



Canadian Environmental
Assessment Agency

Agence canadienne
d'évaluation environnementale

Canadian Environmental Assessment Act



TSAG
Overview Session

*Edmonton, Alberta
- February 12, 2010 -*

Canada



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What is EA?

EA is...

*a planning & decision making
tool that identifies & mitigates
adverse environmental effects*

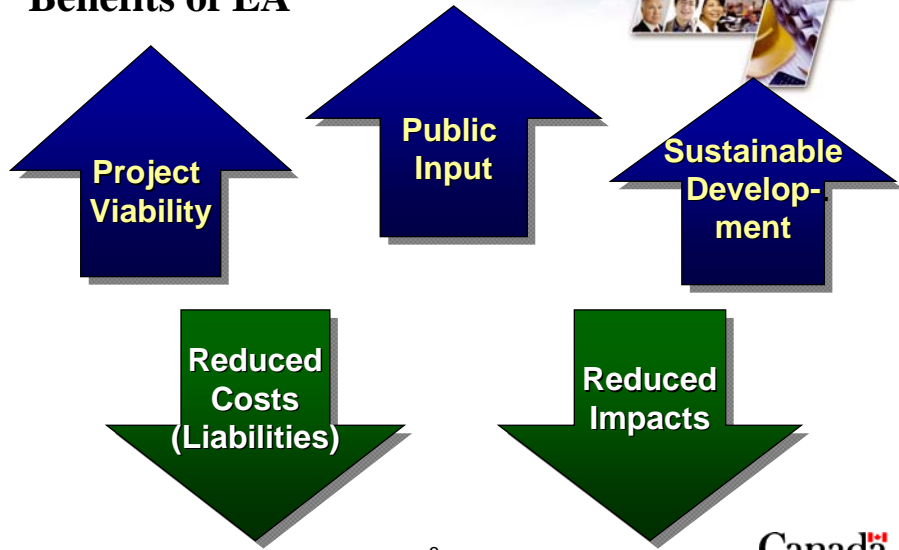
EA is not...

- *Site assessments or audits*
- *Method to “block” projects*

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Benefits of EA



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The Federal Approach

Programs, Plans, Policies

Projects

Cabinet Directive

Canadian Environmental Assessment Act

Strategic Environmental Assessment (SEA)

Environmental Assessment (EA)

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What is the Canadian Environmental Assessment Act?



*A federal law that requires
consideration of environmental effects
of proposed projects before
federal authorities take any actions
to allow them to proceed*



Purposes:



1. Ensure environmental effects of projects are carefully considered
2. Promote sustainable development
3. Ensure that EAs are carried out in a coordinated and efficient manner
4. Ensure that projects within Canada or on federal lands do not cause significant adverse environmental effects on outside jurisdictions
5. Ensure public participation in the EA process



Responsibilities

Departments

- Self assessment EAs
- FEAC for federal only EAs
- Provide specialist advice (FA)
- Project decision process following EA completion
- Implementation of mitigation (as required)
- Coordination and cooperation
- Public Registry (CEARIS)
- Follow up (as required)
- Aboriginal engagement and consultation (RA)

Agency

- Administers the EA process
- Promotes: good EA, monitors quality of federal EAs, and coordinates / harmonizes
- Manages review panels and mediation
- Promotes training and guidance
- FEAC for multi-RA, multi jurisdictional, or C.S. EAs
- Coordinate MRP process

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Federal Environmental Assessment Coordinator

FEAC established for every screening and comprehensive study under the Act to:

- Promote coordination among FAs and RAs
- Ensure a "single federal window" for other jurisdictions
- Facilitate communication and cooperation

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The Regulations

- Inclusion List Regulation
- Exclusion List Regulation
- Law List Regulation
- Comprehensive Study List Regulation
- Federal Coordination Regulation
- Projects Outside of Canada EA Regulations
- Federal Authority Regulations
- Canada Port Authority EA Regulations
- Crown Corporations involved in Commercial Loans



Definition: Environment

"Environment" means the components of the Earth, and includes:

- ☞ Land, water & air, including all layers of the atmosphere,
- ☞ All organic & inorganic matter & living organisms
- ☞ The interacting natural systems that include components referred to in paragraphs (a) & (b).



