Environmental Assessment Procedures in Canada and Their Implications for Transportation

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Environmental assessment (EA) and procedures are of growing importance and concern to those involved in or affected by large physical projects, including transportation projects. Today, two decades after the first EA requirements were implemented in Canada, the federal government and every provincial and territorial government has some form of EA process in place. This report discusses the EA process in Canada, its evolution, common principles and practices, and current issues with respect to the application of EA legislation. The report also describes the EA process and practice in the federal government and in each province and territory.
Foreword

There is always a delay before the best and most current research information is transferred into common use. The practical value of new information results only after dissemination and technology transfer mechanisms enable practitioners to transform that information into knowledge, and then to use that knowledge to solve problems or implement improved practices.

In the transportation sector, working professionals are often faced with problems for which solutions already exist, either in published reports or in the undocumented experience and practice of others working in the field. The volume of information being produced in the world today makes it very difficult to keep fully apprised on the most current data and practices. In Canada, the sharing of information is further complicated by the decentralized jurisdictional responsibility for transportation and vast geographical distances. The TAC Synthesis of Practice series has been initiated to help alleviate the problem by compiling and disseminating state of the art information on topics of current interest to the Canadian transportation community.

For each topic selected, the project objectives are:

1. To locate and assemble all documented information on the topic.
2. To identify current engineering practice for addressing problems within the scope of the topic.
3. To identify all ongoing research on the topic.
4. To learn what problems remain largely unsolved.
5. To organize, evaluate, synthesize and document the useful information that is acquired.
6. To evaluate the effectiveness of the synthesis after it has been in the hands of its users for a period of time.

The overall mission of the Transportation Association of Canada (TAC) is to promote the provision of safe, efficient, effective and environmentally sustainable transportation services in support of the nation’s social and economic goals. The national, non-profit association acts as a neutral forum for the discussion of transportation issues and concerns, and acts as a technical focus in the roadway transportation area. Its corporate members include all levels of government, other associations, consultants, contractors, manufacturers, distributors, shippers, goods carriers, passenger transport services, and academic and research institutes.

The Synthesis of Practice series is sponsored by TAC’s Research and Development Council. The role of the R&D Council is to foster innovative, efficient and effective research and technology transfer in support of Canadian transportation. Its responsibilities include the identification of national research priorities, the development and management of a national cooperative R&D program, and the monitoring and dissemination of transportation research information in Canada and abroad.
Acknowledgements

The preparation of this Synthesis of Practice was funded by the Research and Development Council of the Transportation Associates of Canada (TAC). Funding for this Council is primarily provided by the Federal and Provincial/Territorial departments of transportation. The document was compiled following TAC's Environment Assessment Seminar Series which was held during the spring of 1993.

The author would like to express his appreciation for the assistance provided by the members of the Advisory Panel. As well, those individuals who made presentations during the seminar series are thanked for providing both material and comments during the preparation of this report.

TAC wishes to thank all those who provided input to the study and hopes that it will prove to be a useful document for transportation professionals dealing with environmental assessment.
Executive Summary

This compendium is the result of information gathered through a series of seminars conducted across Canada in the spring of 1993. The first part of this report is composed of a discussion of the evolution of environmental assessment in Canada, the standard EA processes and principles that are common across Canada, and some current issues with respect to the application of environmental assessment legislation. The second part of the report is a series of chapters describing the EA process in each province, territory, and the federal government.

When Canada was created, clear jurisdiction for environmental protection was not defined. This was of little concern until governments at both the provincial and federal levels began to pass environmental legislation in response to heightened public concern for the environment.

Although much of the enforcement of environmental laws occurs at the provincial level, the federal government has established a large body of environmental legislation. This body of federal legislation began with the Fisheries Act passed in the 1800’s, and has been significantly expanded through the latter half of this century, leading to the passage of the Canadian Environmental Assessment Act in 1992.

The requirement for environmental assessment legislation grew out of increased public concern over the degradation of environmental quality, and public demand to be involve in decisions that could affect them and the environment.

Environmental assessment in Canada is now two decades old, with the first EA requirements appearing in 1973. Now every federal, provincial and territorial government has some form of EA process in place. Several jurisdictions are now reviewing their EA processes with the goal of improving them. The principles of EA are also being incorporated into land-claim agreements between the federal government and the First Nations.

The environmental assessment processes across Canada have similar components. These include:

- Application to both public and private sector projects;
- A screening mechanism to remove minor projects from the process;
- A proponent prepared environmental assessment document, which is submitted to the government for review and approval;
- A review of the EA document by government agencies and the public, as input to the decision on whether or not to approve the project; and
- A provision for public hearings.

As well, the various processes have the following common requirements:

- A discussion of the purpose of the project;
- A consideration of alternative courses of action;
Sommaire

Le présent rapport a été rédigé à la lumière de l'information réunie lors d'une série de colloques tenus à l'échelle du Canada au printemps de 1993. La première partie de ce document traite de l'évolution des procédures d'évaluation environnementale au Canada, des méthodes et principes normalisés communément appliqués au pays dans ce contexte et de certaines questions touchant l'application de la législation en la matière. La seconde partie du rapport se présente comme une série de chapitres décrivant la procédure d'évaluation environnementale qu'appliquent chaque province et territoire ainsi que le gouvernement fédéral.

L'époque de la création du Canada, aucune compétence n'avait clairement été attribuée dans le domaine de la protection de l'environnement. Cette question n'a d'ailleurs guère préoccupé les gouvernements fédéral et provinciaux que lorsqu'il leur a fallu adopter différentes lois en réponse aux préoccupations manifestes du public à l'endroit de l'environnement.

Bien que l'application des lois environnementales soit surtout du ressort des provinces, le gouvernement fédéral a adopté dans ce domaine bon nombre de dispositions législatives, à commencer par la Loi sur les pêcheries, laquelle est entrée en vigueur au début du siècle dernier. Au cours de la deuxième moitié du présent siècle, les instruments législatifs de protection de l'environnement ont considérablement évolué, une démarche qui a conduit à l'adoption, en 1992, de la Loi canadienne sur l'évaluation environnementale.

Le besoin d'une législation en matière d'évaluation environnementale est issu des préoccupations croissantes du public face à la dégradation de la qualité de l'environnement et de la demande expresse de ce dernier d'être partie aux décisions pouvant influer sur sa qualité de vie et sur l'environnement.


Les procédures d'évaluation environnementale appliquées au Canada partagent notamment les traits suivants :

- elles s'appliquent à la fois aux projets des secteurs public et privé;
- elles prévoient un mécanisme de filtration destiné à soustraire de leur application les projets de moindre envergure;
- elles exigent du promoteur d'un projet qu'il prépare un document d'évaluation environnementale et soumette celui-ci à l'examen et à l'approbation des autorités gouvernementales visées;
environnementale et collaborent avec les organismes environnementaux locaux à l'intégration des exigences pertinentes aux projets de planification, de conception et de construction touchant les transports. Enfin, tout porte à croire que les futurs efforts dans ce domaine seront axés sur le perfectionnement des méthodes de prévision des incidences sur l'environnement, sur l'amélioration des mesures d'atténuation connexes et sur la rationalisation des processus d'examen et d'approbation prévus par les différentes procédures d'évaluation environnementale.
# Table of Contents

## Overview

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Federal Jurisdiction</td>
<td>1</td>
</tr>
<tr>
<td>Federal Environmental Laws</td>
<td>2</td>
</tr>
<tr>
<td>Why Environmental Assessments?</td>
<td>4</td>
</tr>
<tr>
<td>Legislative Context in Canada</td>
<td>4</td>
</tr>
<tr>
<td>Standard EA Approvals Processes</td>
<td>5</td>
</tr>
<tr>
<td>Standard EA Principles</td>
<td>6</td>
</tr>
<tr>
<td>Issues</td>
<td>7</td>
</tr>
</tbody>
</table>

## Environmental Assessment Processes

1. Federal Government                          | 11   |
2. Alberta                                     | 21   |
3. British Columbia                            | 29   |
4. Manitoba                                    | 43   |
5. New Brunswick                               | 53   |
6. Newfoundland and Labrador                  | 59   |
7. Northwest Territories                       | 67   |
8. Nova Scotia                                 | 75   |
9. Ontario                                     | 85   |
10. Prince Edward Island                       | 95   |
11. Quebec                                     | 101  |
12. Saskatchewan                               | 123  |
13. Yukon Territory                            | 129  |
ENVIRONMENTAL ASSESSMENT PROCEDURES IN CANADA, AND THEIR IMPLICATIONS FOR TRANSPORTATION

INTRODUCTION:

This report represents a compendium of environmental assessment practices across Canada. Every province, territory and the federal government has some form of environmental assessment process that is applicable to the planning and construction of transportation facilities. The extent of involvement of the environment ministry, and the scale of project affected by environmental assessment legislation varies from one jurisdiction to another.

