



Aboriginal Affairs and  
Northern Development Canada

Affaires autochtones et  
Développement du Nord Canada

Proponents' Guide to  
Aboriginal Affairs and Northern Development  
Canada's  
**Environmental Review Process**



Canada 

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Cette publication existe aussi en Français.

This document is also available through the Internet at (<http://www.aadnc-aandc.gc.ca/eng/1345141628060/1345141658639>).

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## 1 DISCLAIMER AND UPDATES

This document outlines the requirements for an Environmental Review for proposed projects on First Nation reserve land. The regulations listed in the following text are considered current at the time of publication. Although every effort has been made to address and include all applicable regulations and guidelines, this document is not considered exhaustive. The proponent is responsible for addressing all aspects of the proposed project, including any additional aspects which may not be included herein.

This Guide will be updated periodically and it is the user's responsibility to ensure that they are using the most current version in their work. The title page of the document indicates when the Guide was last updated. Should this Guide be updated during the planning or operation of an applicant's project, the previous version of the document remains applicable for that project.

All documents generated as part of the Environmental Review Process - including project description forms, environmental review reports and any associated annexes and appendices - are subject to release to interested parties under Access to Information and Privacy. If the confidentiality of any project information is an issue, it should be discussed with Aboriginal Affairs and Northern Development (AANDC) prior to submitting that information. All documents generated as part of the Environmental Review Process may be circulated to relevant government departments and agencies. A project summary may be made publicly available on the AANDC website.

The Government of Canada accepts no liability whatsoever for any claim that might in any way arise as a consequence of the Government of Canada's handling, use, publication or release of project information, either in whole or in part. Proponents are wholly responsible to ensure that their project information is substantially accurate and that nothing contained in it is subject to any confidentiality requirements. Proponents are not to provide confidential, personal or proprietary information that should not be made accessible to the public.

## 2 INTRODUCTION

### 2.1 PURPOSE OF THIS GUIDE

This guidance document is intended for proponents who are planning projects on First Nation reserve lands subject to the *Canadian Environmental Assessment Act, 2012* (CEAA 2012).

CEAA 2012 is a federal law that requires federal departments, such as Aboriginal Affairs and Northern Development Canada (AANDC), to consider the environmental effects of proposed projects before taking any actions that would allow a project to proceed. AANDC has developed the Environmental Review Process to meet the legislative requirements described in sections 66-72 of CEAA 2012.

The Environmental Review Process is a project planning tool which enables the protection of the environment while building strong First Nation communities and economies. This guide outlines the process and identifies the respective roles of proponents (e.g. First Nations) and AANDC officials while conducting environmental reviews under the Environmental Review Process. Through the implementation of the Environmental Review Process, projects on reserve will continue to be carefully considered prior to the issuance of federal funding, land tenure or other authorizations identified in Appendix A.

Any project application to AANDC (e.g., requests for land tenure or funding) south of 60° may be subject to the Environmental Review Process. However, CEAA 2012 only applies on a small portion of federal lands in the North (i.e., within the Inuvialuit Settlement Region of the Northwest Territories and federal lands within Nunavut Territory, but excluded from the Nunavut Settlement Area). In these exceptional cases, the northern environmental assessment regime may also apply. If you are planning a project on federal lands in the North, please contact the AANDC Northern Affairs Director of Environment & Renewable Resources (catherine.conrad@aandc-aadnc.gc.ca) for further information on the appropriate process to follow. Additionally, the Environmental Review Process does not apply to projects in areas under land claims agreements as they are not considered to be "federal lands" as defined in CEAA 2012.

## 2.2 AANDC MANDATE

AANDC's vision is that Canada's economic and social well-being benefits from strong, self-sufficient Aboriginal and northern people and communities. To that end, AANDC supports Aboriginal people (First Nations, Inuit and Métis) and Northerners in their efforts to:

- improve social well-being and economic prosperity;
- develop healthier, more sustainable communities; and,
- participate more fully in Canada's political, social and economic development – to the benefit of all Canadians.

AANDC is one of the federal government departments responsible for meeting the Government of Canada's obligations and commitments to First Nations, Inuit and Métis, and for fulfilling the federal government's constitutional responsibilities in the North. Its responsibilities are largely determined by numerous statutes, negotiated agreements and relevant legal decisions. Most of the Department's programs, representing a majority of its spending, are delivered through partnerships with Aboriginal communities and federal-provincial or federal-territorial agreements. AANDC also works with urban Aboriginal people, Métis and Non-Status Indians (many of whom live in rural areas).

AANDC's authorities and responsibilities are enabled through the various acts and associated regulations. Among its responsibilities, AANDC is required to ensure that projects on reserve, as defined by section 66 of CEAA 2012 proceed in an environmentally responsible manner.

## 2.3 THE AANDC ENVIRONMENTAL REVIEW PROCESS

On July 6, 2012, the *Canadian Environmental Assessment Act* (S.C. 1992, c. 37) was repealed and CEAA 2012 came into force. CEAA 2012 focuses federal environmental assessment efforts on large or complex developments that have a greater potential to cause significant adverse environmental effects. These "designated projects" are described by the *Regulations Designating Physical Activities*.

Most projects proposed on reserve lands are less complex in nature, and would not be considered as designated projects; therefore, they are no longer subject to "environmental

assessment” as it is defined<sup>1</sup> in CEAA 2012. Nevertheless, CEAA 2012 includes provisions that pertain specifically to non-designated projects on federal lands, including reserve lands. Most importantly, section 67 of CEAA 2012 requires federal departments to ensure that such projects do not cause significant adverse environmental effects, before they can carry out the project on federal lands or exercise any power or perform any duty or function under an Act of Parliament other than CEAA 2012 that could permit the project to be carried out, in whole or in part.

Accordingly, AANDC has developed the Environmental Review Process (see Figure 1 and Section 3 of this Guide) to meet its CEAA 2012 legislative responsibilities and ensure that projects on reserve lands continue to be carefully considered prior to the issuance of federal support. While not considered an “environmental assessment” as defined by CEAA 2012, the Environmental Review Process shares the same objectives as any environmental assessment, namely to:

- predict the environmental effects of the proposed project;
- recommend appropriate mitigation measures that will eliminate or reduce the environmental effects of the project;
- determine the significance of the residual environmental effects, taking into consideration implementation of appropriate mitigation measures;
- fulfill Canada’s legal duty to consult and, if appropriate, accommodate, Aboriginal Groups when the Crown contemplates conduct that may adversely affect established or potential Aboriginal and treaty rights;
- document any public comments and/or public liaison process; and,
- recommend any appropriate follow-up program requirements.

The Environmental Review Process is guided by themes of sustainability, precaution, and whole system thinking (i.e. ecological, economic, cultural, social factors). Ultimately, abiding by these principles will ensure the environment is appropriately considered in proposed undertakings.

An important principle of the Environmental Review Process is that the level of the environmental review should be commensurate with the risk and likelihood of significant adverse environmental effects associated with carrying out the project. In other words, less-complex and lower-risk projects do not require the same level of review as larger projects that have a greater potential to cause adverse environmental effects. Section 3 details the process for risk assessment and different levels of review.

It should be noted that other federal laws continue to apply on reserve, such as the *Fisheries Act*, *Species at Risk Act* and the *Canadian Environmental Protection Act*, *Navigable Waters Protection Act*, etc. Projects are still subject to the requirements of all applicable federal and

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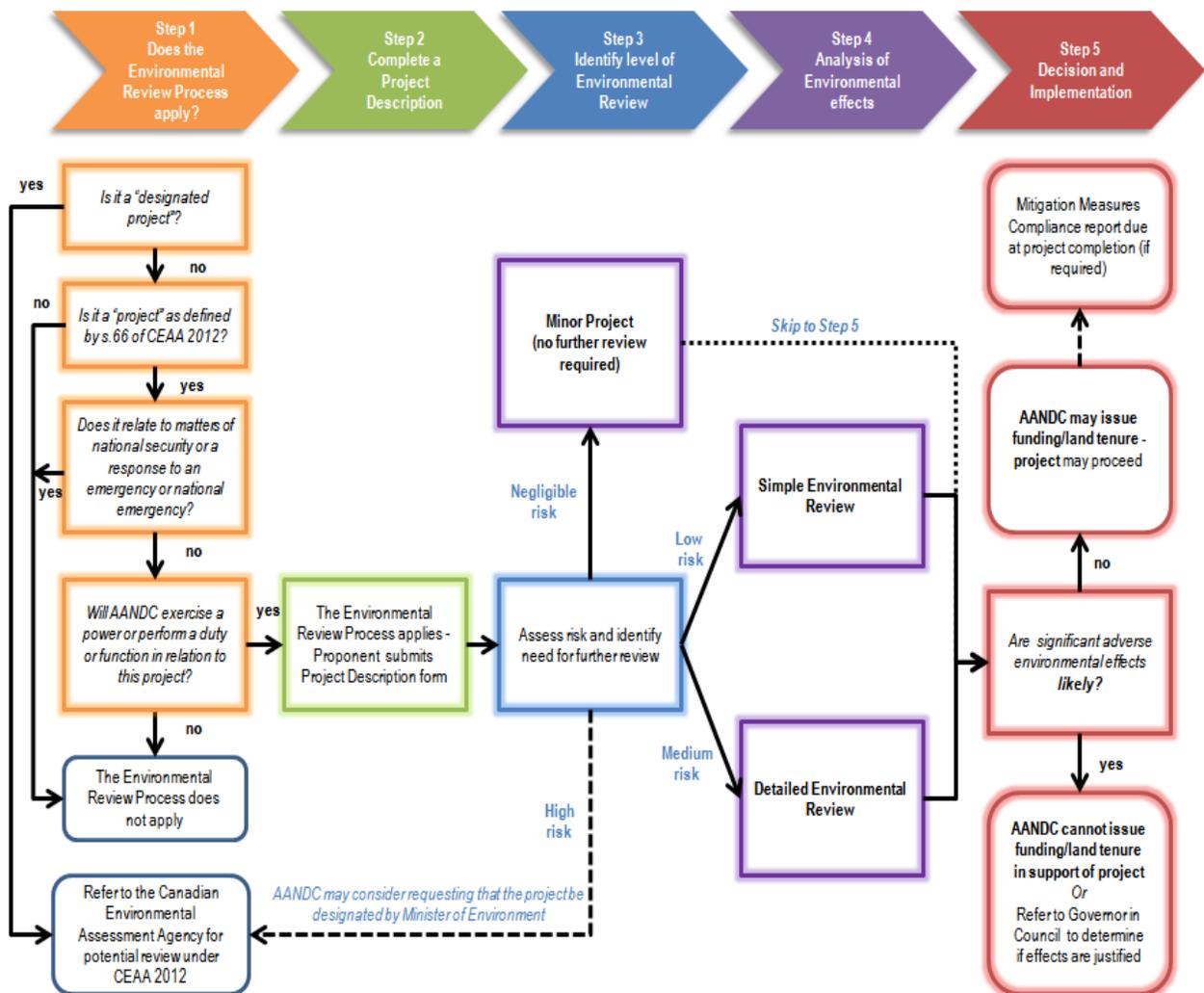
<sup>1</sup> CEAA 2012 s. 2(1) defines “environmental assessment” as “an assessment of the environmental effects of a designated project that is conducted in accordance with this Act.”

