decommissioning and abandonment of

**(a)** a new fossil fuel-fired electrical generating facility with a production capacity of 200 MW or more;

**(b)** a new in-stream tidal power generating facility with a production capacity of 50 MW or more or a new tidal power generating facility, other than an in-stream tidal power generating facility, with a production capacity of 5 MW or more; or

**(c)** a new hydroelectric generating facility with a production capacity of 200 MW or more.

**3** The expansion of

**(a)** an existing fossil fuel-fired electrical generating facility that would result in an increase in production capacity of 50% or more and a total production capacity of 200 MW or more;

**(b)** an existing in-stream tidal power generating facility that would result in an increase in production capacity of 50% or more and a total production capacity of 50 MW or more or an existing tidal power generating facility, other than an in-stream tidal power generating facility, that would result in an increase in production capacity of 50% or more and a total production capacity of 5 MW or more; or

**(c)** an existing hydroelectric generating facility that would result in an increase in production capacity of 50% or more and a total production capacity of 200 MW or more.

**4** The construction, operation, decommissioning and abandonment of a new dam or dyke that would result in the creation of a reservoir with a surface area that would exceed the annual mean surface area of a natural water body by 1 500 ha or more.

**5** The expansion of an existing dam or dyke that would result in an increase in the surface area of the existing reservoir of 50% or more and an increase of 1 500 ha or more in the annual mean surface area of the existing reservoir.

**6** The construction, operation, decommissioning and abandonment of a new structure for the diversion of 10 000 000 $m^3$/year or more of water from a natural water body into another natural water body.

**7** The expansion of an existing structure for the diversion of water from a natural water body into another natural water body that would result in an increase in diversion capacity of 50% or more and a total diversion capacity of 10 000 000 $m^3$/year or more.

**8** The construction, operation, decommissioning and abandonment of a new oil sands mine with a bitumen production capacity of 10 000 $m^3$/day or more.

**9** The expansion of an existing oil sands mine that would result in an increase in the area of mine operations of 50% or more and a total bitumen production capacity of 10 000 $m^3$/day or more.

**10** The drilling, testing and abandonment of offshore exploratory wells in the first drilling program in an area set out in one or more exploration licences issued in accordance with the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* or the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.

**11** The construction, installation and operation of a new offshore floating or fixed platform, vessel or artificial island used for the production of oil or gas.

**12** The decommissioning and abandonment of an existing offshore floating or fixed platform, vessel or artificial island used for the production of oil or gas that is proposed to be disposed of or abandoned offshore or converted on site to another role.

**13** The construction, operation, decommissioning and abandonment of a new offshore oil and gas pipeline, other than a flowline.

**14** The construction, operation, decommissioning and abandonment of a new

**(a)** oil refinery, including a heavy oil upgrader, with an input capacity of 10 000 $m^3$/day or more;

**(b)** facility for the production of liquid petroleum products from coal with a production capacity of 2 000 $m^3$/day or more;

**(c)** sour gas processing facility with a sulphur inlet capacity of 2 000 t/day or more;

**(d)** facility for the liquefaction, storage or regasification of liquefied natural gas, with a liquefied natural gas processing capacity of 3 000 t/day or more or a liquefied natural gas storage capacity of 55 000 t or more;

**(e)** petroleum storage facility with a storage capacity of 500 000 $m^3$ or more; or

**(f)** liquefied petroleum gas storage facility with a storage capacity of 100 000 $m^3$ or more.

**15** The expansion of an existing

**(a)** oil refinery, including a heavy oil upgrader, that would result in an increase in input capacity of 50% or more and a total input capacity of 10 000 $m^3$/day or more;

**(b)** facility for the production of liquid petroleum products from coal that would result in an increase in production capacity of 50% or more and a total production capacity of 2 000 $m^3$/day or more;

**(c)** sour gas processing facility that would result in an increase in sulphur inlet capacity of 50% or more and a total sulphur inlet capacity of 2 000 t/day or more;

**(d)** facility for the liquefaction, storage or regasification of liquefied natural gas that would result in an increase in the liquefied natural gas processing or storage capacity of 50% or more and a total liquefied natural gas processing capacity of 3 000 t/day or more or a total liquefied natural gas storage capacity of 55 000 t or more, as the case may be;

**(e)** petroleum storage facility that would result in an increase in storage capacity of 50% or more and a total storage capacity of 500 000 $m^3$ or more; or

**(f)** liquefied petroleum gas storage facility that would result in an increase in storage capacity of 50% or more and a total storage capacity of 100 000 $m^3$ or more.