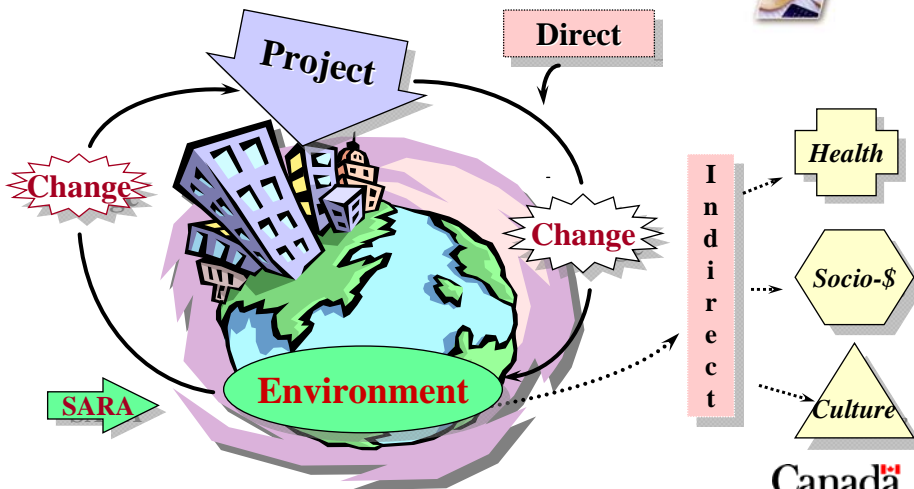
Definition: Environmental Effect

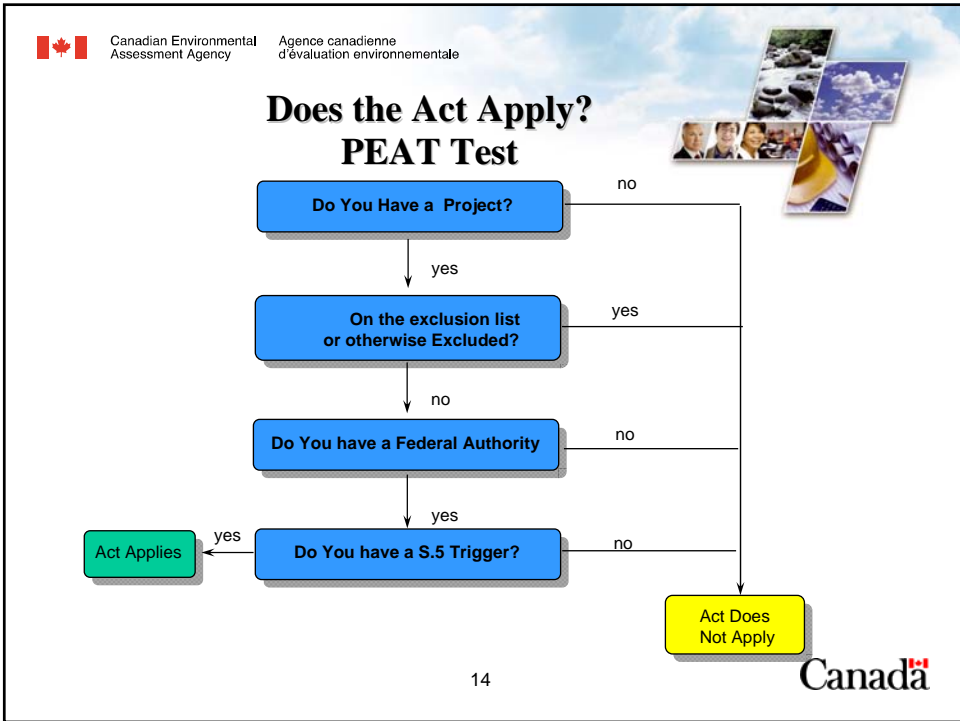
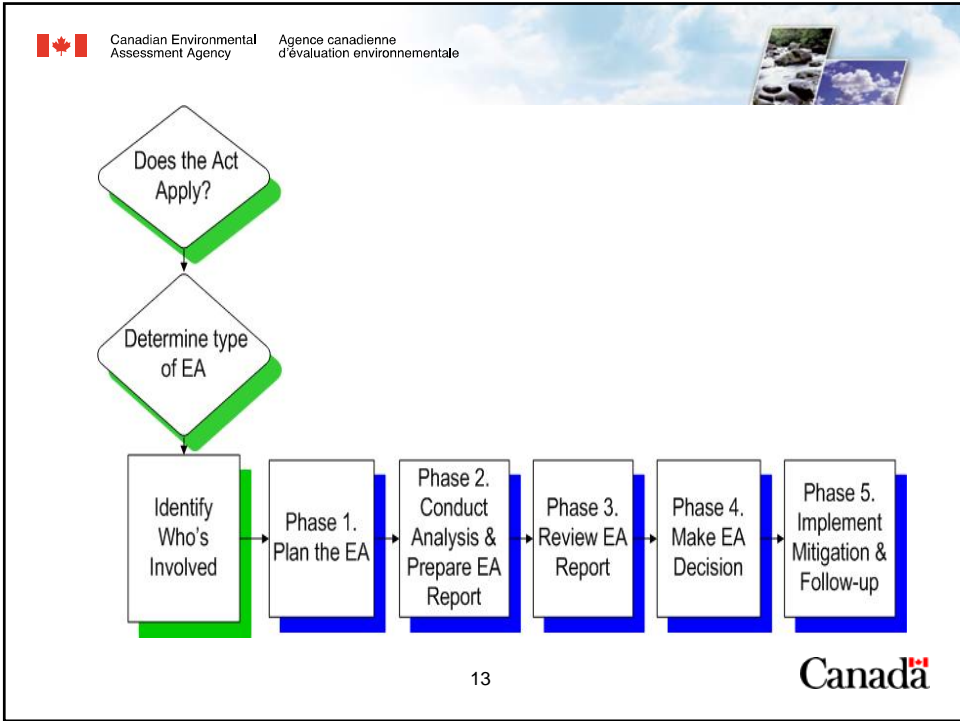
"Environmental effect" means, in respect of the project,