provincial laws, standards and permits. Although every effort has been made to address and include all applicable regulations and guidelines, this document is not considered exhaustive.

## 2.4 ANNUAL REPORT TO PARLIAMENT ON ENVIRONMENTAL REVIEWS

Pursuant to section 71 of CEAA 2012, all federal authorities, including AANDC, must report annually to Parliament on their activities related to environmental reviews for non-designated projects. Please note that no personal information will be shared in this report and only those projects found likely to cause significant adverse environmental effects will be specifically mentioned in the report. The annual report is posted on the Canadian Environmental Assessment Agency website, under the heading [Home>Publications>Environmental Assessment in Canada>About Federal Environmental Assessment](#). The 2012-2013 Annual Report can be accessed directly at [www.ceaa-acee.gc.ca/default.asp?lang=en&n=E9928E55-1](http://www.ceaa-acee.gc.ca/default.asp?lang=en&n=E9928E55-1).

Figure 1: AANDC's Environmental Review Process



### 3 THE ENVIRONMENTAL REVIEW PROCESS

#### 3.1 TOOLS

The sections below will describe the steps involved in the preparation, submission, and review of the environmental review report(s). The Guide describes the use of the following tools, which have been developed to assist and guide proponents through this process and are available from your AANDC environment officer:

- Project Description form
- Minor Projects List
- Simple Environmental Review report
- “Guide for Completing a Detailed Environmental Review Report”
- Mitigation Measures Compliance report

#### 3.2 TIMELINES

Non-designated projects are not subject to legislated timelines. However, AANDC aims to complete reviews in a timely fashion so that projects are not delayed unnecessarily and mitigation measures can be built into the project design. Service standards for projects reviewed under the Environmental Review Process are under development, and will be based upon typical review times for projects currently undergoing review. Generally, the review of a satisfactory form or report for lower-risk projects will take approximately 2.5 weeks.

#### 3.3 REVIEW STEPS

The Environmental Review Process should be initiated as early as possible in the planning stages of any proposed undertaking, to ensure that the environment is appropriately considered and any adverse effects are mitigated. The following sections will explain each step (Figure 2) in this process.

Figure 2: Procedural steps for the determination of environmental effects



## STEP 1: DOES THE ENVIRONMENTAL REVIEW PROCESS APPLY?

The following flowchart outlines the four questions used to determine if the Environmental Review Process applies to a particular project.

Figure 3: Series of questions used to determine if the Environmental Review Process applies

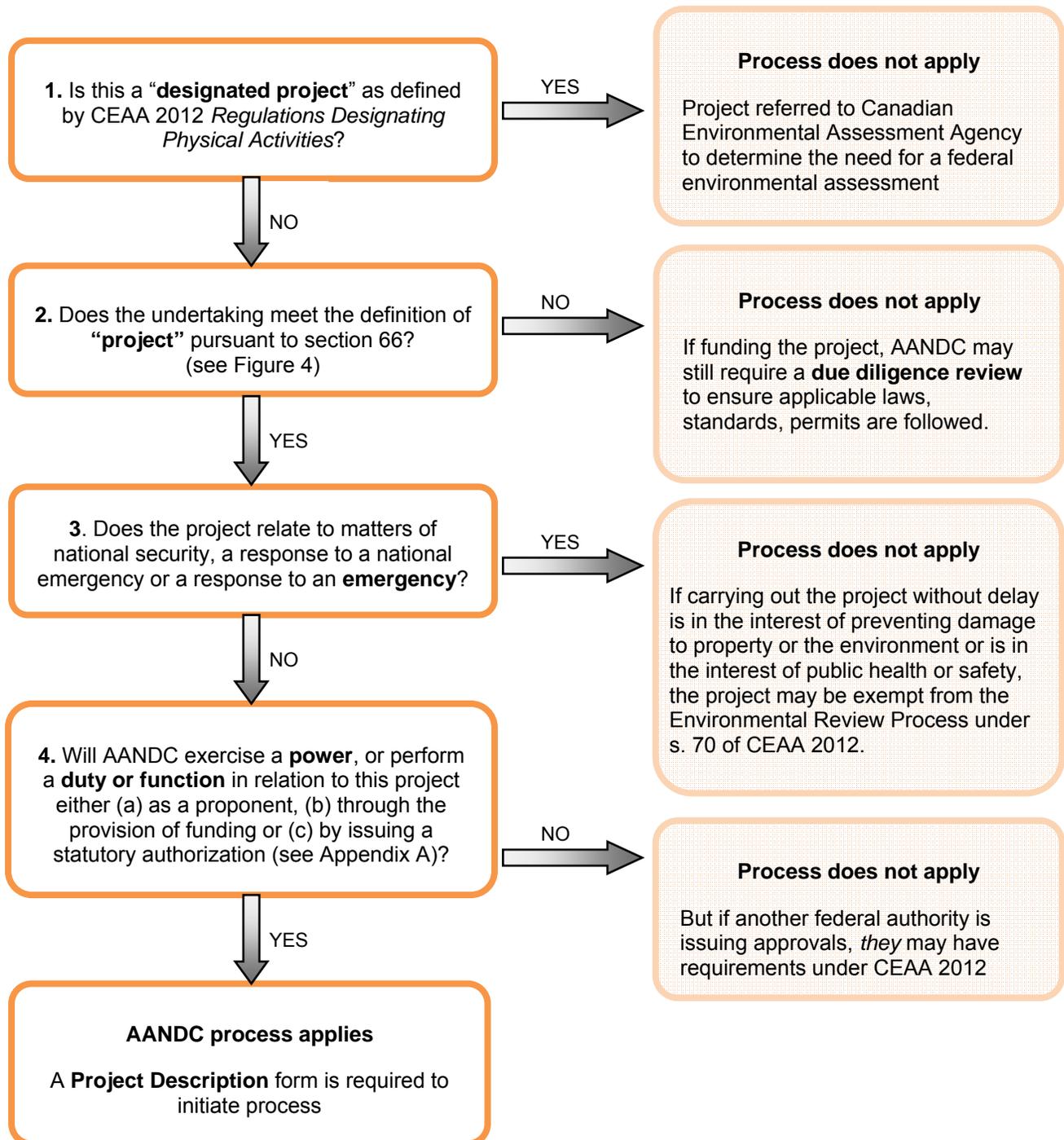
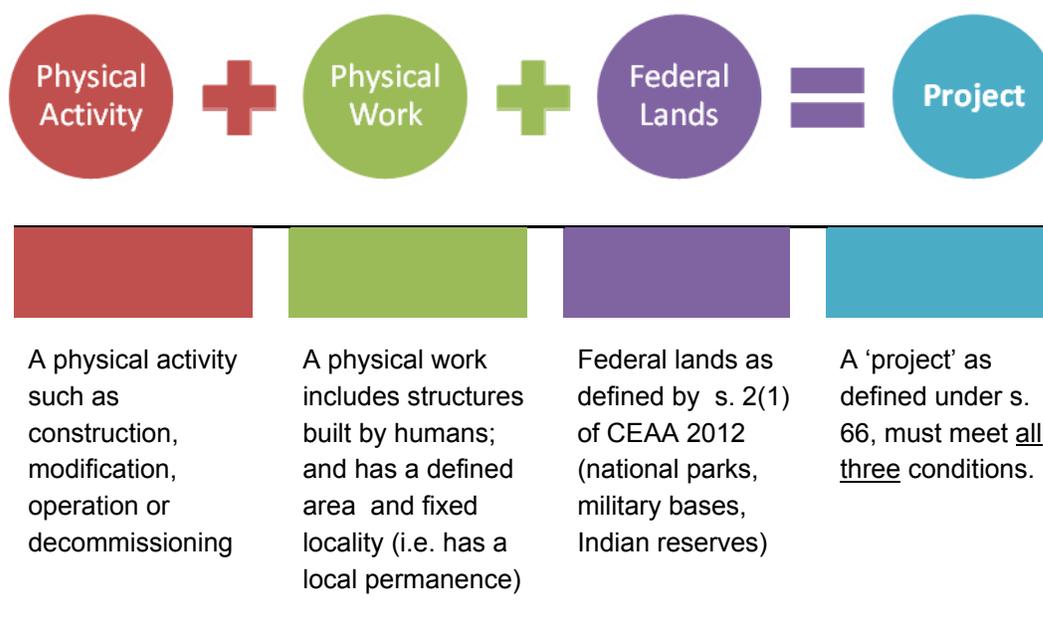


Figure 4: Section 66 of CEAA 2012 - definition of “project”



To summarize, the Environmental Review Process applies to any non-designated “project” that is receiving support from AANDC, either via funding or statutory authorization<sup>2</sup>, unless it is related to an emergency.