The preparation of this Compendium was commissioned by the Transportation Association of Canada. It was initiated as part of a seminar series on Environmental Assessment and Transportation that was held in several cities across Canada, in the spring of 1993. This Compendium is intended to help people in the transportation sector who are required to deal with environmental assessment processes, to understand the legislated processes, and some of the similarities and differences among the various jurisdictions.

The Compendium begins with an Overview of Environmental Assessment in Canada. This overview was the introductory session in each of the seminars. This is followed by a chapter dealing with each province, territory, and the federal government. Each of these chapters briefly describes the history of environmental assessment in the jurisdiction being reviewed, describes the process, and where information was available, describes the implications for transportation.

Since the information was obtained primarily from the seminar series, and not all provinces and territories were visited, the level of detail of information on a given jurisdiction may vary.

FEDERAL JURISDICTION

When the Fathers of Confederation crafted the political form that Canada would take in 1867, little consideration was given to defining responsibilities for environmental issues. The British North America Act (BNA) did not apportion clear jurisdiction for the protection of the environment. Since at that time, environmental issues were not of paramount concern, this lack of clarity was of little concern.
The Canada Shipping Act provides for among other things, the control of pollution from ships operating in Canadian waters below the 60th parallel. This was complemented by the Arctic Waters Pollution Prevention Act, which controls pollution in the Canadian Arctic.

The Northern Inland Waters Act provides for the control of water use in the Yukon and Northwest Territories, and the discharge of wastes to those waters.

The Canada Water Act enables federal-provincial studies and agreements whereby joint efforts can be made to manage water quality.

The Ocean-dumping Control Act regulated the dumping of materials at sea.

The Clean Air Act allowed for the protection of air quality, by creating national emission standards and air quality objectives; and

The Environmental Contaminants Act provided the authority to regulate the development, manufacture, transportation, storage, and use of toxic substances.

In 1988, the last 4 Acts listed above, were combined into the Canadian Environmental Protection Act.

During the 1980's more federal environmental legislation emerged.

The Pest Control Products Act was passed in 1985 to control the classification, labelling and packaging of pesticides. This is usually complemented by licensing provisions in provincial legislation.

Also in 1985, the Transportation of Dangerous Goods Act was passed to control the handling, offering for transport, and transporting of dangerous goods. In addition, in 1985, the Hazardous Products Act was passed.

The passage of the Canadian Environmental Protection Act (CEPA) in 1988, brought broad powers to control toxic substances and control the emission of pollutants, from cradle to grave.

CEPA also has broad provisions for federal/provincial cooperation, and harmonization of requirements. In addition the Act contains a commitment to the public's right to know about environmental matters.

The latest federal environmental statute is the Canadian Environmental Assessment Act which was passed in 1992, reaffirmed in the 1994 Speech From The Throne, and is expected to be proclaimed into force in the fall of 1994.
environmental assessment policy in place since 1973, gave Royal Assent to the Canadian Environmental Assessment Act last June.

Typical of the evolutionary process, we are now seeing several provinces reviewing their environmental assessment legislation, and developing second generation refinements to their processes.

The principles of environmental assessment are also being included in agreements to devolve power from the federal government to the northern territories and in land-claim agreements with First Nations peoples.

STANDARD EA APPROVALS PROCESSES:

A review of the environmental assessment processes in Canada shows that they have many similar components set out in the legislation. This has come about as different jurisdictions build upon the work and successes of others, and through cooperative efforts of environmental assessment practitioners and political leaders.

In every jurisdiction, the environmental assessment requirements are being applied to both the public and private sectors. In some cases, (e.g. Ontario) the private sector application is selective.

One commonality in the processes is a screening mechanism, that removes minor projects from the process. In Ontario, the EA Act was made to apply to all projects unless specifically exempted by Cabinet. This resulted in a large number of exemption orders in the early stages of the administration of the Act. Other jurisdictions have avoided this by stating in the Act or its regulations, what projects require environmental assessments.

For projects that are subject to the full environmental assessment requirements, an environmental assessment document is prepared by the proponent, and submitted to a government agency for review and approval.

All EA processes in Canada involve a review of the environmental assessment document by interested technical departments within the government, and by the public. This review forms the basis of the decision on approval of the project. This process used to be quite confrontational. However, now we are seeing greater cooperation amongst proponents and reviewers as each gains a greater understanding of, and respect for, each other's interests.

Every jurisdiction with an Environmental Assessment process, has provisions for public hearings. In most cases, these hearings are discretionary. However, in some provinces the hearings are mandatory.
ISSUES:

We have gone through almost two decades of environmental assessment in Canada. Over that time a lot of improvements and refinements have been made. However, there are many issues still being discussed. The following outlines some of these issues. These represent the opinions of the author, and not necessarily those of the Transportation Association of Canada.

Overlapping Jurisdiction - With the Supreme Court's decision on the Old Man River Dam, both federal and provincial EA requirements started to be applied to the same projects. This has added considerable confusion for proponents in deciding on who to consult with, and what standards need to be met in the EA. Although, progress is being made with federal/provincial co-operation on harmonization of EA processes, there will still be difficulty getting one jurisdiction willing to rely on the judgements of another.

As well, many federal departments were just beginning to get comfortable with environmental impact assessment requirements for their own projects when the Supreme Court of Canada decided that they were also going to have to consider the environmental impacts of other proponents projects. This has required many departments to reconsider their role in the environmental assessment process.

Unpredictability in the Review and Approvals Process - Proponents are very good at managing the process while it is in their hands. However, when the environmental assessment is formally submitted for approval, it often moves out of the proponent's hands into a process that has little predictability.

In some jurisdictions, the review and approvals process has taken from 9 months to 3 years before a decision on approval of the project, is made. This makes it difficult for proponents to schedule financing and construction. The delays experienced during the review and approvals process can be quite costly to proponents. For the private sector, the delays may not be tolerable in situations where the proponent is targeting a small window of opportunity. Some jurisdictions are responding to this concern by building legislated timeframes for the review and approval process, into the legislation.

In addition, with the rapid pace of change in environmental requirements, proponents are finding that what was acceptable to a regulatory agency at the time the environmental assessment was prepared, is no longer acceptable at the time final approval is being contemplated.
The dilemma is that it may not be politically acceptable to talk about EA without including these concepts, yet neither those administering the process, nor preparing the environmental assessments, know how to satisfactorily address these concepts.

The danger when this situation exists is that the decision-makers may not be willing to grant an approval until these matters are addressed, yet do not have clear yardsticks by which to assess the information that is provided. This leaves proponents to continually offer up information, until they hit upon the elusive "right answer".

**Public Consultation vs Participation** - The involvement of the public is a key and standardized requirement of all environmental assessment processes.

However, in many cases, it is nothing more than a consultation process consisting of a two-way exchange of information, rather than a dialogue. In these cases, proponents provide their latest thinking, and the public provides comments.

The challenge facing proponents is to establish a dialogue whereby the public and interest groups can participate in the decision-making process, in a non-confrontational way.

**Conflict Resolution** - There is a need to develop alternative conflict resolution mechanisms. In the past, when significant conflicts arose during the EA process, they were left to a tribunal to hear the evidence and make a recommendation/decision on the controversial issues.

The problem with this is that it often meant that all of the issues had to be aired and debated, even though many had previously been resolved. This leads to lengthy and costly processes.

Many jurisdictions are experimenting with alternative mechanisms whereby single issues can be resolved in more timely and cost effective ways.

The final issue is **Network vs Project Environmental Assessments**. As mentioned earlier, proponents are good at dealing with project alternatives such as different alignments, but are not quite as good at dealing with higher level or strategic planning alternatives such modal mix and network alternatives.

In Ontario there is an increasing emphasis being placed on using masterplanning to set the context for project specific environmental assessments. Through these strategic planning processes, the question of need and modal alternatives can be addressed and resolved at one time, and not raised and debated on each specific project. The specific projects are also
THE FEDERAL GOVERNMENT

History of Environmental Assessment at the Federal Government:

1973

The first requirements for environmental assessment of federal government projects came with the establishment of the Environmental Assessment Review Process (EARP) by a Cabinet decision on December 20, 1973.

1977

EARP was further modified by another Cabinet decision on February 15, 1977.

1984

On June 22, 1984, EARP was strengthened and further updated through the issuance of the Environmental Assessment and Review Process Guidelines Order. This Guidelines Order forms the basis of Environmental Impact Assessment at the federal government level, until the proclamation of the Canadian Environmental Assessment Act.

1987

In April 1987, through the Speech From the Throne, the government first announced its intention to introduce environmental assessment legislation to replace the Guideline Order.

1989

Until 1989, the federal Environmental Assessment Review Process only applied to projects where there was a clear and significant federal decision-making authority, i.e. projects initiated by a department of the federal government, projects on federal lands and projects involving significant federal funding.