- a) any change that the project may cause in the environment, including any change it may cause to a listed species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the *Species at Risk Act*,
- b) Any effect of any change referred to in paragraph (a) on:
 - health and socio-economic conditions,
 - physical and cultural heritage,
 - the current use of lands and resources for traditional purposes by aboriginal persons, or
 - any structure, site or thing that is of historical, archaeological, paleontological or architectural significance
- c) any change to the project that may be caused by the environment, whether any such change or effect occurs within or outside Canada.



Environmental Effect







Is there a Project?

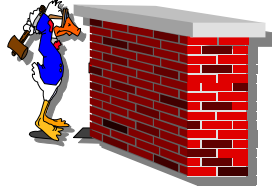
Undertaking related to a physical work



Construction



Operation



Decommissioning



Modification

OR



Project Examples

Potential Projects	Undertaking ?	In relation to a physical work?	On the Inclusion List?	Project?
Construction of a Bridge	Yes	Yes	---	Yes
Low-level Military Flying	Yes	No	Yes	Yes
Dredging a Stream to:				
a) build a fish ladder	Yes	Yes	---	Yes
b) clean up a riverbed	Yes	No	Yes	Yes
Transportation of Dangerous Goods	Yes	No	No	No



Exclusions

- projects described on **Exclusion List Regulation**:
 - effects insignificant
- projects carried out in response to emergency for which temporary measures taken under Emergencies Act
- projects carried out in response to emergency in the interest of preventing damage to property or environment or public health and safety
- for "funding" trigger, where essential details of the project are not known

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Federal Authority

Includes:

- A Federal Minister of the Crown
- An agency or body of the federal government
- Any department or departmental corporation (Schedule I & II of the FAA)
- Any body prescribed in a regulation under Act

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When is the Act triggered?



