



## Legal Backgrounder

# Canadian Environmental Assessment Act (2012) — Regulations

### Overview

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The *Canadian Environmental Assessment Act, 2012* (“CEAA 2012”) came into force on July 6, 2012. Under CEAA 2012, thousands of projects, which due to their potentially significant adverse environmental effects would have previously been subject to federal environmental assessment requirements, will no longer be reviewed.

CEAA 2012 takes a “project list” approach, where an environmental assessment is only required for particular projects included in the list of “designated projects.” However, for most of those projects an assessment is not automatic, and will only be undertaken where the federal government exercises its discretion to conduct an assessment. This is in contrast to the former *Canadian Environmental Assessment Act* (“the former CEAA”), which embodied a “trigger” approach, whereby an assessment was automatically required where a federal authority intended to participate in the project. A federal authority could be involved as a regulator granting a permit, by providing funding, by being a proponent, or by owning the land on which the project was located.

The end result is that only a fraction of the projects that would have required an assessment under the former CEAA will require an assessment under CEAA 2012. This means that numerous projects may proceed without environmental considerations and impacts being adequately considered and mitigated.

There are three new regulations enacted under CEAA 2012:

- [\*Regulations Designating Physical Activities\*](#)
- [\*Prescribed Information for the Description of a Designated Project Regulations\*](#)
- [\*Cost Recovery Regulations\*](#).<sup>1</sup>

These three regulations are available [here](#). The federal government engaged in very limited consultation on these regulations, seeking feedback from proponents of projects and industry associations. This runs contrary to the longstanding practice of government to consult broadly with the public on regulations and changes to CEAA before they are enacted.

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<sup>1</sup> While the regulations have been finalized and published in the Canada Gazette, they do not come into force until an unspecified future date when section 52 of the *Jobs, Growth and Long-term Prosperity Act* comes into force.

## **Overview of Regulations**

The *Regulations Designating Physical Activities* (“RDPA”) prescribe the list of designated activities that may require an environmental assessment if they are proposed as part of a project.

The [\*Prescribed Information for the Description of a Designated Project Regulations\*](#) (“Prescribed Information Regulations”) identify the information that must be included in a project description for the purpose of a federal environmental assessment.

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The [\*Cost Recovery Regulations\*](#) prescribe the services and amounts for which the Canadian Environmental Assessment Agency (“the Agency”) can recover costs from the proponent of a project subject to an environmental assessment by a review panel.

We provide a more detailed discussion of the RDPA and the *Prescribed Information Regulations* below:

### **1) Regulations Designating Physical Activities**

As set out above and in our previous [CEAA backgrounder](#), CEAA 2012 shifts from a “trigger” approach under the former Act — where an assessment was required based on a federal authority’s involvement in a project — to a “project list” approach, where an environmental assessment is only required for projects included in the list of “designated projects.” The Act does not list the types of projects that may be subject to an environmental assessment but rather, leaves the discretion to designate projects to the Minister of the Environment, which the Minister has done through the RDPA.

Under CEAA 2012, an assessment is only required for “designated projects” that include activities that are either: (a) regulated by a particular responsible authority (the Canadian Nuclear Safety Commission, the National Energy Board or a federal authority) under section 13, or (b) designated by ministerial order under section 14.

However, the vast majority of projects designated under the RDPA (31 of 39) may not be subject to an environmental assessment because they do not fall into category (a) or (b) above. Rather, the RDPA links those activities to the Canadian Environmental Assessment Agency (the “Agency”). As such, the only requirement is that those projects undergo a screening by the Agency to determine whether an actual environmental assessment may be required. The Agency appears to have broad discretion to decide whether or not these designated projects will be subject to environmental assessment. The Agency has 45 days to determine whether an environmental assessment will be required.

Under the former CEAA, projects or activities were subject to one of three main levels of environmental assessment: screenings (least rigorous), comprehensive studies (more rigorous) or panel reviews (most rigorous). The *Comprehensive Study List Regulations*, SOR 94/638 (“CSLR”) listed the activities that required a comprehensive study.

The vast majority of environmental assessments conducted under the former CEAA were subject only to screening level assessments. This means that the CSLR listed only a small percentage of those projects deemed significant enough to require a federal

environmental assessment. The list essentially included the biggest and most potentially controversial projects requiring a higher level of review.

The list of proposed activities in the RDPA is similar to the list of activities found in the old CSLR, meaning that all those projects that would have been subject to a screening level assessment under the former Act will no longer be reviewed unless they are designated by ministerial order on a one-off basis. Furthermore, under the former CEAA, an environmental assessment would have been required for most of the activities listed in the RDPA (and some additional activities discussed below), whereas under CEAA 2012 very few of those activities require an assessment – only seven out of 39.

Since only proposals that would have met the threshold for a comprehensive study under the former CEAA will be assessed at all, federal screening assessments of more than 2,950 projects have been stopped in their tracks. Many of these were for projects that could have serious environmental implications, such as waste treatment facilities, sand and gravel pits, and access roads to oil and gas wells.

It is important to keep in mind that the few assessments that will be conducted under CEAA 2012 will be extremely limited in scope and will only examine a limited subset of impacts, such as migratory birds, federal lands, aquatic species, and fish and fish habitat.