However, a series of federal court decisions on major dam projects (e.g. Rafferty-Alameda dam, Oldman River dam) rendered from April 1989 to March 1990, determined that the Guideline Order had the force of a regulation, and was binding on the Crown. Furthermore these court decisions determined that EARP applied to any project, regardless of proponency, that required an "affirmative regulatory duty" (e.g. a Navigable Waters Protection Act approval) by the
done, and for making the project decisions.

<table>
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<th>Initial Environmental Evaluation (IEE)</th>
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<td>The first stage of the EARP is the initial assessment stage, and applies to all projects subject to EARP. This step is carried out by the initiating department. It involves the determination of the potential adverse environmental effects a project may have, their significance, and what additional assessment may be required. The Guideline Order requires an initiating department to provide an opportunity for the public to review and comment on the proposal. There are 4 possible outcomes from this initial evaluation.</td>
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<th>Insignificant Effects</th>
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<td>If the effects are not significant, or can be mitigated, the project can proceed subject to the mitigating measures being implemented.</td>
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<th>Significant Effects</th>
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<td>If the project is likely to cause significant adverse effects that cannot be mitigated, the project must be modified, or abandoned.</td>
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<th>Significance Of Effects Is Not Clear</th>
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<td>Where the significance of adverse effects is not clear, and further study is needed, a more detailed study is required.</td>
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<th>Public Review Is Desirable</th>
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<td>In those cases where the potential adverse environmental effects could be significant, or the project could cause public concern, the initiating department must refer the project to the Minister of the Environment for formal public review by an Environmental Assessment Panel.</td>
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<th>The Panel</th>
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<td>An Environmental Assessment Panel (3 to 7 members) is appointed to deal with the project. This panel is supported by the Federal Environmental Assessment Review Office (FEARO).</td>
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<th>Terms of Reference</th>
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<td>The initiating department and FEARO draft the Terms of Reference for the review. After consultation with the department, the Minister of the Environment issues the Terms of Reference to the Panel. These often are in the form of Environmental Impact Statement (EIS) Guidelines, and are issued by the Panel, in draft form, for public comment. Following public comment, they are finalized and</td>
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**Federal Government**
ensure public participation in the EA process.

**Application of the Act**

Generally, an environmental assessment is triggered under the CEAA if a Federal Authority:

- proposes a project;
- grants money to a project;
- grants an interest in land to a project; or
- exercise a regulatory duty in relation to a project.

The specific undertakings to which the Act will apply will be specified through 4 key regulations.

**The Exclusion List**

Projects which are known not to pose any risk or harm to the environment, or for which the environmental effects are negligible, are to be excluded through the Exclusion List. This regulation will list "Physical Works" to be excluded. In addition, all "Physical Activities" not related to "Physical Works" will be excluded, unless specifically included.

A Physical Work, is a project that has or will have a fixed location, is a physical thing, and will be constructed.

A Physical Activity is an action that does not have a construction component to it, but could have significant environmental effects (e.g. low level military training flights).

**The Inclusion List**

The Inclusion List will identify those physical activities which will be subject to the Act.

**The Comprehensive Study List**

Projects which are known to have significant environmental impacts will require a comprehensive study. These types of projects will be prescribed by regulation. These might include:

- large oil and gas developments;
- uranium mines, uranium mining facilities and nuclear reactors;
- major water management projects; or
- large industrial plants such as new pulp mills.
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- large oil and gas developments;
- uranium mines, uranium mining facilities and nuclear reactors;
- major water management projects; or
- large industrial plants such as new pulp mills.
- the conservation and sustainable development of any renewable resources that are likely to be significantly affected by the project; and

- any other matter the responsible authority or the Minister may require.

**Draft Review**

A draft of the comprehensive study report will be published, to allow the public and expert government departments to review and comment on the report. The proponent will consider these comments in preparing the final report.

**Submission**

The final report is submitted to the Minister of the Environment through the Canadian Environmental Assessment Agency. Based on the advice from the Agency, the Minister will decide whether further public review is required.

**Public Review**

If the Minister decides that further public review is required, this review can be conducted either by a Panel, or by a mediator.

Mediation would be suitable where consensus on outstanding issues is likely, where there are few and identifiable stakeholders, and the issues are limited in scope and number. The mediation process would be shorter and less formal than a Panel Review.

A Panel would operate in a similar fashion to the process under the Guidelines Order. It would still be advisory, rather than a decision-making body.

**Follow-up Program**

The CEAA provides for follow-up monitoring plans designed to verify the predictions contained in the environmental assessment, and to determine the effectiveness of mitigating measures.

**Participant Funding**

The federal environmental assessment reform package provides for a regular program for participant funding. This funding is intended to help ensure that all participants in panel reviews have an equal opportunity to prepare and present informed views.
ALBERTA
ALBERTA

History of Environmental Assessment in Alberta:

1973

The first requirements for environmental assessments was a referral system developed by Alberta Environmental Protection following the passage of the Land Surface Conservation and Reclamation Act in 1973.

1974

This Act was amended in 1974 to allow for the requirement of environmental assessments.

1975

These requirements were supported by guidelines published in 1977, and revised in 1985.

1989

In 1989, a Ministerial Task Force reviewed the environmental assessment process.

1992

In response to the Task Force’s recommendations, an environmental assessment process was legislated through the Environmental Protection and Enhancement Act in June of 1992. This new process is administered by Alberta’s Environmental Protection Ministry.

Purpose:

Intent of the Act

The Environmental Assessment Process is intended to protect, enhance and ensure the wise use of Alberta’s environment. It supports the goals of environmental protection and sustainable development by:

- integrating environmental protection and economic decisions at an early planning stage;
- fostering a preventative approach to avoiding problems, by predicting environmental consequences and assessing plans to mitigate adverse environmental impacts;
- providing for the involvement of the public and government agencies in the evaluation of projects prior to approval;
Terms of Reference

Where an EIA is required, either because the project is on the mandatory list, or as a result of the screening process, the proponent prepares a study Terms of Reference. These are filed with the Environmental Protection Ministry, and made public.

The Ministry revises the Terms of Reference based upon its review, and agency and public comment. The final Terms of Reference are issued to the proponent.

Proponent Prepares EIA

The proponent carries out the necessary studies to prepare the EIA. This includes ongoing public consultation.

The Review

Once completed, the EIA is filed with Alberta Environmental Protection for review, and made available to the public.

Alberta Environmental Protection conducts a coordinated interdepartmental review of the EIA in order to determine if it meets the Terms of Reference, or if additional information is required. If the EIA is not acceptable, the Director can issue a deficiency report.

When the information requirements as set out in the Terms of Reference have been met, the Minister of Environmental Protection is so advised.

Optional Public Hearing

The EIA can then be discussed at a public hearing, if required. An EIA may be referred to one of two Boards for a public hearing. Energy projects are heard by the Energy Resources Conservation Board. Non-energy projects are heard by the Natural Resources Conservation Board.

If no hearing is required, the proponent may proceed to the Approvals phase.

The Approvals Phase

Proponents are required to obtain an approval under the Approvals regulations before proceeding to construction. This involves filing a complete application containing the information specified in the regulations. The applicant must give public notice of the application indicating that anyone can express a concern to the Director. The Director may direct that a public hearing be held on the application.
certain secondary highway projects where the assistance of Roadway Planning Branch has been requested; and

certain local and resource roads where the department has become involved (e.g. a local road involving a major bridge).

In the case of local roads and secondary highways, the local authority has jurisdiction and any work done by the department is to provide assistance only as requested.

**Project Initiation**

The referral at the project initiation phase is intended to:

- Inform the referral agencies that the project has been initiated; and
- Request information needed for the project study.

This referral should include such information as:

- purpose of the referral
- study schedule
- probable date of next referral
- type of study to be done
- objectives of the study
- some indication of what information might be required from the referral agency.

**Alternate Route Analysis**

The referral at the alternate route analysis phase is made once the alternate routes have been defined and examined in some detail, but before a preferred route has been selected. The purpose of the referral is to obtain the referral agencies input on the various alternatives.

**Specific Route Recommendat’n**

The next referral is made after a route recommendation, based on all available data, has been made. The purpose of this referral is to reach a consensus on the recommended route. This referral contains a well developed and logical analysis of the various alternatives and a sound recommendation of one alternative based on that analysis.
BRITISH COLUMBIA
History of Environmental Assessment in British Columbia:

Prior to the introduction of the Environmental Assessment Act, environmental management in British Columbia was achieved through approximately 45 separate statutes directed at specific types of projects.

1976

In 1976, coordinated reviews started in B.C. with the publication of two processes - The Guidelines for Coal Developments, and The Guidelines for Linear Developments.

1979

In 1979, the Environmental and Land Use Act created the Environment and Land Use Committee (ELUC) to establish and recommend programs to raise awareness of the environment and minimize environmental impacts.