Money



Permits / Authorizations



Land



Proponent



Selected Law List Provisions



- Permit for dumping in the ocean
(s. 71(1) *Canadian Environmental Protection Act*)
- Authorization to destroy fish habitat
(s.35(2) *Fisheries Act*)
- Order for abandonment of railway or railway line
(ss. 162,166 *National Transportation Act*)
- Approval of work plans required for works dealing with navigable waters
(s.5(1) (a) *Navigable Waters Protection Act*)
- Licence to use waters or deposit waste in waters in the Northwest Territories or Yukon
(s.14(1) *Northwest Territories Waters Act*, s.14(1) *Yukon Waters Act*)

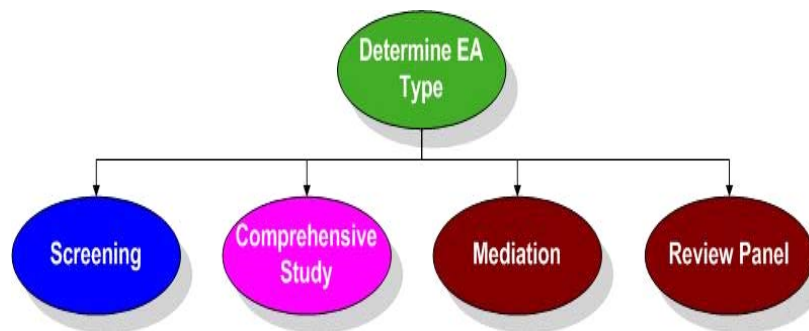


Selected Law List Provisions

- Authorization for the use of lands in an Indian Reserve for purposes such as schools, administration of Indian Affairs, burial grounds, health projects, general welfare (Indian Act section 18(2))
- Ministerial permit for any person to occupy or use a reserve or to reside or exercise rights on a reserve. (Indian Act 28(2))
- Sand, Gravel, clay and other non metallic substances on or under reserve lands – taking of (Indian Act 58(4))
- Also Provisions of Acts such as provisions of the Indian Mining Regulations, Indian Oil and Gas Regulations, Indian Reserve Waste Disposal Regulations, Indian Timber Regulations

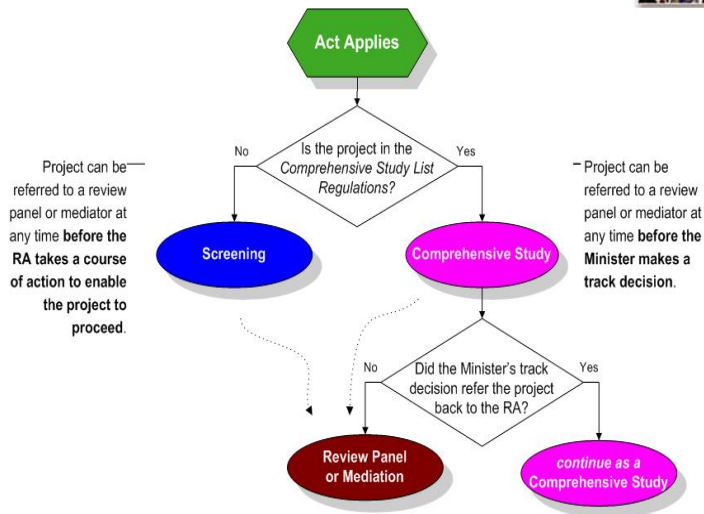


Four Types of Federal EA





Type of EA



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Class Screening

Class screening can apply to projects that are:

- Subject to screening under the Act
- Have predictable & mitigable environmental effects
- Relatively small in scale and size

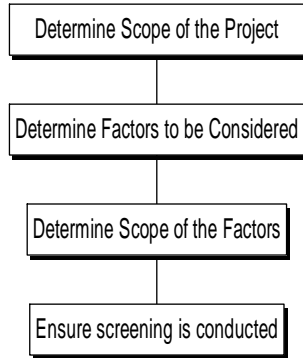
Section 19(1) of the Act States *“the Agency may, on the request of the responsible authority and where the Agency determines that a screening report could be used as a model in conducting screenings of other projects within the same class, declare that report to be a class screening report”*

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Conduct Screening

RA Must:



ss. 15, 16, 17, 18, 24, 25

RA May:

- Delegate conduct of EA
- Allow public participation
- Use previously conducted EA
- Require additional information
- Refer to panel/mediation



Comprehensive Studies

- May be larger scale projects
- Potential for significant adverse environmental effects
- Lots of public interest
- Defined on the Comprehensive Study List Regulation