It is important to note that projects not meeting all of the above conditions may still be subject to a *due diligence review* of environmental considerations.

For example, a winter road proposed off-reserve wouldn’t meet the s.66 definition of “project” (because it isn’t on federal land), but any request for AANDC support (e.g., funding) of off-reserve projects is still subject to a due diligence review prior to funding approval. The review process required will be determined based on jurisdictional requirements (i.e., provincial or territorial approvals), project specifics and regional requirements. Some regions have a policy to apply the Environmental Review Process to off-reserve projects in specific circumstances – check with your regional environment officer.

Please see Section 4 for more in-depth discussion on how the Environmental Review Process applies to a number of First Nation-specific situations.

## STEP 2: COMPLETING A PROJECT DESCRIPTION FORM

Once it has been determined that the Environmental Review Process applies, the proponent may be requested to complete the Project Description form<sup>3</sup>. This form provides the essential

<sup>2</sup> **Statutory authorizations** include permits or leases issued under the *Indian Act*, the release of band moneys under the *Indian Act*, and various authorizations under the *Dominion Water Power Act*. See Appendix A for a list of statutory authorizations.

<sup>3</sup> In certain cases, there is already sufficient information within the project application for AANDC to make a determination of environmental effects; and the proponent will not be asked to submit a Project Description form. This is often the case for small projects involving maintenance or repairs.

details of the proposed project, and is used to assist AANDC to (1) analyze the potential environmental risk of the project, (2) make recommendations on mitigation as appropriate, and (3) determine the need for further environmental review.

The proponent will receive the request via email, with a link to a web-based Project Description form. Once the web-based Project Description form has been completed, clicking “Submit” will send it electronically back to the AANDC environment officer for review. If the proponent does not have reliable internet access, a hard copy of the Project Description form may be submitted instead, via fax or mail.

Table A provides an overview of the main sections of the form and the information required in each section. Smaller projects will not require the same level of detail as larger, more complex projects. When applicable, AANDC officials may need to request additional information on key environmental components that are not included in the Project Description form. The form must be completed by a person knowledgeable of the project, its location and the potential environmental effects associated with the project. The proponent is responsible for ensuring the accuracy of the information provided. Please contact your regional environment officer for further guidance and assistance in completing this form.

**Table A: Description and guidance for the Project Description form**

Section	Description and Guidance
Section A: Project Information	<p>This section includes the project title and proponent contact details. Identify the proposed start and expected completion date of the project, and describe all components of the project over the entire life cycle of the project, including site preparation, construction, operation, decommissioning, and site restoration or rehabilitation. Include any physical works or activities accessory to the principal project (for example if the project creates waste, include information on the proper disposal of that waste; or if certain utilities needed to be established or decommissioned for the project, include those ancillary works).</p> <p>Identify all permits, licences or approvals (including any provincial or municipal requirements when applicable) that need to be obtained for the project and any other important characteristics of the regulatory environment. Please refer to maps of the area to be disturbed for the proposed project in relation to existing activities, topographic features, township grids, watercourses and water bodies. Copies of drawings, plans, maps showing the project location, and any key features referred to in the remainder of the document, etc. should be attached to the form.</p>
Section B: Land Description	<p>Select all surface water bodies (lakes, rivers, streams, wetlands, bogs etc) in or within 30 m of the study area. Identify any drinking water wells or aquifer recharge zone (i.e., a land area into which water can infiltrate into and replenish an aquifer relatively easily) and the depth to groundwater, if known.</p> <p>Select the soil type and topography, slope and any special landforms within the specified project area. Describe the land use (e.g. zoning, current and past land uses and ownership) at the project site and any existing and planned resource use within the boundaries or surrounding areas of the site that may be affected by the proposed project (e.g. farming, forestry, mining, commercial fisheries, wildlife populations and/or distribution, trapping/hunting, forestry, location of traditional plants, water resources).</p>

Section C: Flora and Fauna	<p>Identify any plant and animal species that are listed under the federal <i>Species at Risk Act</i> that have the potential to be present in the project area. The <i>Species At Risk Act</i> registry (<a href="http://www.sararegistry.gc.ca/default_e.cfm">http://www.sararegistry.gc.ca/default_e.cfm</a>) managed by Environment Canada provides information on listed species at risk and their habitat. Check with your province/territory, as they may have species at risk websites as well.</p> <p>Identify if the project has the potential to affect migratory birds – as populations and as individuals – or their habitats, eggs and nests. Contact Environment Canada for guidance on appropriate mitigation measures, such as timing restrictions.</p> <p>If the project involves in-water works or is sited near water, contact the Department of Fisheries and Oceans for advice on appropriate mitigation measures and/or <i>Fisheries Act</i> authorizations. Authorizations may also be required if your project involves blasting in or near water, killing fish by means other than fishing, or creating a barrier to fish migration. Environment Canada is responsible for the administration and enforcement of the pollution prevention provisions of the <i>Fisheries Act</i>, which prohibit the deposit of deleterious (harmful) substances into water containing fish.</p> <p>Describe the vegetation in the area, (such as forests, marshes, grass fields, cultivated fields) as well as in the adjacent areas. Describe animals in the area (aquatic species, amphibians, reptiles, birds, mammals) as well as in the adjacent areas. Identify any significant sensitive natural areas (e.g. wetlands, caribou fawning areas) in the project area.</p>
Section D: Traditional / Cultural Uses	<p>Identify any traditional, historical, archaeological and/or cultural use areas in the project area. This information will help inform whether Aboriginal consultation by AANDC is warranted.</p>
Section E: Consultation and Public Participation	<p>Indicate if the project has the potential to cause off-reserve effects. This will assist AANDC in determining whether consultation with other Aboriginal or non-Aboriginal groups may be required prior to the project's authorization.</p>
Section F: Comments and Other Information	<p>This section allows for the proponent to provide any additional information they feel pertinent for the reviewing officer to know about the project. For small projects, it is suggested that the proponent use this section to proactively identify any key best practices or mitigation measures they plan to implement during the project. This additional information may enable a speedier review of the Project Description form by AANDC, and in some cases, the AANDC environment officer may even be able to conclude that the proponent has addressed all the relevant risks and no further review is needed.</p> <p><i>(Please note that for larger or more complex projects, it would not be appropriate to use Section F to identify all mitigation measures. For such projects, AANDC will likely require a separate, more thorough analysis of effects and mitigation).</i></p>
Section G: Contact Information	<p>This section involves identifying the First Nation (if not the proponent) and an alternative contact in case the primary contact (as identified in Section A) cannot be reached.</p>
Section H: Recommendations and Approvals	<p>This section is completed by AANDC. AANDC will use this section to identify the level of further review that the project should undergo, in order to make a determination as to whether significant adverse environmental effects are likely. Other factors relating to areas of federal responsibility (e.g., Aboriginal consultation, input from other regulatory bodies and land tenure requirements) are identified here, as well.</p>

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**STEP 3: IDENTIFYING THE LEVEL OF ENVIRONMENTAL REVIEW**

AANDC environment officers will review the completed Project Description form and perform a risk analysis to identify whether there is a need for further environmental review. The risk assessment will include the following considerations:

- potential for pollution of soil, air, surface or groundwater
- potential for effects on species at risk or migratory birds
- potential for effects on fish or fish habitat
- potential effects on other valued ecosystem components
- potential effects on Aboriginal or treaty rights
- potential for public concern
- the ability of any identified risks to be managed via best practices, standard mitigation measures, or regulatory means.

Depending on the results of this analysis, AANDC officials will assign a level of review appropriate to the project, based on its potential risk to the environment:

**Table B: Level of environmental review and subsequent actions**

Risk Level	Level of Review	Action Required	Project Examples
Negligible	Minor	No need for further environmental review past the Project Description form. Effects can be managed through standard mitigation measures and/or best management practices.	<ul style="list-style-type: none"> <li>• Construction of a single house</li> <li>• Installation of infrastructure for telecommunications or internet</li> <li>• Renovations to an existing community facility</li> <li>• Upgrades to existing roads</li> </ul>
Low	Simple	The Simple Environmental Review form (or similar report) should be completed. Mitigation measures must be identified for project components where potential environmental risk is identified. Any additional recommendations (e.g., best practices, tank registration requirements) provided by the environment officer must be implemented.	<ul style="list-style-type: none"> <li>• Construction of a water treatment plant</li> <li>• Construction of a residential subdivision</li> <li>• Construction of a gas station</li> </ul>
Medium	Detailed	The project is large or complex, and risk and potential effects are not readily known. A detailed assessment of potential environmental effects is required. The <i>Guide to Completing a Detailed Environmental Review Report</i> will assist with the preparation of the report.	<ul style="list-style-type: none"> <li>• Construction of a stone quarry with a production capacity of less than 3,500,000 tons/year</li> <li>• Construction of a waste incinerator</li> <li>• Construction of an aquaculture facility</li> <li>• Construction of an all-season highway</li> </ul>
High	Referral for	AANDC may request that the Minister of	<ul style="list-style-type: none"> <li>• Any project with high</li> </ul>

(and/or potential for public concern)	designation pursuant to s.14(2) of CEAA 2012	Environment designate the project. If the Minister of the Environment does not designate the project, the project will undergo a Detailed Environmental Review in accordance with the <i>Guide to Completing a Detailed Environmental Review Report</i> .	<i>environmental risk, for which there is a high level of public and/or Aboriginal concern</i>
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## MINOR PROJECTS

Many small-scale or routine “projects” supported by AANDC are considered to have very low or negligible environmental risk because they have well-understood, predictable environmental effects that can be managed with standard best practices.