The table attached as an Appendix to this backgrounder provides a detailed breakdown of the differences between the CSLR and the RDPA. The main differences of note between the CSLR and the RDPA are as follows:

- a. **The RDPA could allow for existing projects to be exempt from an environmental assessment when they propose to change, alter or decommission a given project, such as offshore oil and gas facilities, fossil fuel-fired electrical generating stations with a production capacity of 200MW or more, or an increase in production capacity of more than 35 per cent for oil refineries.**
- b. **The RDPA removes certain types of activities relating to national parks or national park reserves that were subject to a comprehensive study under the former CEAA. These activities include:**
  - The proposed construction, decommissioning or abandonment in relation to a physical work in or on a national park, national park reserve, national historic site or historic canal that is contrary to its management plan. (CSLR s1)
  - The proposed increase in the size of an area that is used for golfing in a national park or national park reserve, or the proposed increase in the number of holes that are used for golfing within such an area. (CSLR s3)
  - The proposed development of a commercial ski area in a national park or national park reserve:

- as set out in a long-range development plan that is to be submitted to the Minister responsible for the Parks Canada Agency for approval;
- that is not consistent with a long-range development plan approved by the Minister responsible for the Parks Canada Agency; or
- that is consistent with a long-range development plan approved before 1999 but that involves development of currently undeveloped, unskied or unserviced terrain. (CSLR s3.1)

It is not clear why national parks have been removed from the purview of federal environmental assessments, particularly as national parks are undoubtedly an issue of federal jurisdiction. In any event, the choice to remove parks from the purview of federal assessments is deeply concerning and has not been explained or justified by the federal government.

**c. Types of activities are clearly linked to particular agencies in the RDPA, which was not the case under the CSLR. For instance:**

- The activities listed in sections 1-31 of the Schedule to the RDPA are linked to the Canadian Environmental Assessment Agency when they are not regulated under (or incidental to an activity regulated under) the *Nuclear Safety and Control Act*, the *National Energy Board Act* or the *Canadian Oil and Gas Operations Act*.
- The activities listed in sections 32 and 33 of the Schedule to the RDPA are linked to the Canadian Nuclear Safety Commission when they are regulated under the *Nuclear Safety and Control Act*.
- The activities listed in sections 34-39 of the Schedule to the RDPA are linked to the National Energy Board when they are regulated under the *National Energy Board Act* or the *Canadian Oil and Gas Operations Act*.

Which activities are linked to which agency is particularly important for reasons set out in (d) below.

**d. Significantly fewer environmental assessments will be required under the RDPA than were required under the former CEAA, and even under the narrower CSLR.**

- While the activities that **may** be subject to an environmental assessment under CEAA 2012 are substantially similar to those activities listed under the former CLSR (excluding golf and ski resort development projects in national parks for example), there is a very significant difference: While all of the activities listed in the CSLR were required to undergo an environmental assessment where a federal authority was involved so as to trigger the Act, not all activities listed in the DSLR actually require an assessment.

- As mentioned earlier, an assessment is only required for “designated projects” that include activities that are: a) regulated by the Canadian Nuclear Safety Commission, the National Energy Board or a federal authority, or b) designated by ministerial order. Almost all of the activities listed in the DSLR (paragraphs 1-31 out of 39 in the Schedule) are linked to the Agency, which means that those activities fall outside the two categories where an environmental assessment is required. In other words, there is no guarantee that any of the Agency-linked activities (as part of a designated project) will be subject to an assessment. The only requirement is that they undergo a screening by the Agency to determine whether an actual assessment is required. This is marked departure from the framework in the former CEAA, where an environmental assessment was required for **all** of the projects listed in the CSLR, in addition to the broader host of projects to which the Act applied due to federal authority participation. CSLR-listed projects constituted only a fraction of the projects assessed under CEAA 1992. The CSLR was intended to be a list of large projects which pose the most significant risk of environmental harm and thus require the most thorough level of assessment available. Fully 31 out of 39 activities listed in the DSLR are linked to the Agency, so federal assessments of these projects will now be done at the discretion of the Agency.

## 2) Prescribed Information Regulations

These regulations prescribe the information that must be included in the description of designated projects that are subject to a screening. Once the Agency is satisfied that the description of the designated project includes all of the required information — as set out in the *Prescribed Information Regulations* — it conducts a screening to determine whether an environmental assessment of the designated project will be carried out. The Agency has a mere 10 days to make this determination based on the information provided by the project’s proponent.

To be clear, the regulations pertain to designated projects that are not subject to an environmental assessment under section 13 or 14 of CEAA 2012 (i.e. designated projects that are linked to the National Energy Board or Canadian Nuclear Safety Commission, or designated to be subject to an environmental assessment by Ministerial order).

The Prescribed Information Regulations set out information to be included in a project description that is similar in many ways to the requirements set out in a regulation to the former CEAA, entitled *Establishing Timelines for Comprehensive Studies Regulations*, SOR/2011-139. However, there are some significant differences between the two.

### The differences are as follows:

- There is no requirement to describe changes that may be caused to non-aquatic species at risk under the federal *Species at Risk Act*, which is in keeping with the removal of the requirement to consider the effects on

terrestrial species in CEAA 2012. The requirement to consider the impact of the project on the critical habitat of species at risk has also been removed (even for aquatic species).