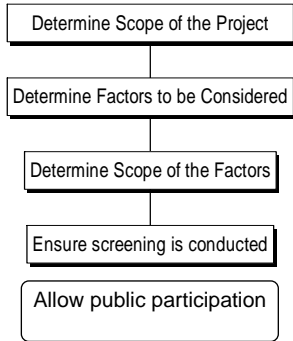
Examples

- Fossil fuel-fired or hydroelectric generating station with a production capacity of 200 MW or more
- Dam or dyke with reservoir with surface area greater than 1500 hectares or more
- Oil and gas pipeline more than 75 km in length



Conduct C.S.

RA Must:



ss. 15, 16, 17, 21, 22, 23, 24, 25

RA May:

- Delegate conduct of EA
- Use previously conducted EA
- Require additional information
- Refer to panel/mediation



Joint Review Panels

Commonly a JRP may occur with the: Province, NEB, CNSC

A panel may be referred:

- during or after a screening
- from the CS track decision
- due to public concern or significant environmental effects



Scoping – Establish Limits of the EA

Scope of Project (S.15)

- The scope of project is the development proposal as presented by the proponents
- RA for screening and comprehensive study
- Minister for a Panel
- Must include all aspects of the proposed project (construction to decommissioning)
- Considers interdependence of components

NOTE: Public participation under the Act is discretionary for screenings



Factors to be considered

Screening	Comprehensive Study, Mediation, Panel Review
Environmental effects (including accidents/ cumulative)	Environmental effects (including accidents/cumulative)
Significance of effects	Significance of effects
Public comments where appropriate	Public comments
Mitigation	Mitigation
Any matter the R.A. may require to be considered:	Purpose of the project
e.g. need for and alternatives to the project	Alternative means of carrying out the project
	The need for, and the requirements of, any follow-up program
	Sustainability of renewable resources
	Any matter the Minister or R.A. may require to be considered: e.g. need for and alternatives to the project

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EA Analysis

- **Interactions** between environment & project
- **Effects** of the interactions
- **Mitigation** measures to minimize the effects
- **Significance** of residual environmental effects



EA Report

Documents information such as:

- Project description
- Environment description
- Public involvement
- Interactions between environment and project
- Potential environmental effects
- Measures to mitigate effects
- Likelihood of significant residual effects



