

## ENVIRONMENTAL ASSESSMENT OFFICE INFORMATION NOTE

Date: July 12, 2012

Date of previous note: June 12, 2012

File: 280-20/CEA

CLIFF/tracking #: 101748

**PREPARED FOR:** Honourable Terry Lake, Minister of Environment; Cairine MacDonald, Deputy Minister, Ministry of Environment; Steve Carr, Deputy Minister, Ministry of Energy and Mines; Pierrette Maranda, Associate Deputy Minister, Intergovernmental Relations Secretariat; and Derek Sturko, Associate Deputy Minister, Environmental Assessment Office

**ISSUE:** Updated information on the implementation of the *Canadian Environmental Assessment Act, 2012* (CEA Act 2012)

### BACKGROUND:

CEA Act 2012 and three supporting regulations<sup>1</sup> were brought into force on July 6, 2012.

On July 10, 2012, the Canadian Environmental Assessment Agency (Agency) convened a meeting of provinces and territories to provide additional detail respecting the implementation of CEA Act 2012 and to commence consultations on the “designated project list” regulation. All provinces and territories attended, with the exception of Manitoba, Quebec and Nunavut.

### DISCUSSION:

s.13, s.16

Additional insight on July 10 was obtained on how the Agency intends to implement CEA Act 2012.

s.13, s.16

s.13, s.16

Not Responsive

Not Responsive

s.13, s.16

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<sup>1</sup> The three regulations are: Prescribed Information for the Description of a Designated Project Regulations (project description), Regulation Designating Physical Activities (designated project list) and Cost Recovery Regulation (enables cost recovery for panels and standard EAs; currently available for review panels only).

<sup>2</sup> This table addresses key updates only.

The Agency has commenced its consultation with provinces and territories on the Regulation Designating Physical Activities (Regulation). The Regulation will be used as the “project list” that will identify the types of projects that may be subject to federal environmental assessment (EA). A federal EA will be required if a project meets the thresholds in the Regulation and the screening criteria set out in CEA Act 2012. Due to timing, the federal government copied over existing thresholds from the 1992 Comprehensive Study List Regulation, with the intention of conducting consultations and amending the regulation in the fall.

s.13, s.16

The Agency is seeking written submissions from provinces and territories, and will be consulting with aboriginal groups, industry and environmental groups<sup>3</sup> over the next few weeks.

s.13, s.16

Legislative	<ul style="list-style-type: none"> <li></li> </ul> <p>s.13, s.16</p>
Regulatory	<ul style="list-style-type: none"> <li>The current project list would not lead to any significant reductions in the number of projects subject to federal EA</li> </ul> <p>s.13, s.16</p>

<sup>3</sup> These groups include the Mining Association of BC, Mining Association of Canada, Canadian Association of Petroleum Producers, Canadian Energy Pipeline Association, Canadian Gas Association, Ecojustice, West Coast Environmental Law, Mining Watch and the David Suzuki Foundation.

Policy	<ul style="list-style-type: none"> <li>• Conditions for utilizing the substitution tool include: adherence to federal timelines, involvement of federal technical officials and aboriginal consultation. At any time, the Minister may attach additional conditions,</li> <li>•</li> </ul> <p style="text-align: center;">s.13, s.16</p> <ul style="list-style-type: none"> <li>• In a substituted process, the province would follow carry out its aboriginal consultation, plus any additional federal consultation requirements above that which would be normally conducted by BC.</li> </ul> <p style="text-align: center;">s.13, s.16</p> <p style="text-align: center;">the Agency would prepare a report on the adequacy of aboriginal consultation to ensure the duty to consult was fulfilled.</p> <li>•</li> <p style="text-align: center;">s.13, s.16</p>
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## KEY MESSAGES:

- BC seeks to eliminate the duplication and overlap of having two assessments for the same project.
- Although CEA Act 2012 is a step in the right direction,

s.13, s.16

policy implementation of the

substitution and equivalency provisions are critical elements to ensuring there is reduced duplication and effective EA.

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s.13, s.16

- BC remains focused on carrying out robust and effective EAs that ensure that potential adverse effects of major projects are avoided or mitigated.

## Appendix:

Not Responsive

### Contact and prepared by:

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Reviewed by	Initials	Date
Associate DM	DS	July 12, 2012
Executive Director:	MC	July 12, 2012

Pages 5 through 6 redacted for the following reasons:

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s.13, s.16, Not Responsive

## ENVIRONMENTAL ASSESSMENT OFFICE INFORMATION NOTE

Date: August 24, 2012  
Date of previous note: n/a  
File: 280-20/CEA  
CLIFF/tracking #: 101767

**PREPARED FOR:** Honourable Terry Lake, Minister of Environment and Honourable Mary Polack, Minister of Aboriginal Relations and Reconciliation

**ISSUE:** Aboriginal Consultation and the *Canadian Environmental Assessment Act, 2012* (CEA Act 2012)

### BACKGROUND:

The CEA Act 2012 and its three supporting regulations<sup>1</sup> are now in force.

The CEA Act 2012 contains new tools enabling substitution and equivalency with other jurisdictions that have been sought by BC for several years<sup>2</sup>.

s.13, s.16

s.13, s.16

### DISCUSSION:

s.13, s.16

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<sup>1</sup> The three regulations are: Prescribed Information for the Description of a Designated Project Regulations (project description), Regulation Designating Physical Activities (designated project list) and Cost Recovery Regulation (enables cost recovery for panels and standard environmental assessments; currently available for review panels only).

<sup>2</sup> Substitution means that a province's EA process can be substituted for Canada's, providing that the receiving jurisdiction meets certain criteria. Under substitution, there is a single EA process, but two separate decisions (both federal and provincial). Equivalency means that a province's EA process is considered to be substantially equivalent to that of Canada. Once equivalency is granted from Canada to a province, only a single EA process and decision is needed (provincial).

Pages 8 through 10 redacted for the following reasons:

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s.13, s.16

## NEXT STEPS:

Date	Activity
Early September	Briefing with Ministers of Environment and Aboriginal Relations and Reconciliation to outline key issues and confirm provincial position.
September	
October	
Ongoing	

s.13, s.16

## KEY MESSAGES:

- BC seeks to eliminate the duplication and overlap of having two assessments for the same project.
- BC is committed to working constructively with First Nations to ensure that the Crown fulfills its duties of consultation and accommodation. EAO's relationship with First Nations is based on respect for asserted and established Aboriginal rights, Aboriginal title, and treaty rights of First Nations.
- BC is working with the federal government to ensure that Aboriginal consultation requirements will be fulfilled under substitution and equivalency.
- BC remains focused on carrying out robust and effective EAs that ensure that potential adverse effects of major projects are avoided or mitigated.

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