- The requirement to describe impact on navigable waters or any unique or special resources not already identified has been removed.
- The explicit requirement to describe consultations undertaken with the Canadian public and foreign countries has been removed.
- A requirement to include information concerning regional environmental studies has been added.
- The requirement to describe the project's purpose has been removed, rendering it extremely difficult to assess the need for the project.
- The requirement to include a description of the projects' proximity to other projects has been removed. This is problematic as proximity information is highly relevant to assessing the true impacts of a project, including its cumulative effects.
- The Prescribed Information Regulations add a requirement to describe the project's proximity to federal land. This requirement was likely added because with CEAA 2012 the federal government is trying to restrict its jurisdiction to undertake assessments to the greatest extent possible (e.g. instances where federal land is at issue).
- The Regulations add a requirement to describe the anticipated phases of and schedule for the project's abandonment, in addition to its construction, operation, and decommissioning as was previously required.
- Effects on fish and fish habitat are still considered. The Prescribed Information Regulations require a description of the "changes that may be caused" to fish or fish habitat. This is very similar to the requirement in *Establishing Timelines for Comprehensive Studies Regulations*, although slightly different wording was used (i.e. "whether the project may affect" fish or fish habit).
- There is an amendment to paragraph 17(a) of the Regulations as they relate to the definition of fish and fish habitat, but the amendment would not create any substantive changes, as the definition of fish and fish habitat pre- and post-amendment would be the same. The important changes to the *Fisheries Act*, as set out in [our Fisheries Act backgrounder](#) relate to provisions that narrow the prohibition against harm to fish and fish habitat, not the definitions of fish and fish habitat themselves.
- The Regulations include a requirement to describe physical and biological setting, but remove the requirement to describe the "components of the environment that are likely to be affected by the project and a summary of potential environmental effects." It also removes the important requirement to describe information relating to the terrain, water bodies, air, and vegetation that would give federal authorities a more accurate picture of the environment that may be impacted by the activity.
- The requirement to describe the name, width and depth of any waterway affected by the project and a description of how the waterway is likely to be affected has been removed.

- The Prescribed Information Regulations also include two other new provisions, which read as follows:
  - A description of any changes to the environment that may occur, as a result of carrying out the project, on federal lands, in a province other than the province in which the project is proposed is to be carried out or outside of Canada.
  - Information on the effects on Aboriginal peoples of any changes to the environment that may be caused as a result of carrying out the project, including effects on health and socio-economic conditions, physical and cultural heritage, the current use of lands and resources for traditional purposes or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.



**APPENDIX**

**Comparison of the *Comprehensive Study List Regulations*, SOR 94/638 under the *Canadian Environmental Assessment Act*, S.C. 1992, c. 37 to the new *Regulations Designating Physical Activities* under CEAA 2012**

<b>Comprehensive Study List Regulations</b>	<b>New Regulations Designating Physical Activities</b>	<b>Changes</b>
<p><i>The Schedule sets out projects and classes of projects which require a comprehensive study.</i></p>	<p><u>Sections 1-31</u> of the Schedule set out activities linked to the Canadian Environmental Assessment Agency (CEAA), when they are not regulated under (or incidental to an activity regulated under) the Nuclear Safety and Control Act, the National Energy Board Act or the Canadian Oil and Gas Operations Act.</p> <p><u>Sections 32 and 33</u> set out activities linked to the Canadian Nuclear Safety Commission (CNSC) when they are regulated under the Nuclear Safety and Control Act.</p> <p><u>Sections 34 to 39</u> set out activities linked to the National Energy Board (NEB) when they are regulated under the National Energy Board Act or the Canadian Oil and Gas Operations Act.</p>	
<p>1. The proposed construction, decommissioning or abandonment in relation to a physical work in or on a national park, national park reserve, national historic site or historic canal that is contrary to its management plan.</p>	<p>[no equivalent item]</p>	<p><i>Removed.</i></p>

<p>2. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment, in a wildlife area or migratory bird sanctuary, of</p> <p>(a) an electrical generating station or transmission line;</p> <p>(b) a dam, dyke, reservoir or other structure for the diversion of water;</p> <p>(c) an oil or gas facility or oil and gas pipeline;</p> <p>(d) a mine or mill;</p> <p><u>(e) a nuclear facility;</u></p> <p>(f) an industrial facility;</p> <p>(g) a canal or lock;</p> <p>(h) a marine terminal;</p> <p>(i) a railway line or public highway;</p> <p>(j) an aerodrome or runway; or</p> <p>(k) a waste management facility.</p>	<p>1. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment, in a wildlife area or migratory bird sanctuary, of</p> <p>(a) an electrical generating station or transmission line;</p> <p>(b) a dam, dyke, reservoir or other structure for the diversion of water;</p> <p>(c) an oil or gas facility or oil and gas pipeline;</p> <p>(d) a mine or mill;</p> <p>(e) an industrial facility;</p> <p>(f) a canal or lock;</p> <p>(g) a marine terminal;</p> <p>(h) a railway line or public highway;</p> <p>(i) an aerodrome or runway; or</p> <p>(j) a waste management facility.</p>	<p><i>(linked to CEAA)</i>  <i>Deleted "proposed".</i>  <i>Added "operation".</i>  <i>Replaced "or" with "and".</i>  <i>Deleted "(e) a nuclear facility".</i></p>
	<p>33. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment, in a wildlife or migratory bird sanctuary, of</p> <p>(a) a mine or mill;</p> <p>(b) a nuclear facility; or</p> <p>(c) a waste management facility.</p>	<p><i>(linked to CNSC)</i></p>
	<p>39. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment, in a wildlife or migratory bird sanctuary, of</p> <p>(a) an electrical transmission line; or</p> <p>(b) an oil or gas facility or an oil and gas pipeline.</p>	<p><i>(linked to NEB)</i></p>
<p>3. The proposed increase in the size of an area that is used for golfing in a national park or national park reserve, or the proposed increase in the number of holes that are used for golfing within such an area.</p>	<p>[no equivalent item]</p>	<p><i>Removed.</i></p>
<p>3.1 The proposed development of a</p>	<p>[no equivalent item]</p>	<p><i>Removed.</i></p>