1980

The passage of the Utilities Commission Act in 1980, set up a comprehensive process for evaluating and certifying energy related projects.

1981

The Environmental Management Act, passed in 1981, provided the first statutory reference to environmental impact assessment and gave the Ministry of Environment broad powers to protect the environment.

1976-91

During the period from 1976 to 1991, several sector-specific guidelines were developed to guide mining and energy projects.

1992

In 1992, the British Columbia Environmental Assessment Act was announced in the Speech from the Throne.

1993

The Environmental Assessment Act (Bill 32) was introduced in the legislature on June 4, 1993, and was intended to combine the processes for review of energy projects, mine development and major projects into a single comprehensive environmental assessment process.
Minister whether the project should be disallowed, or proceed to site-specific assessment. In the case of minor activities, the environmental assessment and recommendations are prepared by the Environmental Assessment Committee.

If Project Is Disallowed

If the project is disallowed because the impacts are considered to be unacceptable, the proponent is so advised.

If a Site-specific Assessment is Required

If the project is not disallowed, then terms of reference for a site-specific environmental assessment are prepared. The proponent prepares the environmental impact assessment in accordance with the terms of reference, and submits it to the Assessment Committee for review. On the basis of its review, the Assessment Committee recommends to the Minister whether to approve the project, with or without conditions, or disallow the project.

Sector-specific Guideline Procedures

Prospectus Prepared

Where a sector-specific guideline procedure has been prepared, proponents of projects that are the subject of the guideline must prepare a prospectus and submit it for review.

Screening

A review of the prospectus by the affected government agencies is coordinated by the Guidelines Steering Committee. The proponent is advised if any further study is required.

If Further Study is Required

If further study is required, the proponent evaluates alternatives and submits information on the project's potential environmental impacts, and engineering and cost data. Other information may include planned mitigating measures, engineering design and a public consultation program. Based on this information, the Guideline Steering Committee and the proponent develop the terms of reference for the rest of the study. The proponent conducts the studies and submits the information to the Guideline Steering Committee for review. The applicant's report is circulated to reviewing agencies for comment, and
3) if an exemption from the provisions of the Act should be provided.

Optional Public Hearing

When required by the Ministers, a public hearing is held by the Utilities Commission, following terms of reference developed by the EPCC. The Commission advises the two Ministers and Cabinet. The Cabinet will decide on whether to grant the Certificate.

The Environmental Management Act

Process:

What Projects?

Under the Environmental Management Act, the Minister may require the proponent of a project that could have a detrimental effect on the environment, to submit an environmental impact assessment for review and approval.

THE ENVIRONMENTAL ASSESSMENT ACT (EA ACT)

(B.C.'s EA Act was withdrawn after second reading to allow for further consultation. The process outlined below is as set out in the Act at the time of withdrawal.)

Purpose:

Intent of the EA Act

The Environmental Assessment Act, which is the responsibility of the Minister of Environment, Lands and Parks, is intended to establish a process that will:

- "provide for the thorough, timely and integrated assessment of the environmental, economic, social, cultural and heritage effects of reviewable projects;

- prevent or mitigate adverse impacts;

- provide an open, accountable and neutrally administered process for the assessment of reviewable projects; and
not meet the content requirements as specified in the Act and regulations.

The application is filed on the Project Registry and reviewed by a project committee that is established by the Executive Director. The Application is also distributed to concerned government agencies and the public for comment. The project committee considers its review and any comments received from the public and government agencies.

### If No Project Report is Required

If the committee considers the application to be adequate, and will effectively manage the potential impacts of the project, then the committee may recommend approval of the project to the Minister of Environment, Lands and Parks, and the Minister responsible for the industry sector in which the project falls. If the committee concludes that the project will have significant adverse impacts that cannot be adequately mitigated, it may recommend that the project be rejected. Upon considering the committee's recommendations, the Ministers may issue the Project Approval Certificate; reject the application; or direct that the project undergo further review.

### If A Project Report is Required

The project committee may, after its review and consideration of comments received from the public and government agencies, decide that a detailed review is required. In this case, the Executive Director must direct the applicant to prepare a Project Report.

The Executive Director, in consultation with the project committee prepares a project report specification, setting out the matters to be addressed in the report. Comment on this specification is invited from the public, provincial and federal government agencies, local municipalities and regional districts, affected First Nations, and neighbouring jurisdictions. The specification is revised on the basis of written comments received, and issued to the applicant. It is also filed at the project registry.

### Applicant Prepares the Project Report

The applicant prepares the project report in accordance with the specification, and submits it to the Environmental Assessment Office for review.
The Ministry of Transportation and Highways has developed an internal highway development process that integrates environmental considerations at all stages of project development.

Transportation Needs Study
One of the first stages is the development of a transportation needs study. This is intended to identify provincial and municipal road network, current traffic conditions and future transportation needs. Recommendations about future priorities are made. Significant environmental issues are also identified.

Project Registration
When the needs study is completed, project registration is required. A project prospectus outlining the proposed activity, roadway data and environmental considerations is prepared and provided to the Highway Environmental Branch for its consideration.

Project Classification
On the basis of the prospectus, the project will be screened and placed into one of three categories.

Class 1
Class 1 projects may involve significant adverse environmental impacts and generate significant public concern. For this type of project a detailed Environmental Impact Study is required.

Class 2
Class 2 projects are generally improvements to existing highway facilities, which have less significant environmental effects. In this case, environmental review is focused on specific issues.

Class 3
Class 3 projects are minor (e.g. maintenance, repair), and are unlikely to cause significant environmental effects. These projects are exempt from environmental studies.

Reconnaissance Study
A reconnaissance study is carried out to identify and assess corridor options. Major environmental and socio-economic concerns are highlighted. At this stage, initial contact is made with the public and reviewing agencies, and environmental studies are carried out.

Corridor Study
During the corridor study, the corridors are evaluated on the basis of engineering, environmental and economic criteria, and a preferred corridor is selected.
For further information on the environmental aspects of B.C.'s transportation activities contact:

Mr. Michael Kent
Director
Highway Environment Branch
Ministry of Transportation and Highways
3A-940 Blanshard Street
Victoria, British Columbia
V8W 3B6
Phone - (604) 387-7768
MANITOBA
MANITOBA

History of Environmental Assessment in Manitoba:

1975
The first provisions for environmental assessment were established by a 1975 Cabinet Directive setting out Manitoba's Environmental Assessment Review Policy. The provisions of this policy were latter incorporated into the Environment Act.

1988
Manitoba's Environment Act was developed in consultation with the departments represented on the Interdepartmental Planning Board. After undergoing provincial-wide public consultation, the Act was passed in July, 1987, and proclaimed into force on March 31, 1988.

Purpose:

Intent of the Act
The intent of the Environment Act is to provide for environmental assessments of developments with significant impacts. It complements existing planning and policy mechanisms, and uses existing review processes. It also provides for public involvement in the decision-making process.

Process:

Application of the Act
The Act provides for a review of developments proposed by a provincial department or Crown corporation, a municipality, a private-sector corporation, or an individual, which could emit a pollutant, or adversely affect the environment.

The Act permits the Minister of the Environment to exempt a development or class of developments from the Process when the development(s) is subject to another process that involves interested government departments and the public. This is done by an agreement between the Minister of the Environment, and the Minister responsible for the alternate process. Even when there is an agreement, the
providing recommendations to be considered by the Director or Minister when making a decision on the development.

Developments may be subjected to a public meetings or hearing held by the Clean Environment Commission (CEC), which is made up of individuals appointed by Cabinet. The full-time Chairperson reports to the Minister.

The Three Classes of Development

Where the Process applies, the Act provides for licensing procedures for three specified classes of developments. These are defined in a regulation and vary according to the nature, severity and magnitude of their potential impacts.

Class 1

Class 1 includes projects having impacts that are essentially pollution related (e.g. concrete batch plants, permanent asphalt plants). In these situations, the Director decides on approval of the project.

Class 2

Class 2 includes projects having the potential for land use related impacts (e.g. new 2-lane roads). The approval for these projects also lies with the Director.

Class 3

Class 3 includes large scale developments that have the potential for more significant and broad reaching impacts (e.g. new 4-lane roads). These projects require approval by the Minister of the Environment before proceeding.

The 5 Step Review & Approval Process

The Screening Phase

The proponent must first determine if a proposed development is subject to the Process. This should be done in consultation with the Department of Environment. If the development is not subject to the process, the proponent may proceed. Where the project is subject to the process, the following applies:

Step 1

For all three Classes of development, the proponent must register the development with the Department of the Environment. This is done by filing a Proposal in the form prescribed by regulation (MReg 163/88), with the Director.
recommend to the Minister that a public hearing be held.

If a public request for a hearing is declined, the Director must provide written reasons for not recommending a hearing and advise that the decision may be appealed to the Minister.

When a hearing is required, the CEC holds the hearings and submits its recommendations to the Minister who refers them to the Director.