These so-called “minor projects” do not require further review past the Project Description form. Once the Project Description has been reviewed and it has been determined that the project is minor, the AANDC environment officer will make a determination of environmental effects (which may include recommendations for best practices or mitigation), and the project may proceed.

AANDC has developed a “Minor Projects List”, which lists the most common types of projects typically considered as negligible or very low risk. The Minor Projects List (available from your AANDC environment officer) should be considered as a guide only; it does not guarantee that any project described by the Minor Projects List won’t require further review past the Project Description stage. If the specific circumstances of that project show potential for additional risk, the proponent may be asked to proceed to a Simple Environmental Review (see below).

The majority of projects that AANDC reviews are considered minor projects.

<b>TIP</b>
Proponents of low-risk projects can use section F of the Project Description form to proactively identify key best practices or mitigation measures. If, at this stage, AANDC finds that the relevant risks were anticipated and addressed appropriately, there may be no need for further review.

## SIMPLE ENVIRONMENTAL REVIEW

Projects that have been assigned a “low” risk level will require further environmental review using the Simple Environmental Review report. This form is set up as a checklist for proponents to provide yes/no answers to questions on potential risks to a number of valued ecosystem components, including but not limited to water quality, air quality, vegetation, flora and fauna. For any valued ecosystem components where potential risk is identified (i.e., the “yes” box is checked), the proponent must propose appropriate mitigation measures to reduce or remove that risk.

<b>TIP</b>
The Simple Environmental Review report is a project planning tool that focuses on valued ecosystem components that may be affected by the project. A “yes” response to any question on the form does not mean your project will not get approved. It simply highlights where mitigation must be incorporated into the project planning process.

Table C provides an overview of the main sections of the form and the information required in each section.

**Table C: Description and guidance for the Simple Environmental Review report**

Criteria Assessed	Description and Guidance
Surface and Groundwater	<p>Indicate any potential effects on surface and groundwater quality, flow, or movement; any resulting sedimentation or erosion; and any pollution from operations or accidental spills.</p> <p>If there are any potential effects, applicable mitigation should be detailed here.</p> <p>Note: Surface water includes rivers, lakes, canals, reservoirs, oceans, marshes, ponds, wetlands, and streams.</p>
The Land	<p>Indicate any potential effects on the land surface (e.g. clearing of trees, shrubs, or ground vegetation), any unique and sensitive land features (e.g. wetland or park), or adjacent properties. If the clearing of trees will include the sale of those trees to a mill, a timber permit will be required.</p> <p>If there are any potential effects, applicable mitigation should be detailed here.</p>
Flora and Fauna	<p>Identify any plant and animal species that are listed under the federal <i>Species at Risk Act</i> that have the potential to be affected in the project area. The <i>Species at Risk Act</i> registry (<a href="http://www.sararegistry.gc.ca/default_e.cfm">http://www.sararegistry.gc.ca/default_e.cfm</a>) managed by Environment Canada provides information on listed species at risk and their habitat, and a geographic search can be conducted via the Ontario Ministry of Natural Resources Species at Risk website, as well (<a href="http://www.mnr.gov.on.ca/en/Business/Species/index.html">http://www.mnr.gov.on.ca/en/Business/Species/index.html</a>).</p> <p>Identify any potential effects to migratory birds – as populations and as individuals – or their habitats, eggs and nests. Contact Environment Canada for guidance on appropriate mitigation measures (see <a href="http://www.ec.gc.ca/Publications/default.asp?lang=En&amp;xml=50C4FE11-801E-4FE3-8019-B2D8537D76CF">http://www.ec.gc.ca/Publications/default.asp?lang=En&amp;xml=50C4FE11-801E-4FE3-8019-B2D8537D76CF</a> for further guidance). The <i>Migratory Birds Convention Act</i> is available at <a href="http://laws-lois.justice.gc.ca/eng/acts/M-7.01/page-1.html">http://laws-lois.justice.gc.ca/eng/acts/M-7.01/page-1.html</a>.</p> <p>If the project involves in-water works or is sited near water, describe any potential effects on fish or fish habitat, as defined by the <i>Fisheries Act</i>, at <a href="http://laws-lois.justice.gc.ca/eng/acts/f-14/">http://laws-lois.justice.gc.ca/eng/acts/f-14/</a></p> <p>If there are any potential effects, applicable mitigation should be detailed here.</p>
Air and Noise	<p>Identify any potential effects to air quality (from chemical emissions or dust/odours) and on noise-sensitive receptors. Health Canada's guidance on noise, air quality, and other human health effects is available at <a href="http://www.hc-sc.gc.ca/ewh-semt/alt_formats/hecs-sesc/pdf/pubs/eval/envIRON_assess-eval/envIRON_assess-eval-eng.pdf">http://www.hc-sc.gc.ca/ewh-semt/alt_formats/hecs-sesc/pdf/pubs/eval/envIRON_assess-eval/envIRON_assess-eval-eng.pdf</a></p> <p>If there are any potential effects, applicable mitigation should be detailed here.</p> <p>Note: Noise-sensitive receptors include schools, daycares, nursing homes, residences, places of worship, hospitals, etc.</p>
Socio-	Identify any potential concerns that the project may raise in the Aboriginal community

Economic, Culture, and Heritage	<p>or general public. This may include effects on local businesses, institutions/public facilities, physical or cultural heritage resources, or the current use of lands and resources for Aboriginal traditional purposes.</p> <p>If there are any potential effects, applicable mitigation should be detailed here.</p>
Other Considerations	<p>If the project has the potential to result in the creation of waste material requiring disposal (such as oil products for machinery, treated wood, lead paint, etc.), involves the installation of a fuel tank over 230 L, or requires the use of soil or material (e.g. sand, gravel, or rocks), additional detail should be provided in this section. If the project involves dredging in coastal areas, the <i>Disposal at Sea Regulations</i> (<a href="http://laws-lois.justice.gc.ca/eng/regulations/sor-2001-275/FullText.html">http://laws-lois.justice.gc.ca/eng/regulations/sor-2001-275/FullText.html</a>) may apply. If the project requires the use of explosives, you will need to note that in this section and contact Natural Resources Canada, as you may require a license.</p> <p>Power generation projects may be subject to the <i>Dominion Water Power Act</i> or its regulations, if the project is located in any river, brook, lake, pond, creek, or other flowing or standing water on Dominion (federal) lands.</p> <p>For any potential effects, applicable mitigation should be detailed here.</p>
Supporting Documentation	<p>Include in this section a list of any supporting documentation (copies of permits, reports, etc) that may substantiate your information and be useful for the environment officer during their review.</p>
Signature	<p>The proponent and the person preparing the report provide their signatures and commit to the implementing the mitigation measures stated. AANDC will make its s. 67 determination of environmental effects based on these measures.</p>

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## DETAILED ENVIRONMENTAL REVIEW

When a proposed project is large or complex in nature, the interactions between the project and the environment are less predictable; and identifying the potential adverse effects and appropriate mitigation measures will require careful analysis. For these “medium risk” projects, AANDC will require a detailed environmental review in order to make its determination of environmental effects. Proponents will be referred to the *Guide to Completing a Detailed Environmental Review*, a generic terms of reference document that sets out the requirements for generating a Detailed Environmental Review report. Although the specific terms of reference may be modified to meet the needs of the particular project in question, the report should include the following components:

- Detailed description of the proposed project and project area
- Required regulatory approvals
- Any Aboriginal consultation or public engagement activities
- Description of the baseline environmental conditions
- Identification of potential interactions between each project component and each valued ecosystem components

- Proposed mitigation for each interaction between project and valued ecosystem components
- Analysis of the significance of any residual effects after mitigation is applied
- Identification of any cumulative effects

The Detailed Environmental Review report should be prepared by a qualified environmental professional and submitted to AANDC for review and determination of environmental effects.

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#### STEP 4: ANALYSIS OF ENVIRONMENTAL EFFECTS

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Based on the information provided in the Project Description form, the Simple Environmental Review report or Detailed Environmental Review report, AANDC will complete an analysis of the potential environmental effects associated with the project and proposed mitigation measures.

Under Section 5 of CEAA 2012 all effects that the project causes to the environment can be considered, including fish and fish habitat, migratory birds, species at risk, air quality, water quality, soil, plants and wildlife, etc. The CEAA 2012, s. 5(c) definition of “environmental effects” also includes provisions that explicitly relate to Aboriginal peoples and the effects of any change caused to the environment on their:

- health and socio-economic conditions;
- physical and cultural heritage;
- current use of land and resources for traditional purposes; or,
- structures, sites or things that are of historical, archaeological, paleontological or architectural significance.