<p>commercial ski area in a national park or national park reserve:</p> <p>(a) as set out in a long-range development plan that is to be submitted to the Minister responsible for the Parks Canada Agency for approval;</p> <p>(b) that is not consistent with a long-range development plan approved by the Minister responsible for the Parks Canada Agency; or</p> <p>(c) that is consistent with a long-range development plan approved before 1999 but that involves development of currently undeveloped, unskied or unserviced terrain.</p>		
<p>4. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of</p> <p>(a) a fossil fuel-fired electrical generating station with a production capacity of 200 MW or more; or</p> <p>(b) a hydroelectric generating station with a production capacity of 200 MW or more.</p>	<p>2. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment of</p> <p>(a) a fossil fuel-fired electrical generating station with a production capacity of 200 MW or more; or</p> <p>(b) a hydroelectric generating station with a production capacity of 200 MW or more.</p>	<p><i>(linked to CEAA)</i>  <i>Deleted "proposed".</i>  <i>Added "operation".</i>  <i>Changed "or" to "and".</i></p>
<p>5. The <u>proposed</u> expansion of</p> <p>(a) a fossil fuel-fired electrical generating station that would result in an increase in production capacity of 50 per cent or more and 200 MW or more; or</p> <p>(b) a hydroelectric generating station that would result in an increase in production capacity of 50 per cent or more and 200 MW or more.</p>	<p>3. The expansion of</p> <p>(a) a fossil fuel-fired electrical generating station that would result in an increase in production capacity of 50% or more and 200 MW or more; or</p> <p>(b) a hydroelectric generating station that would result in an increase in production capacity of 50% or more and 200 MW or more</p>	<p><i>(linked to CEAA)</i>  <i>Deleted "proposed".</i></p>
<p>6. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of a tidal power electrical generating station with a production capacity of 5 MW or more, or an</p>	<p>4. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment of a tidal power electrical generating station with a production capacity of 5 MW or more, or an expansion of such a station that would result in an</p>	<p><i>(linked to CEAA)</i>  <i>Deleted "proposed".</i>  <i>Added "operation".</i>  <i>Replaced "or" with</i></p>

expansion of such a station that would result in an increase in production capacity of more than 35 per cent.	increase in production capacity of more than 35%.	"and".
7. The <u>proposed</u> construction of an electrical transmission line with a voltage of 345 kV or more that is 75 km or more in length on a new right of way.	5. The construction, <u>operation, decommissioning and abandonment</u> of an electric transmission line with a voltage of 345 kV or more that is 75 km or more in length on a new right of way.	(linked to CEAA) Deleted "proposed". Added "operation, decommissioning and abandonment".
	34. [identical to 5]	(linked to NEB)
8. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of a dam or dyke that would result in the creation of a reservoir with a surface area that would exceed the annual mean surface area of a natural water body by 1500 hectares or more, or an expansion of a dam or dyke that would result in an increase in the surface area of a reservoir of more than 35 per cent.	6. The construction, decommissioning <u>and</u> abandonment of a dam or dyke that would result in the creation of a reservoir with a surface area that would exceed the annual mean surface area of a natural water body by 1 500 ha or more, or an expansion of a dam or dyke that would result in an increase in the surface area of a reservoir of more than 35%.	(linked to CEAA) Deleted "proposed". Replaced "or" with "and".
9. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of a structure for the diversion of 10 000 000 m <sup>3</sup> /a or more of water from a natural water body into another natural water body or an expansion of such a structure that would result in an increase in diversion capacity of more than 35 per cent.	7. The construction, <u>operation, decommissioning and</u> abandonment of a structure for the diversion of 10 000 000 m <sup>3</sup> /a or more of water from a natural water body into another natural water body or an expansion of such a structure that would result in an increase in diversion capacity of more than 35%.	(linked to CEAA) Deleted "proposed". Added "operation". Replaced "or" with "and".
10. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of a facility for the extraction of 200 000 m <sup>3</sup> /a or more of ground water or an expansion of such a facility that would result in an increase in production capacity of more than 35 per cent.	8. The construction, <u>operation, decommissioning and</u> abandonment of a facility for the extraction of 200 000 m <sup>3</sup> /a or more of ground water or an expansion of such a facility that would result in an increase in production capacity of more than 35%.	(linked to CEAA) Deleted "proposed". Added "operation". Replaced "or" with "and".