Step 5 - The Decision

On the basis of information received from the proponent, and provided by the TAC, the public, and the CEC’s hearings (should they be held), a licence is either issued, with or without terms and conditions, or refused.

Should the Director refuse a licence, the reason must be submitted in writing to the proponent, the Minister and the central registry.

As well, in those instances where the CEC’s advice is not adopted, the reason must be submitted in writing to the proponent, the Minister and the central registry.

Appeal

Within 30 days the proponent or the public may appeal a Director’s decision to the Minister.

Implications for Transportation

In Manitoba, any transportation project can be subject to the Environment Act.

Municipal

Transportation services within urban areas are the responsibility of the municipality.

Provincial

Provincial transportation facilities are provided by the Manitoba Department of Highways and Transportation. Specifically the Department is charged with providing the citizens of Manitoba with a safe and efficient system of transportation facilities which contribute to the economic growth and social well being of the Province. In fulfilling this mandate, the Department seeks to promote safety and the preservation of the environment in the design and
If the screening process determines that the Department must do further studies, an Overview Environmental Impact Assessment is prepared. This is a summary of the existing available information and the information resulting from limited field work. The documentation of this information is usually submitted with an application for a Development Licence, to supplement the information requested in the application form.

The Development Licence Application requires the following information:

Information about the development and affected lands:

- Maps and plans;
- Names of owners of affected lands and mineral rights;
- Existing land uses;
- Land use designations;
- Previous studies and activities relating to the project; and
- A description of the proposed development and method of operation.

Information about potential impacts:

- Types, quantity and concentration of pollutants to be released into the air, water or land;
- Impact on wildlife;
- Impact on fisheries;
- Impact on surface water, and groundwater;
- Forestry related impacts;
- Impact on heritage resources; and
- Socio-economic implications resulting from the environmental impacts.

Other information:

- Proposed environmental management practices; and
- Schedule and funding.
NEW BRUNSWICK

History of Environmental Assessment in New Brunswick:

1975

New Brunswick adopted a cabinet policy on Environmental Impact Assessment in 1975. The policy applied to major projects receiving funding from Government Departments or Agencies.

1983

In 1983 the Clean Environment Act was amended to provide a legislative framework for environmental impact assessment.

1985

In December, 1985, the Minister of Municipal Affairs and Environment released draft regulations for public review and comment.

1987

New Brunswick is currently following Environmental Impact Assessment (EIA) regulations that were passed on July 13, 1987. With this regulation, the registration and screening process has been applied to municipal and private proposals as well as those of the provincial government.

Process:

Application

Schedule A of the Environmental Impact Assessment Regulations under the Clean Environment Act sets out the undertakings that are subject to the process. The process steps have legislated timeframes attached to them.

The Screening Process

The first step in the process is to register the project with the Department of the Environment for a determination of whether or not an EIA is required. If insufficient information has been provided to make a screening decision, the Minister may request further details.

Within 30 calendar days of registration the Minister must make a screening decision.
Cabinet's Decision

The Minister provides a report and recommendation on the undertaking to the Cabinet. The Cabinet decides whether to approve, approve with conditions, or refuse to approve the undertaking. The Cabinet decision ultimately requires approval of the Lieutenant Governor in Council.

Once approval is obtained, the proponent may implement the undertaking, subject to satisfying any condition placed on the approval by the Minister, and any other applicable regulatory requirements.

Implications for Transportation Projects:

The transportation undertakings listed in Schedule A of the Regulations include:

- All causeways and multi-span bridges; and
- All major highway projects involving either a significant length of new highway alignment (i.e. ten kilometres) or a major upgrading or widening of an existing highway resulting in a change in its intended use or classification.

Further Information

For further information on how the New Brunswick Department of Transportation deals with environmental issues, contact:

Mr. Darrell Manuel
Executive Director
Engineering Services
New Brunswick Department of Transportation
440 King Street, King's Place
P.O. Box #6000
Fredericton, New Brunswick
E3B 5H1
Phone - (506) 435-2849
NEWFOUNDLAND AND LABRADOR
History of Environmental Assessment in Newfoundland and Labrador:

1980

The Environmental Assessment Act for Newfoundland and Labrador was passed in May 1980, and proclaimed into force in November of that same year. The Environmental Assessment Regulations specify the types of projects and special areas which trigger the requirement to register under the Act, and present the format and content of a registration.

Purpose:

Intent of the Act

The Environmental Assessment Act is intended:

- "to facilitate the wise management of the natural resources of the province; and
- to protect the environment and quality of life of the people of the province,

through the institution of environmental assessment procedures prior to and after the commencement of an undertaking that may be potentially damaging to the environment."

Process:

Registration

The first step in the process is Registration. Proponents are required to register any project that may have significant effects on the environment. The Form of Registration is specified in Schedule 3 of the Regulations.

In deciding whether or not a project is subject to the Act, proponents should be guided by the Regulations. Schedule 1 of the Regulations, lists the types of projects that are subject to mandatory registration.
Proponent Prepares EPR

The proponent prepares an Environmental Preview Report on the project, and submits it to the Minister for review and decision.

Review & Decision

The public is provided 30 days to review and comment on the EPR. During this time, the Assessment Committee also reviews the document and advises the Minister on the acceptability of the document and the project. Additional information may be required from the proponent.

Based on the public comment received, and the recommendations of the Assessment Committee, the Minister will decide either to release the project, or require an Environmental Impact Statement (EIS) to be prepared and submitted.

If Project Is Released

If the project is released by the Minister, the proponent can proceed to implementation, subject to other permitting processes.

If EIS Is Required

If an Environmental Impact Statement is required, the Minister appoints an Assessment Committee which issues Guidelines for the study.

Terms of Reference

The proponent prepares and submits Terms of Reference based on the guidelines. These Terms of Reference are reviewed by the public and the Assessment Committee. If required, the Terms of Reference are revised. Once the Terms of Reference are complete, they are accepted by the Minister.

Proponent Prepares EIS

The proponent prepares the EIS and supporting studies based on the Terms of Reference. During the conduct of this work, the proponent is required to consult with the affected public. When complete, the proponent submits the EIS and component studies to the Minister of the Environment for review and approval.

Review

The EIS and component studies are made available to the public for review and comment. During the 45 day public review period, the Assessment Committee also conducts a review. Revisions to the documentation may be required.
b) any portion of new lines is to be located in a Special Area as defined in Schedule 2.

The establishment and operation of permanent airports on land or water are also subject to mandatory registration.

**Department of Works, Services and Transportation**

In Newfoundland and Labrador, major transportation works are carried out by the Department of Works, Services and Transportation.

**Screening**

Some projects have few environmental problems, or ones that can be adequately handled through standard environmental specifications at the construction stage. In these instances, a very brief environmental review is carried out.

In other cases, there may be the potential for greater environmental conflicts. In these cases, consultation with regulatory agencies in the provincial and federal governments may be required.

**Registration**

With major projects, or projects affecting environmentally sensitive areas, a registration is made under the Environmental Assessment Act.

**EPR or EIS**

An examination is made to determine if an EPR or EIS is required. Once an EPR or EIS is approved by the Minister of Environment and Lands, the Department is released from the environmental assessment process, proceeds to obtain any other regulatory approvals required before proceeding.
NORTHWEST TERRITORIES

History of Environmental Assessment in the Northwest Territories (NWT):

1973  The federal Environmental Assessment Review Process (originally established in 1973) applies to all projects having a federal interest.

1984  On June 22, 1984, EARP was strengthened and further update through the issuance of the Environmental Assessment and Review Process Guidelines Order.

1984  In 1984 a land claim agreement for the Inuvialuit lands, was signed. This agreement implemented an environmental impact screening and review process for developments affecting the agreement area.

1992-1993  Land claim agreements covering the Sahtu Lands and the Nunavut Lands, were signed. These agreements also include environmental impact assessment and review processes. However, they will not be implemented until the Land and Water Boards required by these agreements, are in place.

Background:

In the NWT, land ownership falls into three categories:

1)  Territorial (Crown) Lands, which are administered by the Department of Indian and Northern Development (DIAND) on behalf of the Government of Canada:

2)  Commissioner's Land, which is mostly administered by the Territorial Department of Municipal and Community Affairs, on behalf of the Commissioner of the NWT; and

3)  Private Lands are lands under land claim agreement and administered by native organizations.
If No EIA Required

If no EIA is required, a permit is issued. Where a permit is issued, land inspections are carried out before the start of operations, during the operations, and upon its conclusion. These inspections are for the purpose of ensuring that the land use permits conditions are complied with, and that the site is properly restored.

If EIA is Required

If an EIA is required, the process is the same as outlined under the Chapter on the Federal Government.