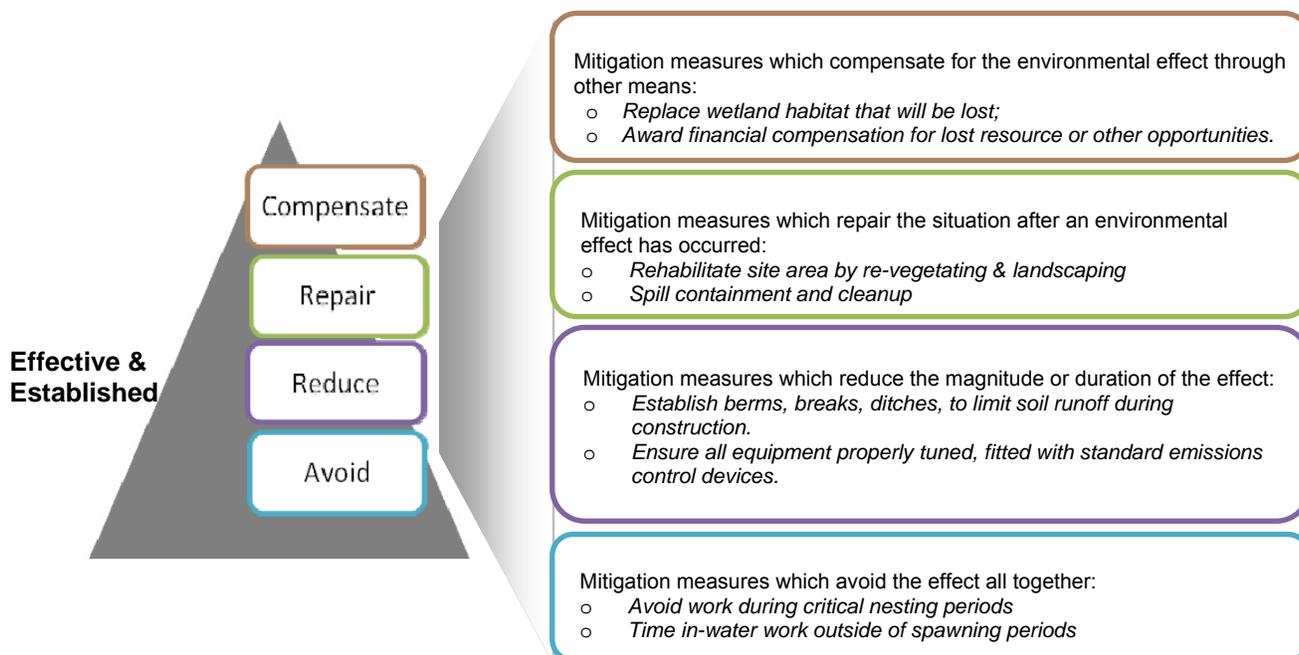
The scope of the environmental review should focus on the proposed project components located on federal lands and the full extent of the potential environmental effects associated with those components. Any environmental effects that originate on federal lands but cross into another jurisdiction (e.g., provincial lands) must be considered in the review as well. In some cases, the environmental effects of a project may trigger the Crown’s legal duty to consult (for further information and guidance on fulfilling the duty to consult, refer to Appendix B). Starting environmental reviews early in the planning of a project will assist the Government of Canada in discharging its legal duty to consult and, if appropriate, accommodate Aboriginal Groups when the Crown contemplates conduct that might adversely affect established or potential Aboriginal and Treaty rights.

For each adverse effect that is identified, mitigation measures should be proposed, with the intent of eliminating, reducing, or otherwise controlling that adverse effect. Mitigation may take many forms, as shown in Figure 5, and can be implemented through revising the project design, adding some feature, or changing the location or timing of project works. If there is no way to avoid, reduce or repair an adverse effect, compensation may be the only mitigation possible. Note that there may be debate about the real value of the compensation relative to what has been lost. Consultation with those who are potentially affected by a project is, therefore, particularly important when considering compensation as an option.

The environmental review should also include a due diligence consideration of legal requirements as well as industry standards, including:

- Legislative and regulatory requirements including those under the *Canadian Environmental Protection Act 1999*, *Species at Risk Act*, *Migratory Birds Convention Act, 1994*, *Fisheries Act*, etc.; and,
- Compliance or conformity with standards (applicable international codes, domestic standards, and other stated norms for compliance).

Figure 5: Types of mitigation measures, with examples



Any residual environmental effects (i.e., effects that are predicted to remain after mitigation measures have been applied) are evaluated for their significance. In determining the significance of adverse environmental effects, AANDC may consider:

- Whether the outcomes of the project are likely to exceed thresholds established under any regional study;
- Whether the timing of the proposal could result in important interactions with the environment (i.e. construction or operation of a project during nesting season for migratory birds);
- Whether examination of environmental effects and mitigation measures of other similar projects could be applied to the current project;
- The level of public concern;
- The potential for cumulative effects; and,
- Criteria such as scale, magnitude, duration, reversibility, and the ecological context (i.e., how the region has already been affected by human activity) of potential effects.

The *likelihood* of any significant adverse effect must also be assessed, by considering the probability that the effects will occur and the level of scientific uncertainty associated with the information and methods used in the environmental review. Please see <https://www.ceaa-acee.gc.ca/default.asp?lang=En&n=D213D286-1> for a more comprehensive discussion on how significance and likelihood are determined.

During the review, AANDC may need to seek (or require the proponent to seek) the input of other federal departments or agencies, such as the Department of Fisheries and Oceans or Environment Canada, for their advice on potential effects, mitigation, best practices, and applicable regulatory authorizations. While CEAA 2012 does not set out specific timelines for such input, departments and agencies are encouraged to work cooperatively and respond to requests for information and expertise in a timely manner.

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## STEP 5: DECISION AND IMPLEMENTATION

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The Environmental Review Process concludes with AANDC's issuance of a determination of whether significant adverse environmental effects are likely. This is a requirement under s. 67 of CEAA 2012.

If the environmental review concludes that carrying out a project is *likely* to cause significant adverse environmental effects, AANDC cannot provide its support (i.e., funding or regulatory authorization) to the project, as proposed. Under section 67(b) of CEAA 2012, it is possible for AANDC (in consultation with the proponent) to seek a Governor in Council decision on whether or not the significant adverse environmental effects are justified in the circumstances. If the Governor in Council determines that the significant adverse environmental effects are indeed justified in the circumstances, AANDC would then be able provide its support to the project.

If the environmental review concludes that the project is *unlikely* to cause significant adverse effects, AANDC may proceed with issuing its funding and/or regulatory authorization (e.g., permit, lease) in support of the project, subject to meeting all other applicable program requirements. As a condition of funding or regulatory approval, AANDC will issue terms & conditions or delivery requirements that obligate the proponent to meet the requirements of CEAA 2012<sup>4</sup>, including mitigation measures during project implementation.

The format/wording of these terms and conditions or delivery requirements will vary across programs. For example, projects funded through the Community Infrastructure Program (e.g., water/wastewater systems, housing, schools, fuel systems) will include the following delivery requirement set out in the First Nation-AANDC funding arrangement: "The Council shall comply with the *Protocol for AANDC-Funded Infrastructure* issued by the Department of Indian Affairs and Northern Development as amended from time to time". This Protocol lists the legislation, regulations, policies, standards, codes, protocols, guidelines, and procedures that First Nation proponents must adhere to in the development and management of their infrastructure and housing. In meeting this delivery requirement, as a best practice, the environmental review should be concluded at or before 60% project design completion, to allow for mitigation measures, and (if applicable) a monitoring plan to be incorporated into the

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<sup>4</sup> Please note that some AANDC program policies/ guidelines have yet to be updated to reflect the new CEAA 2012. Any reference to "environmental assessment", "environmental screening" or other requirements under the "*Canadian Environmental Assessment Act*" should be interpreted as the "Environmental Review Process" under the *Canadian Environmental Assessment Act 2012*.

engineering designs and project specification documents. A mitigation table may be included as part of the construction contract to ensure the contractor meets the requirements of the environmental review on the proponent's behalf.

Economic development projects funded through programs, such as the Lands and Economic Development Services or Community Opportunity Readiness Programs will generate delivery requirements within the First Nation-AANDC funding arrangement that require the proponent to carry out the project activities in accordance with the specific program's guidelines, which in turn will refer to requirements pursuant to s.67 of CEAA 2012. Again, where possible, the environmental review should be concluded before design completion, to allow for mitigation measures, and (if applicable) a monitoring plan to be incorporated into project design and specifications.

Terms and conditions for projects requiring statutory authorization (e.g., permit or lease) under the *Indian Act* are set out in Directive 12-1 of the [AANDC Land Management Manual](#), which states that "any mitigative measures, monitoring, or enforcement requirements (including periodic environmental audits, if applicable) which are identified in an environmental assessment must be incorporated into the terms and conditions of the land instrument to be granted by the department".

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## MONITORING AND FOLLOW UP PROGRAMS

The determination of environmental effects may include a requirement for post-project compliance reporting and/or follow-up/monitoring programs.

A monitoring program with clearly defined roles and responsibilities may be implemented, which ensures the related mitigation strategies or follow up programs are implemented as identified within the environmental review and that the mitigation measures are effective. Monitoring programs can be linked to all phases of development from pre-construction, construction, operation, decommissioning to abandonment. The proponent can be requested to submit periodic reporting for each phase of the project.

If a project takes place in an environmentally sensitive area, has had much public concern, has used atypical (i.e., not established and effective) mitigation measures, or where there is generally very limited knowledge of the potential effects (e.g., new project type or technology), a follow-up program may be undertaken. This will aid in the detection of unanticipated environmental effects and support or verify predictions made concerning the likelihood of "no significant environmental effects".

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## COMPLIANCE REPORTING

At project close, the proponent may be asked to submit a Mitigation Measures Compliance report, as part of the end-of-project reporting requirements. This report is used to confirm that the mitigation measures prescribed in the environmental review were incorporated into project design and tender documents, and implemented accordingly over the course of the project. Although required at AANDC's discretion, generally, this report is not required for projects that underwent Minor review only; however it may be required for projects that underwent a Simple Environmental Review and must be completed for projects that underwent a Detailed Environmental Review.