<p>11. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of</p> <p>(a) [Repealed]</p> <p>(b) a heavy oil or oil sands processing facility with an oil production capacity of more than 10 000 m<sup>3</sup>/d; or</p> <p>(c) an oil sands mine with a bitumen production capacity of more than 10 000 m<sup>3</sup>/d.</p>	<p>9. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment of</p> <p>(a) a heavy oil or oil sands processing facility with an oil production capacity of more than 10 000 m<sup>3</sup>/d; or</p> <p>(b) an oil sands mine with a bitumen production capacity of more than 10 000 m<sup>3</sup>/d.</p>	<p><i>(linked to CEAA)</i>  Deleted “proposed”.  Added “operation”.  Replaced “or” with “and”.</p>
<p>11.1 The <u>proposed</u> construction <u>or</u> installation of a facility for the production of oil or gas, if the facility is located offshore and</p> <p>(a) is outside the limits of a study area delineated in</p> <p>(i) an environmental assessment of a project for the offshore production of oil or gas that was conducted by a review panel or as a comprehensive study under the <i>Canadian Environmental Assessment Act</i>, or</p> <p>(ii) an environmental assessment of a proposal for the offshore production of oil or gas that was conducted by a Panel under the <i>Environmental Assessment Review Process Guidelines Order</i>; or</p> <p>(b) is inside the limits of a study area delineated in an environmental assessment described in subparagraphs (a)(i) or (ii) and is not connected by an offshore oil and gas pipeline to a previously assessed facility in the study area.</p>	<p>10. The construction, installation <u>and</u> <u>operation</u> of a facility for the production of oil or gas, if the facility is located offshore and</p> <p>(a) is outside the limits of a study area delineated in</p> <p>(i) an environmental assessment of a project for the offshore production of oil or gas that was conducted by a review panel or as a comprehensive study under the <i>Canadian Environmental Assessment Act</i>, or</p> <p>(ii) an environmental assessment of a proposal for the offshore production of oil or gas that was conducted by a Panel under the <i>Environmental Assessment Review Process Guidelines Order</i>; or</p> <p>(b) is inside the limits of a study area delineated in an environmental assessment described in subparagraphs (a)(i) or (ii) and is not connected by an offshore oil and gas pipeline to a previously assessed facility in the study area.</p>	<p><i>(linked to CEAA)</i>  Deleted “proposed”.  Added “operation”.  Replaced “or” with “and”.</p>
	<p>35. [identical to 10]</p>	<p><i>(linked to NEB)</i></p>
<p>11.2 The <u>proposed</u> decommissioning <u>or</u> abandonment of a facility for the production of oil or gas if the facility is located offshore and it</p>	<p>11. The decommissioning <u>and</u> abandonment of a facility for the production of oil or gas if the facility is located offshore and it is proposed that the facility be</p>	<p><i>(CEAA)</i>  Deleted “proposed”.  Replaced “or” with</p>

is proposed that the facility be disposed of or abandoned offshore or converted on site to another role.	disposed of or abandoned offshore or converted on site to another role.	"and".
	36. [identical to 11]	<i>(linked to NEB)</i>
12. The <u>proposed</u> expansion of a heavy oil or oil sands processing facility that would result in an increase in oil production capacity that would exceed 5 000 m <sup>3</sup> /d and would raise the total oil production capacity to more than 10 000 m <sup>3</sup> /d.	12. The expansion of a heavy oil or oil sands processing facility that would result in an increase in oil production capacity that would exceed 5 000 m <sup>3</sup> /d and would raise the total oil production capacity to more than 10 000 m <sup>3</sup> /d.	<i>(linked to CEAA)</i> <i>Deleted "proposed".</i>
13. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment, or an expansion that would result in an increase in production capacity of more than 35 per cent, of (a) an oil refinery, including a heavy oil upgrader, with an input capacity of more than 10 000 m <sup>3</sup> /d; (b) a facility for the production of liquid petroleum products from coal with a production capacity of more than 2 000 m <sup>3</sup> /d; (c) a sour gas processing facility with a sulphur inlet capacity of more than 2 000 t/d; (d) a facility for the liquefaction, storage or regasification of liquefied natural gas, with a liquefied natural gas processing capacity of more than 3 000 t/d or a liquefied natural gas storage capacity of more than 50 000 t; (e) a petroleum storage facility with a capacity of more than 500 000 m <sup>3</sup> ; or (f) a liquefied petroleum gas storage facility with a capacity of more than 100 000 m <sup>3</sup> .	13. The construction, decommissioning <u>and</u> abandonment, or an expansion that would result in an increase in production capacity of more than 35%, of (a) an oil refinery, including a heavy oil upgrader, with an input capacity of more than 10 000 m <sup>3</sup> /d; (b) a facility for the production of liquid petroleum products from coal with a production capacity of more than 2 000 m <sup>3</sup> /d; (c) a sour gas processing facility with a sulphur inlet capacity of more than 2 000 t/d; (d) a facility for the liquefaction, storage or regasification of liquefied natural gas, with a liquefied natural gas processing capacity of more than 3 000 t/d or a liquefied natural gas storage capacity of more than 50 000 t; (e) a petroleum storage facility with a capacity of more than 500 000 m <sup>3</sup> ; or (f) a liquefied petroleum gas storage facility with a capacity of more than 100 000 m <sup>3</sup> .	<i>(linked to CEAA)</i> <i>Deleted "proposed".</i> <i>Replaced "or" with "and".</i>
	37. The construction, <u>operation</u> , decommissioning <u>and</u>	<i>(linked to NEB)</i>