**16** The construction, operation, decommissioning and abandonment of a new

**(a)** metal mine, other than a rare earth element mine or gold mine, with an ore production capacity of 3 000 t/day or more;

**(b)** metal mill with an ore input capacity of 4 000 t/day or more;

**(c)** rare earth element mine or gold mine, other than a placer mine, with an ore production capacity of 600 t/day or more;

**(d)** coal mine with a coal production capacity of 3 000 t/day or more;

**(e)** diamond mine with an ore production capacity of 3 000 t/day or more;

**(f)** apatite mine with an ore production capacity of 3 000 t/day or more; or

**(g)** stone quarry or sand or gravel pit, with a production capacity of 3 500 000 t/year or more.

**17** The expansion of an existing

**(a)** metal mine, other than a rare earth element mine or gold mine, that would result in an increase in the area of mine operations of 50% or more and a total ore production capacity of 3 000 t/day or more;

**(b)** metal mill that would result in an increase in the area of mine operations of 50% or more and a total ore input capacity of 4 000 t/day or more;

**(c)** rare earth element mine or gold mine, other than a placer mine, that would result in an increase in the area of mine operations of 50% or more and a total ore production capacity of 600 t/day or more;

**(d)** coal mine that would result in an increase in the area of mine operations of 50% or more and a total coal production capacity of 3 000 t/day or more;

**(e)** diamond mine that would result in an increase in the area of mine operations of 50% or more and a total ore production capacity of 3 000 t/day or more;

**(f)** apatite mine that would result in an increase in the area of mine operations of 50% or more and a total ore production capacity of 3 000 t/day or more; or

**(g)** stone quarry or sand or gravel pit that would result in an increase in the area of mine operations of 50% or more and a total production capacity of 3 500 000 t/year or more.

**18** The construction and operation of a new military base or military station that is to be established for more than 12 consecutive months.

**19** The construction, operation, decommissioning and abandonment outside an existing military base of a new military training area, range or test establishment for training or weapons testing that is to be established for more than 12 consecutive months.

**20** The expansion of an existing military base or military station that would result in an increase in the area of the military base or military station of 50% or more.

**21** The decommissioning and abandonment of an existing military base or military station.

**22** The testing of military weapons for more than five days in a calendar year in an area other than the training areas, ranges and test establishments established before October 7, 1994 by or under the authority of the Minister of National Defence for the testing of weapons.

**23** The low-level flying of military fixed-wing jet aircraft for more than 150 days in a calendar year as part of a training program at an altitude below 330 m above ground level on a route or in an area that was not established before October 7, 1994 by or under the authority of the Minister of National Defence or the Chief of the Defence Staff as a route or area set aside for low-level flying training.

**24** The construction, operation, decommissioning and abandonment of a new

**(a)** canal or a lock or associated structure to control water levels in the canal;

**(b)** lock or associated structure to control water levels in existing navigable waterways; or

**(c)** marine terminal designed to handle ships larger than 25 000 DWT unless the terminal is located on lands that are routinely and have been historically used as a marine terminal or that are designated for such use in a land-use plan that has been the subject of public consultation.

**25** The construction, operation, decommissioning and abandonment of a new

**(a)** railway line that requires a total of 32 km or more of new right of way;

**(b)** railway yard with seven or more yard tracks or a total track length of 20 km or more;

**(c)** all-season public highway that requires a total of 50 km or more of new right of way; or

**(d)** railway line designed for trains that have an average speed of 200 km/h or more.

**26** The construction, operation, decommissioning and abandonment of a new

**(a)** aerodrome located within the built-up area of a city or town;

**(b)** airport, as defined in subsection 3(1) of the *Aeronautics Act*; or

**(c)** all-season runway with a length of 1 500 m or more.

**27** The extension of an existing all-season runway by 1 500 m or more.

**28** The construction, operation, decommissioning and abandonment of a new

**(a)** international or interprovincial bridge or tunnel; or

**(b)** bridge over the St. Lawrence Seaway.

**29** The construction, operation, decommissioning and abandonment of a new facility used exclusively for the treatment, incineration, disposal or recycling of hazardous waste.