If a Mitigation Measures Compliance report is deemed necessary, its requirement should be referred to in the funding terms and conditions or delivery requirements. For example, for major

capital projects, a Project Specifications Document can include the requirement for a Mitigation and Monitoring Compliance report, to be submitted as part of end-of-project completion reporting and accepted by AANDC before the project is certified as “completed”. Compliance reporting or monitoring programs can also be incorporated as a permit or lease term and condition, as noted in the Land Management Manual Directive 12-1, “Where identified in an environmental assessment .....terms and conditions may require monitoring of water quality, air quality, soil quality and fuel tanks on First Nation lands or facility auditing schedules”. Whenever there are terms and conditions or mitigation measures associated with a project’s approval, AANDC will require documentation that demonstrates that these conditions were indeed met before certifying the project as “completed”.

## 4 COMMONLY ASKED QUESTIONS

### **At exactly what point in the application process for an AANDC program should I submit a project description form?**

The Environmental Review Process should commence early in the planning stages of the project, once the details of the project are known. That being said, the timing and process for submitting a project description form to meet a program’s application requirements will vary according to the specific AANDC program and region. Proponents are strongly encouraged to make contact with program officers/advisors in the early stages of project planning, to obtain program-specific advice on how the Environmental Review Process fits into the program’s review and approval process.

### **Who pays for the environmental review?**

AANDC programs that fund design or business development costs may consider the environmental review as included in those overall development/design costs. With respect to projects where AANDC is involved only via the provision of *Indian Act* land tenure or *Dominion Water Power Act* authorizations, the proponent of the project is responsible for funding the environmental review.

### **AANDC is funding a feasibility study (or a capital planning study, waste management plan, business plan, etc). Is an environmental review required?**

No. Because a study is not a physical activity in relation to a physical work, it is not considered a “project” (as defined by CEAA 2012), so the Environmental Review Process does not apply. Nevertheless, the AANDC environment officer should be contacted for input into any study or plan relating to a planned “project” on reserve lands. Early identification of regulatory requirements or potential environmental issues at the planning stage may save time or costs later on.

### **How would the Environmental Review Process apply to a project that is sited both on and off reserve?**

Section 67 requirements only apply on federal lands, so only the on-reserve portion of the project would be subject to the Environmental Review Process. For example, consider the proposed construction of a winter road joining 2 or more communities. The portion(s) on reserve would be subject to the Environmental Review Process under s. 67 of CEAA 2012. With respect to the portion off-reserve, the review process required will be determined based on the jurisdictional requirements (e.g., provincial/territorial environmental assessment approvals and

permits), project specifics and regional requirements<sup>5</sup>. In these cases, AANDC may consider using the provincial process to meet its requirements for a determination of environmental effects, embracing the concept of one project, one review. Regardless, the proponent must demonstrate that they met all applicable requirements before receiving AANDC funding approval.

**Another federal department is funding my on-reserve project. Whose requirements do I follow?**

The requirements of CEAA s. 67 apply to all federal authorities supporting projects on federal lands; however, there is a process for determining who the lead authority would be. The requirements followed would typically be those of the land administrator (in this case, AANDC), who would ensure that the other federal authority's requirements are addressed through the Environmental Review Process. For example, before a clinic proposed on reserve can receive Health Canada funding and an *Indian Act* permit, both departments must ensure that the project is unlikely to cause significant adverse environmental effects. In this example, AANDC would work with Health Canada on the environmental review and decision-making process. If AANDC has no involvement in the project, the other federal authority(ies) involved would be responsible for making the s. 67 determination by whatever process they deem appropriate. Upon request, AANDC can make its Environmental Review Process tools and process available for use by other authorities who may not have a similar process in place.

**Are projects on lands managed by First Nations under the First Nations Land Management Act still subject to the Environmental Review Process?**

CEAA 2012 applies to lands that are being managed by First Nations under the *First Nations Land Management Act*. As such, a federal authority must ensure that an environmental review is conducted before making an authorization in support of a project. Under the *First Nations Land Management Act*, the responsibility for authorizing leases, permits, or other land instruments in support of a project is transferred to the First Nation, so AANDC authorizations will be infrequent.

Where a First Nation operates under the *First Nations Land Management Act* with an environmental review process and there is an AANDC authorization required, AANDC will work with the First Nation to minimize duplication and embrace the principle of "one project, one review".

Proponents should contact the operational *First Nations Land Management Act* First Nation for information about that First Nation's environmental review requirements.

**I am seeking funding or statutory approval for a project that is already wholly or partially constructed. How does the Environmental Review Process apply?**

Occasionally, situations occur where a project has commenced before or during the Environmental Review Process. This represents a lost opportunity to address environmental considerations in the design and execution of the project. Proponents should consider the following risks before undertaking a project in these circumstances:

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<sup>5</sup> Some regions may have a policy to apply the Environmental Review Process to off-reserve projects, in specific circumstances. Check with your AANDC environment officer.

- Risk of delay in funding release until environmental issues are adequately addressed;
- Additional costs to rework project design;
- Potential for environmental damage; or,
- Potential violations of the *Canadian Environmental Protection Act, Species at Risk Act, Fisheries Act*, or other legislation.

The fact that a project has already commenced physical work will not alter AANDC's requirement to ensure an environmental review is completed, and a determination of environmental effects made, before providing statutory authorizations or financial assistance.

## 5 ROLES & RESPONSIBILITIES

The Environmental Review Process is ultimately a federal responsibility, stemming from CEAA 2012 s. 67, which requires federal bodies such as AANDC to consider the environmental effects of projects before providing support to enable such projects. Proponents play an integral role in the planning and design of such projects. Although application of CEAA 2012 is a federal responsibility, project planning and environmental review works best as a collaborative effort between government, proponents, and other involved stakeholders.

Throughout the Environmental Review Process, the following are the roles and responsibilities of AANDC and the proponent.

Table D: Roles and Responsibilities

Process Step	Role	Responsibility
Step 1 – Does the Environmental Review Process Apply?	Submit project application to AANDC program.	Proponent
	Decide if the proposed undertaking is subject to the Environmental Review Process, and advise the proponent accordingly.	AANDC
Step 2 – Completing the Project Description	When requested, submit a complete Project Description form. <i>(Note: This information should be provided by someone with knowledge of the site and the potential effects of the project).</i>	Proponent
	Review the Project Description form and request any additional information and/or revisions, as required.	AANDC
	As requested, identify any additional information beyond that required in the Project Description Form that may be relevant to the environmental review.	Proponent

Step 3 – Identifying the need for further review	Based on the Project Description form, identify the level of environmental review, and advise the proponent accordingly.	AANDC
	If project requires further review, provide the Simple Environmental Review report or <i>Guide to Completing a Detailed Environmental Review Report</i> to the proponent.	AANDC
Step 4 – Analysis of Environmental Effects	For projects under Simple Environmental Review or Detailed Environmental Review, identify the potential environmental effects, propose and evaluate mitigation measures and their implementation, and discuss the aspects of residual effects and their significance	Proponent
	Ensure that the Simple Environmental Review report (if required) is completed by someone with knowledge of the site and the potential effects of the project	Proponent
	Ensure that the Detailed Environmental Review report (if required) is completed by a qualified environmental professional <sup>6</sup>	Proponent
	Ensure that the First Nation has been properly and fully informed and engaged	Proponent
	Ensure the legal duty to consult is met, when applicable	AANDC
	Review the Simple Environmental Review or Detailed Environmental Review report and request any additional information or revisions as required. Work with the proponent and any stakeholders to discuss the project and take into account any concerns in decision-making	AANDC
	Revise the Simple Environmental Review or Detailed Environmental Review reports as requested by AANDC or other federal authorities involved in the review. Ensure project design reflects all mitigation measures and best practices identified in the environmental review	Proponent
Step 5 – Decision and Implementation	Taking into consideration the environmental review and any concerns raised by other stakeholders, make a determination on the significance of the adverse environment effects, if any	AANDC

<sup>6</sup> A Qualified Environmental Professional is identified as an individual who possesses a post-secondary degree or technical diploma in biological, environmental, or natural resource sciences from an accredited college or university, and has more than 5 years experience in environmental impact assessment pursuant to federal and/or provincial legislation.

	For projects deemed unlikely to cause significant adverse environmental effects, issue funding or departmental authorizations in support of the project (subject to meeting all other applicable program requirements)	AANDC
	Obtain all required permits and licenses. A band council resolution will be required to initiate the issuance of AANDC authorizations such as an <i>Indian Act</i> permit or lease	Proponent
	During project execution, ensure all mitigation and best management practices identified during the environmental review are implemented	Proponent
	Advise AANDC of any changes to the project scope or environmental conditions in the project area ( <i>Note that the project received its environmental approval as described. If there is any change after approval, other than a minor change, a reevaluation of its effects may be needed in light of the new information</i> )	Proponent
	For projects deemed <i>likely</i> to cause significant environmental effects, the department <i>may</i> request that the Governor-in-Council determine whether the effects are justified in the circumstances, pursuant to s.67(2) of CEAA 2012. ( <i>Note: If Governor in Council agrees that the significant environmental effects are justifiable, they must be mitigated to the extent possible</i> )	AANDC, in consultation with the Proponent
After the environmental review	Submit the Mitigation Measures Compliance report as part of project completion reporting, if required by AANDC	Proponent
	Report annually to Parliament on environmental reviews to satisfy CEAA 2012 s.71 requirements	AANDC

## APPENDIX A: LIST OF AANDC 'TRIGGERS' FOR A S.67 DETERMINATION

The list of “triggers” below should not be considered exhaustive, and the proponent should confirm with AANDC as to whether the department considers that the Environmental Review Process has been “triggered” with respect to a specific project.