	abandonment, or an expansion that would result in an increase in production capacity of more than 35%, of (a) a sour gas processing facility with a sulphur inlet capacity of more than 2 000 t/d; or (b) a petroleum storage facility with a capacity of more than 500 000 m <sup>3</sup> .	
14. The <u>proposed</u> construction of (a) an oil and gas pipeline more than 75 km in length on a new right of way; or (b) an offshore oil and gas pipeline, if any portion of the pipeline is outside the limits of a study area delineated in (i) an environmental assessment of a project for the offshore production of oil or gas that was conducted by a review panel or as a comprehensive study under the <i>Canadian Environmental Assessment Act</i> , or (ii) an environmental assessment of a proposal for the offshore production of oil or gas that was conducted by a Panel under the <i>Environmental Assessment Review Process Guidelines Order</i> .	14. The construction, <u>operation</u> , decommissioning and <u>abandonment</u> of (a) an oil and gas pipeline more than 75 km in length on a new right of way; or (b) an offshore oil and gas pipeline, if any portion of the pipeline is outside the limits of a study area delineated in (i) an environmental assessment of a project for the offshore production of oil or gas that was conducted by a review panel or as a comprehensive study under the <i>Canadian Environmental Assessment Act</i> , or (ii) an environmental assessment of a proposal for the offshore production of oil or gas that was conducted by a Panel under the <i>Environmental Assessment Review Process Guidelines Order</i> .	<i>(linked to CEAA)</i> <i>Deleted “proposed”.</i> <i>Added “operation, decommissioning and abandonment”.</i>
	38. [identical to 14]	<i>(linked to NEB)</i>
15. [Repealed]		
16. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of (a) a metal mine, other than a gold mine, with an ore production capacity of 3 000 t/d or more; (b) a metal mill with an ore input capacity of 4 000 t/d or more; (c) a gold mine, other than a placer mine, with	15. The construction, <u>operation</u> , decommissioning <u>and</u> abandonment of (a) a metal mine, other than a gold mine, with an ore production capacity of 3 000 t/d or more; (b) a metal mill with an ore input capacity of 4 000 t/d or more; (c) a gold mine, other than a placer mine, with an ore production capacity of 600 t/d or more;	<i>(linked to CEAA)</i> <i>Deleted “proposed”.</i> <i>Added “operation”.</i> <i>Replaced “or” with “and”.</i>

<p>an ore production capacity of 600 t/d or more;  (d) a coal mine with a coal production capacity of 3 000 t/d or more; or  (e) a potash mine with a potassium chloride production capacity of 1 000 000 t/a or more.</p>	<p>(d) a coal mine with a coal production capacity of 3 000 t/d or more; or  (e) a potash mine with a potassium chloride production capacity of 1 000 000 t/a or more.</p>	
<p>17. The <u>proposed</u> expansion of  (a) an existing metal mine, other than a gold mine, that would result in an increase in its ore production capacity of 50 per cent or more, or 1 500 t/d or more, if the increase would raise the total ore production capacity to 3 000 t/d or more;  (b) an existing metal mill that would result in an increase in its ore input capacity of 50 per cent or more, or 2 000 t/d or more, if the increase would raise the total ore input capacity to 4 000 t/d or more;  (c) an existing gold mine, other than a placer mine, that would result in an increase in its ore production capacity of 50 per cent or more, or 300 t/d or more, if the increase would raise the total ore production capacity to 600 t/d or more;  (d) an existing coal mine that would result in an increase in its coal production capacity of 50 per cent or more, or 1 500 t/d or more, if the increase would raise the total coal production capacity to 3 000 t/d or more; or  (e) an existing potash mine that would result in an increase in its potassium chloride production capacity of 50 per cent or more, or 500 000 t/a or more, if the increase would raise the total potassium chloride production</p>	<p>16. The expansion of  (a) an existing metal mine, other than a gold mine, that would result in an increase in its ore production capacity of 50 per cent or more, or 1 500 t/d or more, if the increase would raise the total ore production capacity to 3 000 t/d or more;  (b) an existing metal mill that would result in an increase in its ore input capacity of 50% or more, or 2 000 t/d or more, if the increase would raise the total ore input capacity to 4 000 t/d or more;  (c) an existing gold mine, other than a placer mine, that would result in an increase in its ore production capacity of 50% or more, or 300 t/d or more, if the increase would raise the total ore production capacity to 600 t/d or more;  (d) an existing coal mine that would result in an increase in its coal production capacity of 50% or more, or 1 500 t/d or more, if the increase would raise the total coal production capacity to 3 000 t/d or more; or  (e) an existing potash mine that would result in an increase in its potassium chloride production capacity of 50% or more, or 500 000 t/a or more, if the increase would raise the total potassium chloride production capacity to 1 000 000 t/a or more.</p>	<p><i>(linked to CEAA)  Deleted "proposed".</i></p>

capacity to 1 000 000 t/a or more.		
<p>18. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment, or an expansion that would result in an increase in production capacity of more than 35 per cent, of</p> <p>(a) an asbestos mine;</p> <p>(b) a salt mine with a brine production capacity of 4 000 t/d or more;</p> <p>(c) an underground salt mine with a production capacity of 20 000 t/d or more;</p> <p>(d) a graphite mine with a production capacity of 1 500 t/d or more;</p> <p>(e) a gypsum mine with a production capacity of 4 000 t/d or more;</p> <p>(f) a magnesite mine with a production capacity of 1 500 t/d or more;</p> <p>(g) a limestone mine with a production capacity of 12 000 t/d or more;</p> <p>(h) a clay mine with a production capacity of 20 000 t/d or more;</p> <p>(i) a stone quarry or gravel or sand pit with a production capacity of 1 000 000 t/a or more; or</p> <p>(j) a metal mine located offshore or on the ocean bed.</p>	<p>17. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment, or an expansion that would result in an increase in production capacity of more than 35%, of</p> <p>(a) an asbestos mine;</p> <p>(b) a salt mine with a brine production capacity of 4 000 t/d or more;</p> <p>(c) an underground salt mine with a production capacity of 20 000 t/d or more;</p> <p>(d) a graphite mine with a production capacity of 1 500 t/d or more;</p> <p>(e) a gypsum mine with a production capacity of 4 000 t/d or more;</p> <p>(f) a magnesite mine with a production capacity of 1 500 t/d or more;</p> <p>(g) a limestone mine with a production capacity of 12 000 t/d or more;</p> <p>(h) a clay mine with a production capacity of 20 000 t/d or more;</p> <p>(i) a stone quarry or gravel or sand pit with a production capacity of 1 000 000 t/a or more; or</p> <p>(j) a metal mine located offshore or on the ocean bed.</p>	<p><i>(linked to CEAA)</i>  Deleted “proposed”.  Added “operation”.  Replaced “or” with “and”.</p>
<p>19. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment, or an expansion that would result in an increase in production capacity of more than 35 per cent, of</p> <p>(a) a uranium mine, a uranium mill or a waste management system any of which is on a site</p>	<p>32. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment, or an expansion that would result in an increase in production capacity of more than 35%, of</p> <p>(a) a uranium mine, uranium mill or waste management system any of which is on a site that is not within the boundaries of an existing licensed uranium mine or uranium mill;</p>	<p><i>(linked to CNSC)</i>  Deleted “proposed”.  Added “operation”.  Replaced “or” with “and”.  Replaced “proposal” with “activity”.</p>

that is not within the boundaries of an existing licensed uranium mine or mill;