COMMISSIONER’S LAND

Application

The Commissioner's land Act and its regulations govern the use of Commissioner's Land in the NWT. There is no Environmental Assessment and Review Process that applies to activities proposed on these lands. However, a land use and quarry permit is required for activities on Commissioner's Lands except for highway rights-of-way identified in the Public Highways Act, which is administered by the Department of Transportation (DOT). The DOT must apply for land use and/or quarry permits for activities that are proposed for outside of the highway right-of-way. The following describes the process followed by the Department of Municipal and Community Affairs (MACA) when reviewing permit applications.

Process

Upon receipt of a permit application, the land officer review the application, and acknowledges its receipt.

If the application is complete, it is circulated to various federal and territorial government departments, affected communities, native organizations and special interest groups for comments. The extent of circulation will depend upon the nature and location of the proposed activity. Based on the comments, the MACA will either issue the permit, subject to conditions, or reject the permit with stated reasons.
For further information on how the Northwest Territories Transportation deals with environmental issues, contact:

Dr. Masood Hassan  
Director, Transportation Planning  
Northwest Territories Transportation  
Government of the N.W.T.  
Yellowknife, NWT  
X1A 2L9  
Phone - (403) 873-7934
History of Environmental Assessment in Nova Scotia:

1986

1988
The legislation was passed, and given Royal Assent in May, 1988.

1989
The Regulations were drafted through an extensive consultation process that culminated with the proclamation of the Act and Regulations on July 14, 1989. The regulations have been amended several times since then.

Nova Scotia’s Environmental Assessment Process is administered by the Department of Environment, through the Environmental Assessment Administrator.

1993
On November 10, 1993, a White Paper on Nova Scotia’s proposed Environment Act was released for public comment. It is proposed that this Act will replace as many as 13 existing Acts including the Environmental Assessment Act.

Nova Scotia’s Environmental Assessment Act

Purpose:

Intent of the Process
The purpose of the Environmental Assessment Act is to protect the environment and quality of life of the people of Nova Scotia; to provide for environmental assessment of undertakings early in the planning process; and to provide for public consultation.

The environmental assessment process provides a means of predicting and evaluating the environmental impacts of an undertaking before decisions to proceed with the project are made.
If An EA Is Required

An Environmental Assessment is required for Class II undertakings, and where it has been determined that a Class I undertaking will have significant environmental impacts or cause sufficient public concern.

When an Environmental Assessment is required, the Administrator prepares project-specific guidelines for the study. A draft of these guidelines is made available to the public and the government agencies for comment, prior to being finalized and issued to the proponent.

Proponent Prepares The EA

The proponent prepares Terms of Reference for the study and submits them to the Minister for approval. Once the Terms of Reference are approved, the proponent carries out the assessment and submits a draft Environmental Assessment Report to the Minister for review.

The Environmental Assessment Report should include the following:

- A description of the undertaking;
- The reason for the undertaking;
- Other methods of carrying out the undertaking;
- Alternatives to the undertaking;
- A description of the existing environment;
- A description of the effects that may be caused to the environment;
- An evaluation of the advantages and disadvantages to the environment of the undertaking;
- Actions to minimizing negative impacts and maximize positive effects;
- Discussion of residual impacts;
- A program to monitor positive and negative impacts during construction, operation and abandonment; and
- A program of public information.

The Review

When received by the Minister, the report is examined by the Administrator to determine if it is complete. If the report is incomplete, the proponent will be required to provide the missing information.
The Nova Scotia highway planning process includes the following steps:

1) Needs Study
2) Route Location
3) Environmental Screening
4) Public Information
5) Environmental Assessment
6) Project Approval

Although a needs study may be prompted by capacity, safety or structural adequacy concerns, the requirement for increased system capacity to reduce congestion usually is what initiates a study.

Route location involves the use of mapping to determine corridors or locations for potential alignments. Lakes and streams, buildings, houses, businesses, churches, graveyards, wetlands and swamps are some of the environmentally sensitive areas to be avoided or given special design considerations. Using these constraints, and giving proper consideration to topography and design standards, the engineer will determine the potential route location corridors.

Further screening of alternative corridors is required to select the 'best' one for the complete environmental assessment review process. Nova Scotia has developed an environmental screening procedure that includes the following constraints:

1) Geology
2) Terrestrial Environment
3) Aquatic Environment
4) Marine Environment
5) Crown Lands
6) Native Land
7) Agriculture
8) Forestry
9) Land Use
10) Water Use
11) Recreation
12) Water Supply
13) Utilities
14) Archaeology
15) Heritage Properties

The provision of timely and factual information to the public is very important in establishing the public's attitude towards the proposed project.
3) Review & Approval: - including public consultation and public hearing (5 months).

Environmental Protection Plans

After approval has been received, survey and design can proceed. An environmental protection plan will be prepared for each stage of the project to provide information required to obtain water rights permits for stream crossings. Environmental protection plans will also be prepared for slope erosion control.

Further Information

For further information on how the Nova Scotia Department of Transportation and Communications deals with environmental issues, contact:

Mr. Ken O'Brien
Assistant Director of Planning
Nova Scotia Department of Transportation and Communications
P.O. Box 186
Halifax, N.S.
B3J 2N2
Phone - (902) 424-4406
ONTARIO
ONTARIO

History of Environmental Assessment in Ontario:

1975
Ontario’s Environmental Assessment Act was introduced to the legislature in 1975. It was proclaimed into force in 1976. At that time it applied to undertakings of provincial ministries and agencies defined in the regulations. The intent was to apply the Act to municipal and private sector projects at a later date.

1976
On December 15, 1976, the provision of the Act allowing the Cabinet to pass regulations making a private sector undertaking subject to the Act, was proclaimed.

1980
The Act was applied to certain municipal projects.

1988-1990
During the period from 1988 to 1990, the Ministry of the Environment conducted a multi-stakeholder review of the environmental assessment process. This review recommended several improvements that should be made to the Environmental Assessment process and legislation.

Purpose:

Intent of the Act
Ontario’s Environmental Assessment Act provides for the protection, conservation and wise management of the environment. This is accomplished by requiring proponents to prepare and submit environmental assessments of their undertakings to the Minister of Environment and Energy, and prohibiting project implementation until approval has been granted.

Process:

Application
All public sector undertakings are subject to the Act unless they have been exempted by an Order-in-Council. Private sector projects are not subject to the Act unless they have been designated by an Order-in-Council.
If EA is Required

For those projects that are neither exempted from the Act, nor covered by a Class EA, proponents must prepare and submit an environmental assessment report to the Minister of Environment and Energy for review and approval.

Terms of Reference

The legislation does not establish a formal process for developing terms of reference for EA studies. This is left to the proponent. The recent review of the Environmental Assessment process recommended that one of the first steps in conducting an environmental assessment should be the development of an Environmental Assessment Proposal (EAP). This EAP sets out a plan for meeting the requirements of the EA Act, and ensuring that appropriate consultation with the public and affected government agencies occurs. The EAP should:

- describe the problem or opportunity being addressed;
- define the study area;
- identify preliminary criteria for evaluating alternatives;
- propose reasonable alternatives for addressing the problem or opportunity;
- describe any associated planning and decision-making;
- outline a consultation plan;
- list issues, concerns, and proposed methods for addressing them;
- indicate support studies to be undertaken; and
- describe the extent of documentation that will be prepared for the planning process.

The EAP should be reviewed with the public and affected government agencies prior to the commencement of the study, so that these parties can influence the planning process.

In addition, some review ministries have issued guidelines outlining how they expect their areas of interest to be addressed in an environmental assessment.

Proponent Prepares EA

The proponent carries out the necessary studies following the EAP (where one is prepared) and prepares the EA
basis for making a decision. The second is whether or not the project should be approved. As outlined above, these decisions are made either by the Board, or the Minister. In both cases, the decision must be approved by Cabinet.

Following receipt of a favourable decision, the proponent may proceed to implementation of the undertaking, subject to complying with the conditions of approval and meeting any other applicable regulatory requirements.

Implications for Transportation:

In Ontario, road and transit projects may be implemented by provincial ministries and agencies, municipalities, or the private sector. The extent of application of the EA Act varies depending upon the proponent.

Private

Private sector facilities are not subject to the Act unless specifically designated by an Order-in-Council.

Municipal

Municipal road projects are all covered by the Class Environmental Assessment for Municipal Roads Projects (June 1993). This Class EA places municipal road projects into one of three schedules. Schedule "A" includes maintenance and reconstruction projects which have negligible impacts. Planning and implementation of these projects may proceed without environmental assessment consideration. Schedule "B" includes improvements and minor expansions which have the potential for modest environmental impacts. For these projects, the proponent follows a screening process which involves consultation with affected government agencies and the public. Schedule "C" includes new construction and major expansions. For these projects, the proponent must follow the full planning process set out in the Class EA. This process requires the proponent to:

- Identify the problem;
- Identify alternative solutions, and evaluate these on the basis of their environmental effects;
- Identify alternative designs for the preferred solution and evaluate these on the basis of their environmental effects; and
and excess materials generated as part of a highway project; emergency response; and aggregate extraction.