**30** The expansion of an existing facility used exclusively for the treatment, incineration, disposal or recycling of hazardous waste that would result in an increase in hazardous waste input capacity of 50% or more.

**Canadian Nuclear Safety Commission**

**31** The construction, operation and decommissioning of a new uranium mine or uranium mill on a site that is not within the licensed boundaries of an existing uranium mine or uranium mill.

**32** The expansion of an existing uranium mine or uranium mill that would result in an increase in the area of mine operations of 50% or more.

**33** The construction, operation and decommissioning of a new

**(a)** facility for the processing, reprocessing or separation of an isotope of uranium, thorium, or plutonium, with a production capacity of 100 t/year or more;

**(b)** facility for the manufacture of a product derived from uranium, thorium or plutonium, with a production capacity of 100 t/year or more; or

**(c)** facility for the processing or use, in a quantity greater than $10^{15}$ Bq per calendar year, of nuclear substances with a half-life greater than one year, other than uranium, thorium or plutonium.

**34** The expansion of an existing

**(a)** facility for the processing, reprocessing or separation of an isotope of uranium, thorium or plutonium that would result in an increase in production capacity of 50% or more and a total production capacity of 100 t/year or more;

**(b)** facility for the manufacture of a product derived from uranium, thorium or plutonium that would result in an increase in production capacity of 50% or more and a total production capacity of 100 t/year or more; or

**(c)** facility for the processing or use, in a quantity greater than $10^{15}$ Bq per calendar year, of nuclear substances with a half-life greater than one year, other than uranium, thorium or plutonium, that would result in an increase in processing capacity of 50% or more.

**35** The construction, operation and decommissioning of a new nuclear fission or fusion reactor.

**36** The expansion of an existing nuclear fission or fusion reactor that would result in an increase in power output of 50% or more.

**37** The construction and operation of a new

**(a)** facility for the storage of irradiated fuel or nuclear waste, on a site that is not within the licensed perimeter of an existing nuclear facility; or

**(b)** facility for the long-term management or disposal of irradiated fuel or nuclear waste.

**38** The expansion of an existing facility for the long-term management or disposal of irradiated fuel or nuclear waste that would result in an increase in the area, at ground level, of the facility of 50% or more.

**National Energy Board**

**39** The construction, operation, decommissioning and abandonment of a new electrical transmission line with a voltage of 345 kV or more that requires a total of 75 km or more of new right of way.

**40** The drilling, testing and abandonment of offshore exploratory wells in the first drilling program in an area set out in one or more exploration licences issued in accordance with the *Canada Petroleum Resources Act*.

**41** The construction, installation and operation of a new offshore floating or fixed platform, vessel or artificial island used for the production of oil or gas.

**42** The decommissioning and abandonment of an existing offshore floating or fixed platform, vessel or artificial island used for the production of oil or gas that is proposed to be disposed of or abandoned offshore or converted on site to another role.

**43** The construction, operation, decommissioning and abandonment of a new offshore pipeline, other than a flowline.

**44** The construction, operation, decommissioning and abandonment of a new

**(a)** sour gas processing facility with a sulphur inlet capacity of 2 000 t/day or more; or

**(b)** petroleum storage facility with a storage capacity of 500 000 $m^3$ or more.

**45** The expansion of an existing

**(a)** sour gas processing facility that would result in an increase in sulphur inlet capacity of 50% or more and a total sulphur inlet capacity of 2 000 t/day or more; or

**(b)** petroleum storage facility that would result in an increase in storage capacity of 50% or more and a total storage capacity of 500 000 $m^3$ or more.

**46** The construction and operation of a new pipeline, other than an offshore pipeline, with a length of 40 km or more.

**47** The decommissioning and abandonment of an existing pipeline, other than an offshore pipeline, if at least 40 km of pipe is removed from the ground.

**48** The construction, operation, decommissioning and abandonment, in a wildlife area or migratory bird sanctuary, of

**(a)** a new electrical transmission line; or

**(b)** a new oil or gas facility or new pipeline.