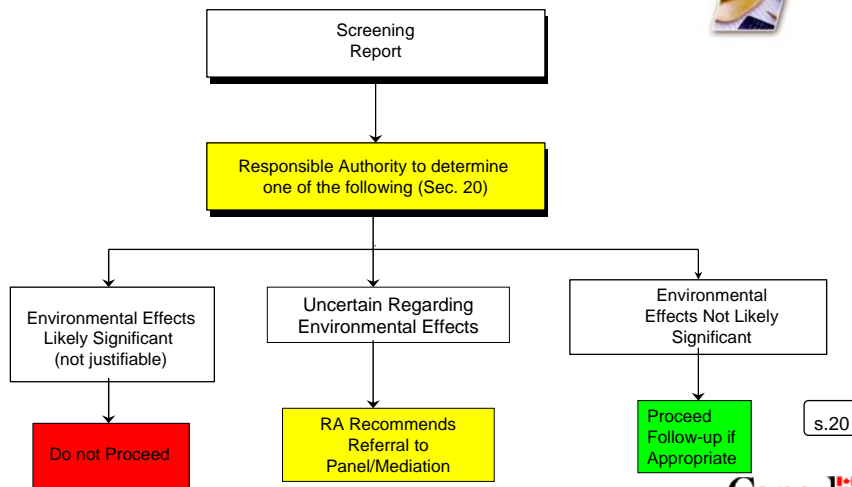
Delegation

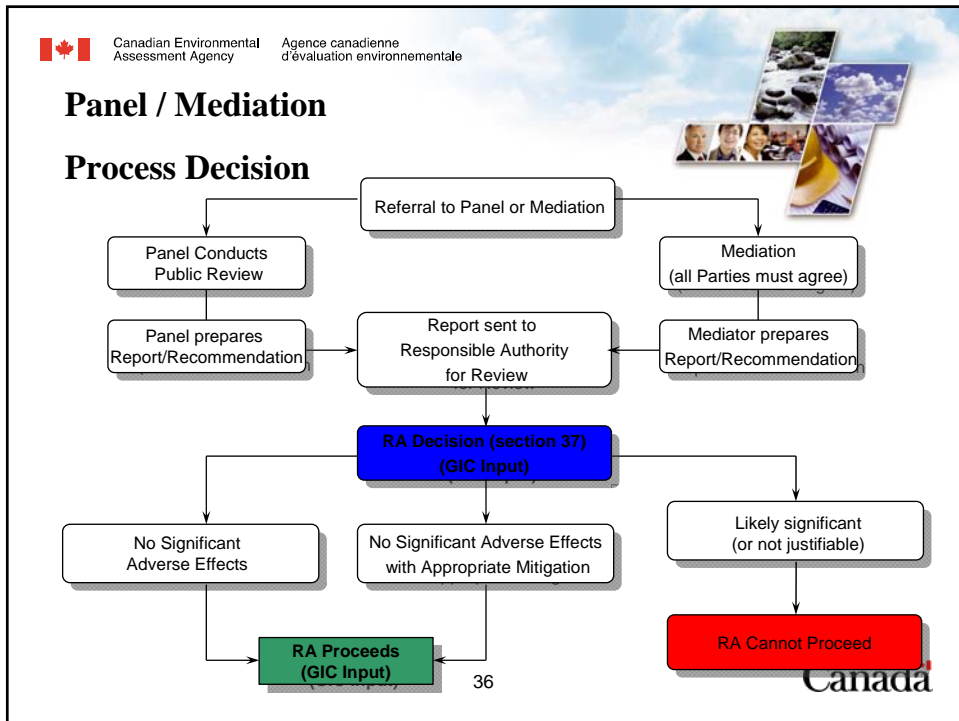
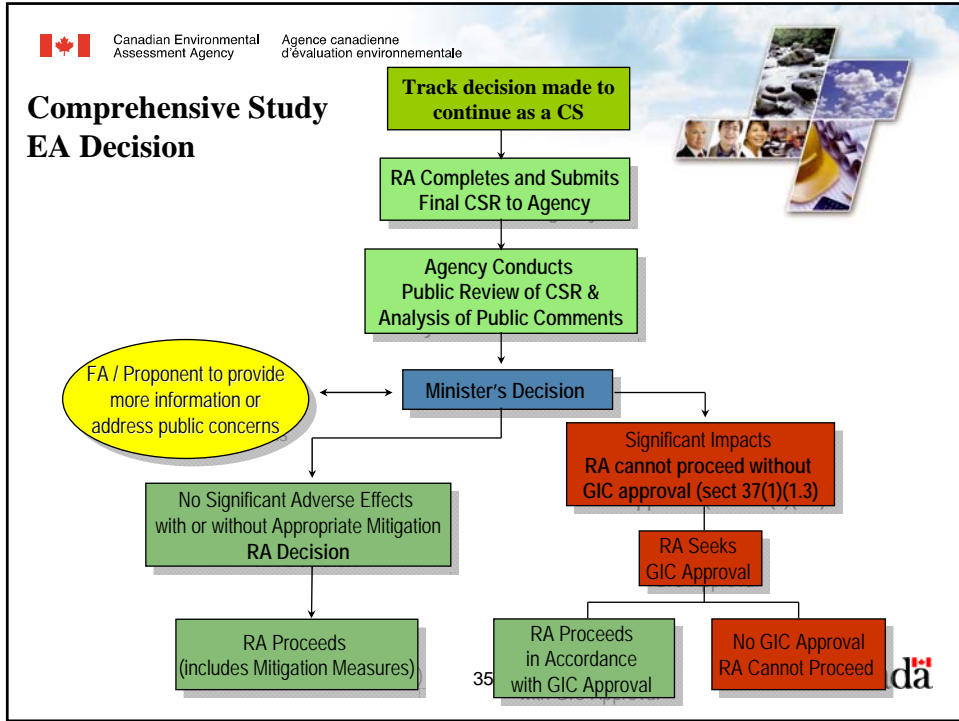
- The RA may delegate the conduct of any part of the analysis and the preparation of the screening report.
- RA must supervise