In MTO highway projects planning and design is handled through the regional offices. Each regional office has an Environmental Unit. Each project team has a representative from this Environmental Unit to ensure that the environmental requirements are adequately addressed.

Unless exempted, provincial transit systems implemented by GO Transit require either a project specific environmental assessment, or compliance with GO Transit's Class EA.

Further Information

For further information on how the Ministry of Transportation of Ontario deals with environmental issues, contact:

Ms. Mena Weese
Manager, Environmental Office
Ministry of Transportation
2nd Floor, West Building
1201 Wilson Ave.
Downsview, Ontario
M3M 1J8
Phone - (416) 235-3478
PRINCE EDWARD ISLAND
History of Environmental Assessment in Prince Edward Island:

1988

Environmental impact assessment first appeared in PEI in 1988, with the passage of the Environmental Protection Act.

Prince Edward Island's environmental impact assessment process is administered by the Department of Environment.

Purpose:

Intent of the Process

The environmental assessment process is a planning tool to help the PEI Department of the Environment to fulfill its mandate of managing, protecting and enhancing the environment.

It provides a means of predicting environmental impacts before they occur and determining appropriate mitigating measures. In addition, the resulting coordinated review of the environmental issues ensures that the proponent, the regulatory agencies and the public are aware of the environmental tradeoffs associated with each project.

Process:

The Process Is Set Out In Policy

The steps in the environmental impact assessment process have been set out in policy.

The Screening Process

Every proponent that is proposing an "undertaking" (as defined in the Act), must submit a written proposal to the Department of the Environment. This project proposal is intended to give the department an understanding of the likely environmental effects of the proposed undertaking.

The proposal is screened to determine if an Environmental Impact Assessment (EIA) is needed. In carrying out this screening, the Department may consult with an Interdepartmental Technical Review Committee (ITRC), municipal authorities, special interest groups or the public.
Optional Public Hearing

In those cases where there is strong public interest, the Minister may appoint a Panel to hold public meetings and make recommendations on the undertaking.

Minister's Decision

Upon completion of the process the Minister decides on whether or not to approve the undertaking. Once approval is obtained, the proponent may implement the undertaking, subject to satisfying other regulatory requirements, and implementing the mitigating and enhancing measures committed to in the EIA.

**Implications for Transportation Projects:**

The following transportation developments are considered to be undertakings and require a written proposal and written approval before the undertaking can proceed:

- Major highway projects involving either a significant length of new highway; or a major upgrading or widening of an existing highway, resulting in a change in its intended use or classification;

- Causeways and bridges; and

- Airports.

Further Information

For further information on how the Department of Transportation and Public Works deals with environmental issues, contact:

Mr. George Trainor  
Engineering Services  
PEI Department of Transportation and Public Works  
P.O. Box 2000  
Charlottetown, PEI  
C1A 7N8  
Phone - (902) 368-5090
QUEBEC
Québec

This summary is based on a translation of a paper prepared by Robert Montplaisir of the Ministère des Transport du Québec. The original paper follows this section.

**History of Environmental Assessment in Québec:**

1972

The Environment Quality Act received assent in December 1972. This Act was not only the first Québec Act related to the environment but provided and still provides the general framework for most environmental regulations.

1978

The Environment Quality Act was amended in 1978 through the introduction of a section on evaluating and examining the environmental impact of particular projects. These changes enabled the Government to decide about projects and, if appropriate, issue an authorization certificate or Order. They also introduced the principle of consultations and public hearings.

1988

The Environment Quality Act was changed to require developers to obtain a certificate of authorization from the Minister of the Environment, for work involving water. The legislative and regulatory provisions have been in effect since December 1993.

1992

In 1992, the National Assembly amended parts of the Environment Quality Act, especially those concerning procedures for environmental assessment. These amendments are not yet in force but will be when the relevant regulations are adopted.

**Purpose:**

The Environment Quality Act provides the general framework for most of the environmental regulations in Québec. It provides that "everyone has a right to a quality environment, to its protection and to the preservation of the living species that inhabit it to the extent established by this Act, the regulations, orders, approvals and authorizations issued under one or another of the sections..."
forth the projects that are exempt from Section 22 of the Act and describing the methods of applying for a Certificat d'autorisatıon de construire.

- On land, or where water is not involved, with the exception of work done along the edges of bodies of water as defined by the Politique de protection des rives, du littoral et des plaines inondables, the projects of the Ministry of Transport that do not require a certificate are:

  * maintenance work;

  * construction, reconstruction, widening or straightening of streets or roads including cloverleaves, ramps or other roadway infrastructure, with the exception of:

    a) any projects located less than 60 metres from a waterway with a regular flow or from a lake, a river, or the ocean; having a length of 300 metres or more;

    b) any projects involving any of the following elements:

      - a road having four lanes of traffic or more;

      - a right-of-way having an average width of 35 metres or more; and

      - a project having a length of one kilometre or more.

- Where water is involved, the following projects of the Ministry of Transport are excluded:

  * construction, reconstruction, maintenance, rebuilding or repairing of culverts.

The regulations specify the minimum elements that the application must contain. According to the Act, the Minister of the Environment may require the applicant to
Procedure

The procedure is divided into seven phases.

Phase 1: Directive

This first phase has three parts:

- submission of the project notice by the developer;
- preparation of a Directive by the Ministry of the Environment in co-operation with other ministries; and
- forwarding of this Directive to the developer, by the Minister of the Environment. The Directive indicates to the project developer the nature and extent of the environmental impact study.

Phase 2: Realization, Submission and Admissibility of the Impact Study

This phase involves the developer and the Ministry of the Environment. During this Phase:

- The developer carries out and submits an impact study; and
- The Ministry of the Environment analyzes its admissibility by conducting inter-ministerial consultations and through exchanges and questions for the developer. The latter step applies only to the rigorousness of the impact study.

Phase 3: Environmental Analysis

When the study is made public and at the same time as the public consultation phase, the Direction des évaluations environnementales evaluates the project in consultation with concerned ministries and other organizations. This analysis should develop arguments to answer the following questions:

a) Does the selected option have a smaller impact than the other options?

b) Is the impact acceptable from an environmental point of view?

c) Does the project comply with the laws, regulations and policies of the government?

d) Is it advisable to carry out this project in view of its justification and environmental impact?
Future Prospects

The 1992 changes to the Environment Quality Act provide for a new environmental evaluation procedure. This will take affect once the relevant regulations have been adopted. A Regulations Plan was published in June 1993. Three procedures should result from this reform, the first two related to projects and the third to programs.

Process

Insofar as projects are concerned, one procedure will apply to projects that are large in scale, or have a major impact. A second procedure will apply to projects that are small in scale, or have a minor impact. The regulations will set forth a list of projects that are large or have a major impact and projects that are small or have a minor impact.

Minor Projects

In the case of projects that are small in scale or have minor impacts, the determination of the procedure will be approved by the Government following:

- the developer’s project notice;
- a document from the Ministry of the Environment on the size and impact of the project;
- public consultations conducted by BAPE; and
- a decision by the Minister of the Environment.

Projects with minor impacts will have a simplified procedure. There will be public consultation but no opportunity for hearings or mediation. It will be the Minister of the Environment who decides on the Certificat d’autorisation.

Major Projects

Projects that are large in scale or have a major impact would follow a procedure similar to the current one:

- a project notice (developer);
- a Directive (MENVIQ);
- an impact study (developer);
- a technical analysis (MENVIQ);
- consultation and public hearings (BAPE);

Further Information

For further information on how Québec's Ministry of Transportation deals with environmental issues, contact:

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HISTORIQUE DE LA PROCÉDURE ENVIRONNEMENTALE
AU QUÉBEC

1972  La Loi sur la qualité de l'environnement a été sanctionnée en décembre 1972. Cette loi a été non seulement la première loi québécoise traitant d'environnement mais encore elle a été et demeure le cadre général de la majorité des réglementations environnementales.

1978  La Loi sur la qualité de l'environnement a été amendée en 1978 en introduisant une section sur l'évaluation et l'examen des impacts sur l'environnement de certains projets. Ces modifications permettent au Gouvernement de se prononcer sur un projet et, le cas échéant, d'émettre un certificat d'autorisation ou Décret; elles introduisent aussi le principe des consultations et audiences publiques.


1992  L'Assemblée nationale a amendé les sections de la Loi sur la qualité de l'environnement sanctionnée en 1978, particulièrement celles concernant la procédure d'évaluation environnementale. Ces amendements ne sont pas actuellement en vigueur, ils le seront lors de l'adoption de la réglementation qui y est afférente.
CERTIFICATS

Deux types de certificats sont exigés par la loi pour certains types de projets. En vertu de l'article 22 de la loi, certains nécessitent un certificat d'autorisation de construire (CAC) émis par le ministre de l'Environnement, alors qu'en vertu de l'article 31 de la loi, en plus du CAC, d'autres nécessitent un certificat d'autorisation de réalisation (CAR) qui est émis par décret gouvernemental.