Table E: List of AANDC “triggers” for a s.67 determination (i.e., environmental review)

<b>A. AANDC is the proponent of a project</b>
<b>B. AANDC is providing financial assistance to the project:</b>
Funding from AANDC programs (e.g., community infrastructure, housing, economic development), with the exception of block funding
<b>C. AANDC is issuing a statutory authorization in support of the project:</b>
Ministerial expenditure decisions to release Band moneys ( <i>Indian Act</i> , Sections 64, 66 and 69)
Authorization for use of First Nation lands for the purpose of Indian schools, administration of Indian affairs, Indian burial grounds or Indian health projects ( <i>Indian Act</i> , Subsection 18(2))
Issuance of a Certificate of Possession for the purpose of enabling a First Nation member to construct a dwelling or other building ( <i>Indian Act</i> , Section 20)
Issuance of a permit for occupation or use of a First Nation land ( <i>Indian Act</i> , Subsection 28(2))
A sale/lease of surrendered/designated lands ( <i>Indian Act</i> , Section 53(1))
A lease to a third party of land allotted to a band member ( <i>Indian Act</i> , Section 58(3))
Disposal of sand, gravel, clay or other non-metallic substances, or the taking of these materials, on or under First Nation lands ( <i>Indian Act</i> , Subsection 58(4)(b))
Issuance of a permit or lease for the exploration or development of minerals ( <i>Indian Mining Regulations</i> , Subsections 5(2), 6(1))
Issuance of a permit to operate a garbage dump, dispose of or store waste, or burn waste on First Nation lands ( <i>Indian Reserve Waste Disposal Regulations</i> , Section 5)
Issuance of a permit to First Nation members to cut timber for sale ( <i>Indian Timber Regulations</i> , Subsection 5(1))
Issuance of a licence for cutting and removing timber from First Nation lands ( <i>Indian Timber</i>

<i>Regulations</i> , Section 9 or varying the terms of a timber license (Subsection 22(1))
Issuing of surface leases and rights-of-way ( <i>Indian Oil and Gas Regulations</i> , Subsection 27(4) or Exploratory work on First Nation lands that requires an exploratory licence ( <i>Indian Oil and Gas Regulations</i> , Subsection 6(4))
The Exploration of oil and gas on First Nation lands that requires a right of entry ( <i>Indian Oil and Gas Regulations</i> , Subsection 32(1))
Issuance of a lease to commence production of crude bitumen ( <i>Indian Oil and Gas Regulations</i> , Subsection 39(1))
Amendment of a lease or permit to provide for production of crude bitumen ( <i>Indian Oil and Gas Regulations</i> , Subsection 39(3))
Taking of lands by local authorities ( <i>Indian Act</i> , Subsection 35(1))
Acceptance of an absolute surrender or designation ( <i>Indian Act</i> , Subsection 39(1)(c))
Authorization from the Minister to enter on, use, occupy, take and acquire any lands that may be required for a hydroelectric project. ( <i>Dominion Water Power Act</i> , Subsection 7(1))
Authorization from the Governor in Council necessary to bring about the joint development and operation of a hydroelectric project, where such is economically desirable. ( <i>Dominion Water Power Act</i> , Section 9)
Licenses, authorizations and approvals under Subsections 8(1), 12(2), 21, 25(2), 40(1), 46, 49(3), 50, or 69(3) of the <i>Dominion Water Power Regulations</i>
Issuance of a Ministerial Loan Guarantee ( <i>Indian Act</i> (Subsection 89(1)), which protect First Nation property from seizure by a non-Indian (i.e., lender)

## APPENDIX B: REGULATORY AGENCIES, LEGISLATION, & GUIDELINES

Regulatory agencies and departments that maybe involved in a project on First Nation reserve land are listed below. This list is an aid and is not to be construed as exhaustive. The proponent is responsible for ensuring that the project incorporates and complies with the most current references and legislative requirements respectively.

Table F: Regulatory reference material and guidance by subject

LEGISLATION	
Jurisdiction	Title
Federal	<a href="#"><u>Canadian Environmental Assessment Act, 2012</u></a> <a href="#"><u>Canadian Environmental Protection Act, 1999</u></a> <a href="#"><u>Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations</u></a> <a href="#"><u>Disposal at Sea Regulations</u></a> <a href="#"><u>Federal Halocarbon Regulations, 2003</u></a> <a href="#"><u>Dominion Water Power Act, 1985</u></a> <a href="#"><u>Dominion Water Power Regulations</u></a> <a href="#"><u>Fisheries Act, 1985</u></a> <a href="#"><u>Historic Sites and Monuments Act, 1985</u></a> <a href="#"><u>Indian Act</u></a> <a href="#"><u>Indian Timber Regulations</u></a> <a href="#"><u>Indian Timber Harvesting Regulations</u></a> <a href="#"><u>Indian Mining Regulations</u></a> <a href="#"><u>Indian Reserve Waste Disposal Regulations</u></a> <a href="#"><u>Indian Oil and Gas Act, 1995</u></a> <a href="#"><u>Indian Oil and Gas Regulations</u></a> <a href="#"><u>Migratory Birds Convention Act, 1994</u></a> <sup>7</sup>

<sup>7</sup> Provincial bird species may have separate timing restrictions and setbacks that may need to be observed. For example, raptors and upland game birds are not protected under the *Migratory Birds Convention Act* but Provinces and Territories place a high priority on these species. Provincial wildlife personnel should be consulted.

	<p><a href="#"><u>Navigable Waters Protection Act, 1985</u></a></p> <p><a href="#"><u>Species at Risk Act, 2002</u></a></p>
Provincial and Territorial	<p><a href="#"><u>Environmental Assessment Act</u></a> (British Columbia)</p> <p><a href="#"><u>Environmental Assessment Regulation</u></a> (Alberta)</p> <p><a href="#"><u>The Environmental Assessment Act</u></a> (Saskatchewan)</p> <p><a href="#"><u>The Environment Act</u></a> (Manitoba)</p> <p><a href="#"><u>Environmental Assessment Act</u></a> (Ontario)</p> <p><a href="#"><u>Règlement sur l'évaluation et l'examen des impacts sur l'environnement</u></a> (Québec)</p> <p><a href="#"><u>Clean Environment Act</u></a> (New Brunswick)</p> <p><a href="#"><u>Environmental Protection Act</u></a> (Prince Edward Island)</p> <p><a href="#"><u>Environment Act</u></a> (Nova Scotia)</p> <p><a href="#"><u>Environmental Protection Act</u></a> (Newfoundland and Labrador)</p> <p><a href="#"><u>Yukon Environmental and Socio-economic Assessment Act</u></a> (Yukon)</p> <p><a href="#"><u>Mackenzie Valley Resource Management Act</u></a> (Northwest Territories)</p>
CONSULTATION	
Traditional Ecological Knowledge	<p><a href="#"><u>Considering Aboriginal traditional knowledge in environmental assessments conducted under the Canadian Environmental Assessment Act, 2012</u></a> (Canadian Environmental Assessment Agency)</p> <p>Mackenzie Valley Review Board: <a href="#"><u>Guidelines for Incorporating Traditional Knowledge in Environmental Impact Assessment</u></a> (Mackenzie Valley Review Board, 2005)</p>
Consultation	<p><a href="#"><u>Aboriginal Consultation and Accommodation – Updated Guidelines for Federal Officials to Fulfill the Legal Duty to Consult</u></a></p>
TECHNICAL DOCUMENTS	
Archaeological, Cultural and Heritage Resources	<p><a href="#"><u>Guide to the Management of Movable Heritage Assets</u></a> (Treasury Board, 2008)</p> <p><a href="#"><u>Reference Guide on Physical and Cultural Heritage Resources</u></a> (Canadian Environmental Assessment Agency)</p>

Climate Change	<a href="#">Incorporating Climate Change Considerations in Environmental Assessment: General Guidance for Practitioners</a> (Canadian Environmental Assessment Agency)
Cumulative Effects	<a href="#">Operational Policy Statement – Assessing Cumulative Environmental Effects under the Canadian Environmental Assessment Act, 2012</a> (Canadian Environmental Assessment Agency)
Disposal At Sea	<a href="#">Recent Changes to Regulations Regarding Disposal at Sea</a> (Environment Canada)
Emergency Preparedness	<a href="#">Directive 071: Emergency Preparedness and Response Requirements for the Upstream Petroleum Industry</a> (Alberta Energy Regulator, 2009)
Environmental Assessment and Review	<a href="#">Environmental Review Process for Non-Designated Projects on Reserve Land</a> (AANDC) <a href="#">Canadian Environmental Assessment Agency - Frequently Asked Questions</a> (Canadian Environmental Assessment Agency) <a href="#">Operational Policy Statement on Projects on Federal Lands and Outside Canada under the Canadian Environmental Assessment Act, 2012</a> (Canadian Environmental Assessment Agency) <a href="#">Reference Guide: Determining Whether A Project is Likely to Cause Significant Adverse Environmental Effects</a> (Canadian Environmental Assessment Agency) <a href="#">Guide on Biodiversity and Environmental Assessment</a> (Canadian Environmental Assessment Agency) <a href="#">Useful Information for Environmental Assessments</a> (Health Canada)
Environmental Management Strategies	<a href="#">Environmental Operating Practices for the Upstream Petroleum Industry specific to Alberta, Saskatchewan and British Columbia – overview, Drilling, Geophysics, Pipelines and Seismic</a> (Canadian Association of Petroleum Producers, various dates) <a href="#">Minimizing Surface Disturbance of Alberta’s Native Prairie: Background to Development of Guidelines for the Wind Energy Industry</a> (Alberta) <a href="#">IL 2002-01: Principles for Minimizing Surface Disturbance in Native Prairie and Parkland Areas</a> (Alberta) <a href="#">Adaptive Management Measures under the Canadian Environmental Assessment Act</a> (Canadian Environmental Assessment Agency)
Environmental Monitoring	Guideline No. 6 - <a href="#">Required Qualifications – Field Environmental Monitors for Oil and Natural Gas Exploration and Development Projects</a> (Saskatchewan Petroleum Industry/ Government Environment Committee 2002) <a href="#">Follow-up Programs under the Canadian Environmental Assessment Act</a>