(b) a uranium mine, a uranium mill or a waste management system any of which is on a site that is within the boundaries of an existing licensed uranium mine or mill, if the proposal involves processes for milling or uranium tailings management that are not authorized under the existing licence;

(c) a Class IB nuclear facility for the refining or conversion of uranium that has a uranium production capacity of more than 100 t/a;

(d) a Class IA nuclear facility that is a nuclear fission reactor that has a production capacity of more than 25 MW (thermal);

(e) a Class IB nuclear facility that is a plant for the production of deuterium or deuterium compounds using hydrogen sulphide that has a production capacity of more than 10 t/a;

(f) a Class IB nuclear facility for the processing of irradiated nuclear fuel with an irradiated nuclear fuel input capacity of more than 100 t/a;

(g) a Class IB nuclear facility that is on a site that is not within the boundaries of an existing licensed nuclear facility and is for

(i) the storage of irradiated nuclear fuel, where the facility has an irradiated nuclear fuel inventory capacity of more than 500 t,

(ii) the processing or storage of radioactive waste other than irradiated nuclear fuel, where

(A) the activity of the throughput of radioactive material with a half-life greater than one year is

(b) a uranium mine, uranium mill or waste management system any of which is on a site that is within the boundaries of an existing licensed uranium mine or mill, if the activity involves processes for milling or uranium tailings management that are not authorized under the existing licence;

(c) a Class IB nuclear facility for the refining or conversion of uranium that has a uranium production capacity of more than 100 t/a;

(d) a Class IA nuclear facility that is a nuclear fission reactor that has a production capacity of more than 25 MW (thermal);

(e) a Class IB nuclear facility that is a plant for the production of deuterium or deuterium compounds using hydrogen sulphide that has a production capacity of more than 10 t/a;

(f) a Class IB nuclear facility for the processing of irradiated nuclear fuel with an irradiated nuclear fuel input capacity of more than 100 t/a;

(g) a Class IB nuclear facility that is on a site that is not within the boundaries of an existing licensed nuclear facility and is for

(i) the storage of irradiated nuclear fuel, where the facility has an irradiated nuclear fuel inventory capacity of more than 500 t,

(ii) the processing or storage of radioactive waste other than irradiated nuclear fuel, where

(A) the activity of the throughput of radioactive material with a half-life greater than one year is more than 1 PBq/a ( $10^{15}$  Bq/a), or

(B) the activity of the inventory of radioactive material with a half-life greater than one year is more than 1 PBq ( $10^{15}$ ), or

<p>more than 1 PBq/a (<math>10^{15}</math> Bq/a), or  (B) the activity of the inventory of radioactive material with a half-life greater than one year is more than 1 PBq (<math>10^{15}</math>), or  (iii) the disposal of radioactive nuclear substances.</p>	<p>(iii) the disposal of radioactive nuclear substances.</p>	
<p>20. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of a pulp mill or pulp and paper mill.</p>	<p>18. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment of a pulp mill or pulp and paper mill.</p>	<p><i>(linked to CEAA)  Deleted "proposed".  Added "operation".  Replaced "or" with "and".</i></p>
<p>21. The <u>proposed</u> expansion of a pulp mill or pulp and paper mill that would result in an increase in its production capacity of more than 35 per cent and more than 100 t/d.</p>	<p>19. The expansion of a pulp mill or pulp and paper mill that would result in an increase in its production capacity of more than 35% and more than 100 t/d.</p>	<p><i>(linked to CEAA)  Deleted "proposed".</i></p>
<p>22. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment, or an expansion that would result in an increase in its production capacity of more than 35 per cent, of  (a) a facility for the production of primary steel with a metal production capacity of 5 000 t/d or more;  (b) an industrial facility for the commercial production of non-ferrous metals or light metals by pyrometallurgy or high temperature electrometallurgy;  (c) a non-ferrous metal smelter located in the Yukon Territory or Northwest Territories;  (d) a facility for the manufacture of chemical products with a production capacity of 250 000 t/a or more;  (e) a facility for the manufacture of</p>	<p>20. The construction, <u>operation</u>, decommissioning <u>and</u> abandonment, or an expansion that would result in an increase in its production capacity of more than 35%, of  (a) a facility for the production of primary steel with a metal production capacity of 5 000 t/d or more;  (b) an industrial facility for the commercial production of non-ferrous metals or light metals by pyrometallurgy or high temperature electrometallurgy;  (c) a non-ferrous metal smelter located in the Yukon Territory or Northwest Territories;  (d) a facility for the manufacture of chemical products with a production capacity of 250 000 t/a or more;  (e) a facility for the manufacture of pharmaceutical products with a production capacity of 200 t/a or more;  (f) a facility for the manufacture of wood products that are pressure-treated with chemical products, with a production capacity of 50 000 m<sup>3</sup>/a or more;  (g) a facility for the manufacture of plywood or particle</p>	<p><i>(linked to CEAA)  Deleted "proposed".  Added "operation".  Replaced "or" with "and".</i></p>