RÉGLEMENTATION

1) **Règlement relatif à l'application de la Loi sur la qualité de l'environnement**

Ce règlement a deux fonctions principales, celle de préciser les projets qui sont soustraits à l'article 22 de la loi et celle de décrire les modalités de demande de certificat d'autorisation de construire.

- En milieu terrestre ou non hydrique, à l'exception des travaux effectués dans les bandes riveraines définies par la Politique de protection des rives, du littoral et des plaines inondables, les projets du ministère des Transports qui ne nécessitent pas de certificat sont :
  
  * les travaux d’entretien;
  
  * la construction, la reconstruction, l’élargissement ou le redressement d’une rue ou d’une route incluant un échangeur, une brèche et autre infrastructure routière, à l’exclusion:
    
    a) de tout projet situé à moins de 60 mètres d’un cours d’eau à débit régulier, d’un lac, d’un fleuve ou de la mer si on entend la faire ainsi longer sur une distance d’au moins 300 mètres;
    
    b) de tout projet comportant l’un des éléments suivants :
      
      - la chaussée prévue aurait 4 voies de circulation ou plus;
Plusieurs autres projets routiers, même s'ils ne répondent pas aux critères énumérés plus haut, peuvent faire l'objet de la procédure prévue par le règlement. C'est le cas des projets suivants :

- les projets de dragage, creusage, remplissage, redressement ou remblayage dans certains cours d'eau (le Saint-Laurent, ses affluents et les affluents de ceux-ci) ou dans un lac (identifié dans le Répertoire toponymique du Québec), à l'intérieur de la limite des hautes eaux printanières moyennes, sur une distance de 300 mètres ou plus, ou sur une superficie de 5000 mètres carrés ou plus. Notons que les deux seuils précédents peuvent être calculés de façon cumulative quand ils touchent un même milieu. Les rivières ayant un bassin versant inférieur à 25 kilomètres carrés sont toutes exemptées de ce règlement.

PROCÉDURE

La procédure se divise en 7 phases.

Phase 1: directive

Cette première phase comporte trois étapes : le dépôt de l'avis de projet par le promoteur, l'élaboration de la directive par le ministère de l'Environnement en collaboration avec les autres ministères et la transmission de cette directive par le ministre de l'Environnement. La directive indique au promoteur du projet la nature, la portée et l'étendue de l'étude d'impact sur l'environnement.
Phase V : décision

L'analyse ministérielle vise à préparer la recommandation du ministre de l'Environnement au Gouvernement, elle s'inspire de l'analyse environnementale et du rapport du BAPE. Par la suite, le Conseil des ministres peut ensuite autoriser le projet avec ou sans condition ou le refuser.

Phase VI : autorisation de construire

Une fois le projet accepté, le promoteur complète les plans et devis en tenant compte des conditions du décret et les soumet au ministre de l'Environnement.

Phase VII : surveillance, contrôle et suivi

La surveillance environnementale est de la responsabilité du promoteur, elle consiste à s'assurer que les travaux sont conformes aux plans et normes élaborés dans l'étude d'impact.

Le contrôle est exercé par le ministère de l'Environnement, il consiste à vérifier que les autorisations émises par le Gouvernement ou par le ministère de l'Environnement son respectées.

Le suivi environnemental sous la responsabilité du promoteur se fait dans le cadre de la proposition contenue dans l'étude d'impact. Elle permet d'acquérir de nouvelles connaissances pour mieux évaluer les impacts ou les mesures d'atténuation.
La troisième procédure concerne les programmes municipaux et gouvernementaux. Leur assujettissement sera discrétionnaire, il dépendra de la volonté du ministre responsable, du gouvernement ou de la municipalité. Le programme assujetti serait accompagné d'une analyse environnementale et des audiences publiques sont prévues. Suite à l'analyse ministérielle du MENVIQ, le Gouvernement prendra une décision sur le programme d'un ministère et déterminera les procédures applicables aux projets découlant d'un programme assujetti.

OUVRAGES CONSULTÉS


Règlement sur l'évaluation et l'examen des impacts, 1981.

Règlement relatif à l'application de la Loi sur la qualité de l'environnement, 1993.

R. Daigneault, 1993. La Loi 61, pour s'y retrouver..., revue In Vivo.


Cahier des normes du ministère des Transports, Tome 1 - Conception routière (en préparation).

History of Environmental Assessment in Saskatchewan:

1976
In September 1976, Saskatchewan's first environmental assessment requirements were set out in an Environmental Impact Assessment Policy. In that same year, the Department of Environment established the Environmental Assessment Branch to administer the Policy.

1980
In August, 1980, The Environmental Assessment Act was passed, enshrining the principles of environmental assessment in law. Since then, Saskatchewan has been operating under this legislation. There has never been any regulations developed under the Act.

1990
On the tenth anniversary of the Act, a three member Saskatchewan Environmental Assessment Review Commission was appointed to review the Environmental Impact Assessment Process and make recommendations for reform.

1991
The Commission reported in February, 1991. The 162 recommendations contained in the Commission's report have been reviewed with stakeholder groups, and a government response to the report is expected in the near future.

Saskatchewan's Environmental Assessment and Review Process is currently being administered by the Department of Environment and Public Safety.

Purpose:

The Environmental Assessment and Review Process is intended to assist Saskatchewan Environment and Public Safety to protect and enhance the environment in a manner that promotes the physical, economic and social well-being of the people of Saskatchewan.

The process provides for a co-ordinated, comprehensive
- A statement of the project objectives;
- A description of project alternatives;
- A rationale for selection of the preferred alternative;
- A detailed description of the preferred alternative;
- A description of the existing environment;
- A description and evaluation of the impacts;
- A description of, and commitment to mitigating and enhancement measures, and follow-up studies; and
- Documentation of the public participation program.

The Review

Saskatchewan Environment and Public Safety co-ordinates a technical review of the EIS by the affected government departments. If, during this review, deficiencies are identified, additional information or studies may be required of the proponent. On the basis of this review, the department prepares Technical Review Comments, and issues a public notice, making the EIS and the Technical Review Comments available for public review.

Optional Public Hearing

Prior to making this decision, the Minister may appoint a Board of Inquiry to solicit public comment, assess the implications of the project, and to make recommendations.

Minister's Decision

On the basis of the EIS, the Technical Review Comments, any Board recommendations, and any public comments, the Minister decides on whether to approve the project, with or without conditions, or refuse to approve the project, and advises the proponent accordingly.
**History of Environmental Assessment in the Yukon Territory:**

1973

The Federal Environmental Assessment Review Process (originally established in 1973) applies to all projects having a federal interest.

1991

Yukon’s *Environment Act*, which was passed by the legislature in May, 1991, and proclaimed into force on September 30, 1992, is administered by the Department of Renewable Resources. Part 6 of this Act provides for the development of a permitting and review process for projects on Commissioner’s Lands. As of November, 1993, this development and permitting process had not yet been developed.

1993

In 1993, an Umbrella Final Agreement was reached with the Yukon First Nations. Chapter 12 of this agreement, provides for the establishment of a Development Assessment Process. The Territorial Government is required to develop Development Assessment Legislation consistent with the agreement, within 2 years of the approval of Settlement Legislation.

**Current Requirements:**

**On Commissioner’s Lands**

At the present time, any territorial road project that is proposed on Commissioner’s Lands by the Territorial Government is not subject to any environmental assessment process.

**Off Commissioner’s Lands**

Territorial road projects proposed outside of Commissioner's Lands are not subject to an environmental assessment process, unless there are impacts outside of the right-of-way (e.g. borrow pits, construction staging areas). In those cases where off right-of-way impacts occur, a federal land use permit is required, thus triggering the Federal Environmental Assessment and Review Process (EARP).
- avoids duplication in the review process, and provides certainty to affected parties and proponents with respect to procedures, information requirements, time requirements, and costs; and

- requires project proponents to consider the environmental and socio-economic effects of projects and project alternatives and to incorporate appropriate mitigative measures into the project design.

Scope

This process is intended to apply to any enterprise of activity undertaken in the Yukon which is not otherwise exempt.

Part 6, Yukon Environment Act

The third is the permitting and review process pursuant to Part 6 of the Yukon Environment Act.

Purpose

The purpose of the Development Approvals Process is:

- to support sustainable development;

- to integrate conservation or the natural environment into economic decisions at the earliest possible stage in planning a development or activity;

- to determine the consequences for the environment of a development or activity before a decision to proceed with it is made;

- to provide for the involvement of the public, Yukon First Nations, departments and agencies of the Government of the Yukon and the Government of Canada and municipalities in the assessment of a development or activity; and

- to establish a unified permit application and approval process.