The RA **cannot delegate** the **EA Decision** regarding whether to provide federal support to the project



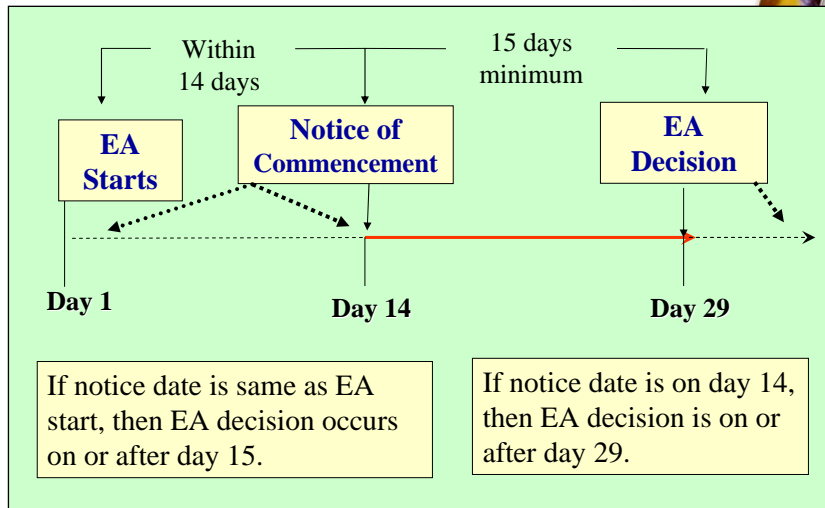
Decision following a screening







Timing of the EA Decision



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Follow-Up Program

- A program to verify the **accuracy of the EA**, and
- Determine **effectiveness of mitigation** measures

Why do it?

- Improve future EA for similar projects
- Project involves new or unproven technologies
- Project involves new or unproven mitigation measures (allows for adaptive management)
- A familiar project is proposed for a new or unfamiliar setting

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Results for:
Province / Territory: *Alberta*
Status: *Active (current, ongoing follow-up program, on hold)*

Search Within Alberta

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CEARIS

Canadian Environmental Assessment Registry Internet Site

Purpose: provide public access to information relating to environmental assessments conducted under the Act.

- Notice of commencement
- Scope of the project
- Notices to request public input (if applicable)
- Factors and scope of the factors, or how to obtain copy
- EA report, or how to obtain copy
- EA decision and mitigation measures
- Follow-up decision
- Summary of the follow-up program
- **If a comprehensive study:** Minister's track decision and Minister's decision statement

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Canada



Major Resource Project Initiative

- The MPMO was established in 2007 to support a more effective, accountable, transparent and timely review process.
- Role of the MPMO is:
 - To provide a single point of entry into the federal regulatory system for proponents of major resource projects;
 - To engage in early discussions, distribution of guidance materials and information exchanges with proponents on proposed projects;
 - To develop in collaboration with relevant federal departments and agencies, consensus-based Project Agreements;
 - To track and monitor the Crown's Aboriginal Consultation requirements related to the review of major resource projects and maintain the official record of Aboriginal/Crown consultation for the Government of Canada;
 - To implement and manage a transparent monitoring and tracking system; and
 - To lead collaborative research and policy analysis on short, medium and longer term initiatives to improve the performance of the regulatory system.



MPMO Summary

Part 1

- Cabinet Directive on Implementing CEAA and its MOU

www.ceaa-acee.gc.ca for documents

Part 2

- Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects and its MOU

<http://www.mpmo-bggp.gc.ca> for documents



Aboriginal/Crown consultation

- MPMO responsible for integrating Aboriginal Crown consultation into overall regulatory process
- Agency responsible for “integrating Aboriginal Crown consultation into the environmental assessments it coordinates under this initiative”
- For MRP, CEAA coordinates



Harmonization and Cooperation

- Canada – Alberta Agreement for Environmental Assessment Cooperation
- Project notification
- One-Window Contact for each jurisdiction
- Coordinated Timelines
- Coordinated review
- Joint Review Panels



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QUESTIONS?

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