	(Canadian Environmental Assessment Agency)
Fish and Fish Habitat	<p><a href="#">Projects Near Water: Considerations</a> (Fisheries and Oceans Canada)</p> <p><a href="#">Pathways of Effects</a> (Fisheries and Oceans Canada)</p> <p><a href="#">Fisheries Productivity Investment Policy: A Proponent's Guide to Offsetting</a> (Fisheries and Oceans Canada)</p> <p><a href="#">Fisheries Protection Policy Statement</a> (Fisheries and Oceans Canada)</p> <p><a href="#">An Applicant's Guide to Submitting an Application for Authorization under Paragraph 35(2)(b) of the Fisheries Act</a> (Fisheries and Oceans Canada)</p>
Human Health	<a href="#">Useful Information for Environmental Assessments – When requesting expert advice from Health Canada</a> (Health Canada)
Noise	<a href="#">Useful Information for Environmental Assessments: Noise</a> (Health Canada)
Remediation and Reclamation	<p><a href="#">Wellsite Reclamation Certificate Application Process and Guidelines</a> (Alberta)</p> <p><a href="#">Reclamation and Surrender Approvals of Surface Agreements</a> (Indian Oil and Gas Canada)</p>
Species At Risk and Survey Methodologies	<p><a href="#">Petroleum Industry Activity Guidelines for Wildlife Species at Risk in the Prairie and Northern Region</a> (Environment Canada)</p> <p><a href="#">SARA and You</a> (Environment Canada)</p> <p><a href="#">Occupancy Survey Guidelines for Prairie Plant species at Risk</a> (Environment Canada)</p> <p><a href="#">Sensitive Species Inventory Guidelines</a> (Alberta)</p> <p><a href="#">Guidelines for Rare Vascular Plant Surveys</a> (Alberta Native Plant Council)</p> <p><a href="#">Activity Setback Distance Guidelines for Prairie Plant Species at Risk</a> (Environment Canada)</p> <p><a href="#">Canadian Species at Risk</a> (Committee on the Status of Endangered Wildlife in Canada)</p> <p><a href="#">Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada</a> (Environment Canada)</p>
Storage	<a href="#">Directive 055: Storage Requirements for the Upstream Petroleum Industry</a> (Alberta)

Waste	<a href="#">Directive 050: Drilling Waste Management</a> (Alberta) <a href="#">Directive 058: Oilfield Waste Management Requirements for the Upstream Petroleum Industry</a> (Alberta) <a href="#">Saskatchewan Drilling Waste Management Guidelines</a> (Saskatchewan)
Water Quality (Ground and Surface water)	<a href="#">Base of Groundwater Protection Query Tool</a> (Alberta) <a href="#">Guidelines for Canadian Drinking water Quality</a> (Health Canada) <a href="#">CCME Canadian Environmental Quality Guidelines</a> (Canadian Council of the Ministers of the Environment)
Wetlands	<a href="#">The Canadian Wetland Classification System</a> (National Wetlands Working Group of the Canadian Committee on Ecological Land Classification, 1987)
AANDC PROGRAMS	
Lands	<a href="#">Land Management Manual</a> (AANDC)
Indian Moneys	<a href="#">Manual for the Administration of Band Moneys</a> (AANDC)
Community Infrastructure	<a href="#">Tendering Policy on Federally Funded Capital Projects for First Nations on Reserve</a> (AANDC)
Ministerial Loan Guarantees	<a href="#">Toolkits for Ministerial Loan Guarantees</a> (AANDC)

## APPENDIX C: GLOSSARY

Note: all definitions are taken and/or modified from the [Canadian Environmental Assessment Act, 2012](#) (CEAA 2012), unless otherwise noted.

**Agency:** the Canadian Environmental Assessment Agency.

**aquatic species:** fish, as defined by the *Fisheries Act*, marine mammals or a marine plant. [[Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada](#) (Environment Canada)]

**baseline studies:** work done to collect and interpret information on the status or trends of the environment likely to be affected by a development action.

**Canadian Environmental Assessment Act, 2012 (CEAA 2012):** an Act respecting the environmental assessment of certain activities and the prevention of significant adverse environmental effects (replaces the *Canadian Environmental Assessment Act*).

**Canadian Environmental Protection Act:** an Act respecting the protection of the environment and of human life and health.

**cumulative effects:** changes to the environment that are caused by an action (e.g., a project) in combination with other past, present and future human actions.

**decommissioning:** the restoration work required to minimize the ongoing adverse environmental effects associated with a project, or component of a project, that is no longer required. [First Nation Environmental Assessment Manual]

**designated project:** one or more physical activities that meet the following conditions. It also includes any physical activity that is incidental to those physical activities.

(a) are carried out in Canada or on federal lands;

(b) are designated by regulations made under paragraph 84(a) (e.g. *Regulations Designating Physical Activities*) or designated in an order made by the Minister under subsection 14(2); and

(c) are linked to the same federal authority as specified in those regulations or that order.

**ecosystem:** a community of interdependent plants and animals together with the environment which they inhabit and with which they interact. [First Nation Environmental Assessment Manual]

**environment:** the components of the Earth, and includes

(a) land, water and air, including all layers of the atmosphere;

(b) all organic and inorganic matter and living organisms; and

(c) the interacting natural systems that include components referred to in paragraphs (a) and (b).

**environmental assessment (EA):** an assessment of the environmental effects of a designated project that is conducted in accordance with CEAA 2012. More generally speaking, EA is a

process for identifying project-environment interactions, predicting environmental effects, identifying mitigation measures, evaluating significance, reporting and following up to verify accuracy and effectiveness. EA is a planning tool to help guide decision making, as well as project design and implementation.

**environmental review** an analysis of the environmental effects of any AANDC-supported project proposed on federal lands, conducted in accordance with s. 67 of CEAA 2012.

**environmental effects:** any change that the project may cause in the environment. A list of environmental effects is described in section 5 of CEAA 2012.

**federal authority** is defined in section 2(1) of CEAA 2012 as:

- (a) a Minister of the Crown in right of Canada;
- (b) an agency of the Government of Canada or a parent Crown corporation, as defined in subsection 83(1) of the *Financial Administration Act*, or any other body established by or under an Act of Parliament that is ultimately accountable through a Minister of the Crown in right of Canada to Parliament for the conduct of its affairs;
- (c) any department or departmental corporation that is set out in Schedule I or II to the *Financial Administration Act*; and
- (d) any other body that is set out in Schedule 1.

**federal lands** are defined by section 2(1) of CEAA 2012 as:

- (a) lands that belong to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above those lands, other than lands under the administration and control of the Commissioner of Yukon, the Northwest Territories or Nunavut;
- (b) the following lands and areas:
  - (i) the internal waters of Canada, in any area of the sea not within a province,
  - (ii) the territorial sea of Canada, in any area of the sea not within a province,
  - (iii) the exclusive economic zone of Canada, and
  - (iv) the continental shelf of Canada; and
- (c) reserves, surrendered lands and any other lands that are set apart for the use and benefit of a band and that are subject to the *Indian Act*, and all waters on and airspace above those reserves or lands.

**follow-up program:** a program for

- (a) verifying the accuracy of the environmental assessment of a designated project; and
- (b) determining the effectiveness of any mitigation measures.

**habitat:** all the elements of Earth that are used by wildlife species to sustain themselves throughout their life cycles. This includes the spaces (i.e., terrestrial and aquatic) that they require as well as the properties of those spaces (e.g., biota, climate, soils, ecological

processes and relationships). Habitats function in providing such needs as food, shelter and a home place. Habitats can be thought of as distinctive places or ecosystems, such as prairie habitats or Arctic habitats. [[Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada](#) (Environment Canada)]

**mitigation measures:** the elimination, reduction or control of the adverse environmental effects of a designated project, and includes restitution for any damage to the environment caused by those effects through replacement, restoration, compensation or any other means. [Environmental Assessment Terms of Reference (AANDC – Manitoba Region)]

**monitoring:** the systematic observation and/or collection of data and evaluation of environmental/socioeconomic parameters or processes. [First Nation Environmental Assessment Manual]

**physical activity:** any proposed construction, operation, modification, decommissioning, abandonment, or other undertaking in relation to a physical work.

**physical work:** a structure built by humans, that has a defined area and fixed locality (i.e. it has a permanent location).

**project:** a physical activity that is carried out on federal lands or outside Canada in relation to a physical work and is not a designated project (sometimes informally referred to as a “non-designated project”).

**proponent:** the person, body, federal authority or government that proposes the carrying out of a project.

**remediation:** the removal, treatment, destruction, or containment of soils, sediments, wastes, groundwater or surface waters contaminated by hazardous substances.

**residual effects:** adverse predicted environment effects that remain after mitigation measures have been applied.

**species:** any indigenous species, subspecies, variety or geographically or genetically distinct population of wild fauna or flora. [[Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada](#) (Environment Canada)]

**reserve:** Tract of land, the legal title to which is held by the Crown, set apart for the use and benefit of an Indian band, as defined by the *Indian Act*. [[AANDC Terminology](#)]

**valued ecosystem component:** an environmental element identified as having scientific, social, cultural, economic or aesthetic importance. The value of an ecosystem component may be determined on the basis of cultural ideals or scientific concern. Valued ecosystem components that have the potential to interact with project components should be included in the assessment of environmental effects.