<p>pharmaceutical products with a production capacity of 200 t/a or more;</p> <p>(f) a facility for the manufacture of wood products that are pressure-treated with chemical products, with a production capacity of 50 000 m<sup>3</sup>/a or more;</p> <p>(g) a facility for the manufacture of plywood or particle board with a production capacity of 100 000 m<sup>3</sup>/a or more;</p> <p>(h) a facility for the production of respirable natural mineral fibres;</p> <p>(i) a leather tannery with a production capacity of 500 000 m<sup>2</sup>/a or more;</p> <p>(j) a facility for the manufacture of primary textiles with a production capacity of 50 000 t/a or more;</p> <p>(k) a factory for the manufacture of chemical explosives employing chemical processes; or</p> <p>(l) a facility for the manufacture of lead-acid batteries.</p>	<p>board with a production capacity of 100 000 m<sup>3</sup>/a or more;</p> <p>(h) a facility for the production of respirable natural mineral fibres;</p> <p>(i) a leather tannery with a production capacity of 500 000 m<sup>2</sup>/a or more;</p> <p>(j) a facility for the manufacture of primary textiles with a production capacity of 50 000 t/a or more;</p> <p>(k) a factory for the manufacture of chemical explosives employing chemical processes; or</p> <p>(l) a facility for the manufacture of lead-acid batteries.</p>	
<p>23. The <u>proposed</u> construction outside an existing military base of</p> <p>(a) a military base or station; or</p> <p>(b) a training area, range or test establishment for military training or weapons testing.</p>	<p>21. The construction <u>and operation</u> outside an existing military base of a military base or station.</p>	<p><i>(linked to CEAA)</i>  <del>Deleted “proposed”.</del>  Added “and operation”.</p>
	<p>22. The construction, <u>operation, decommissioning and abandonment</u> outside an existing military base of a training area, range or test establishment for military training or weapons testing.</p>	<p><i>(linked to CEAA)</i>  <del>Deleted “proposed”.</del>  Added “operation, decommissioning and abandonment”.</p>
<p>24. The <u>proposed</u> expansion of a military base or station that would result in an increase in the area of the military base or station of more</p>	<p>23. The expansion of a military base or station that would result in an increase in the area of the military base or station of more than 25%, or an increase in the</p>	<p><i>(linked to CEAA)</i>  <del>Deleted “proposed”.</del></p>

than 25 per cent, or an increase in the cumulative floor area of existing buildings located on the military base or station of more than 25 per cent.	cumulative floor area of existing buildings located on the military base or station of more than 25%.	
25. The <u>proposed</u> decommissioning of a military base or station.	24. The decommissioning <u>and abandonment</u> of a military base or station.	<i>(linked to CEAA) Deleted "proposed". Added "and abandonment".</i>
26. The <u>proposed</u> testing of weapons for more than five days in a calendar year in an area other than those training areas, ranges and test establishments established under the authority of the Minister of National Defence for the testing of weapons prior to the coming into force of these Regulations.	25. The testing of weapons for more than five days in a calendar year in an area other than those training areas, ranges and test establishments established under the authority of the Minister of National Defence for the testing of weapons prior to October 7, 1994.	<i>(linked to CEAA) Deleted "proposed".</i>
27. The <u>proposed</u> low-level flying of military fixed-wing jet aircraft for more than 150 days in a calendar year as part of a training program at an altitude below 330 m above ground level on a route or in an area that is not established by or under the authority of the Minister of National Defence or the Chief of the Defence Staff as a route or area set aside for low-level flying training prior to the coming into force of these Regulations.	26. The low-level flying of military fixed-wing jet aircraft for more than 150 days in a calendar year as part of a training program at an altitude below 330 m above ground level on a route or in an area that is not established by or under the authority of the Minister of National Defence or the Chief of the Defence Staff as a route or area set aside for low-level flying training prior to October 7, 1994.	<i>(linked to CEAA) Deleted "proposed".</i>
28. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of (a) a canal or any lock or associated structure to control water levels in the canal; (b) a lock or associated structure to control water levels in existing navigable waterways; or (c) a marine terminal designed to handle	27. The construction, <u>operation</u> , decommissioning <u>and</u> abandonment of (a) a canal or any lock or associated structure to control water levels in the canal; (b) a lock or associated structure to control water levels in existing navigable waterways; or (c) a marine terminal designed to handle vessels larger than 25 000 DWT unless the terminal is located on	<i>(linked to CEAA) Deleted "proposed". Added "operation". Replaced "or" with "and".</i>

vessels larger than 25 000 DWT unless the terminal is located on lands that are routinely and have been historically used as a marine terminal or that are designated for such use in a land-use plan that has been the subject of public consultation.	lands that are routinely and have been historically used as a marine terminal or that are designated for such use in a land-use plan that has been the subject of public consultation.	
29. The <u>proposed</u> construction of (a) a railway line more than 32 km in length on a new right of way; (b) an all-season public highway that will be more than 50 km in length and either will be located on a new right-of-way or will lead to a community that lacks all-season public highway access; or (c) a railway line designed for trains that have an average speed of more than 200 km/h.	28. The construction, <u>operation, decommissioning and abandonment</u> of (a) a railway line more than 32 km in length on a new right of way; (b) an all-season public highway that will be more than 50 km in length and either will be located on a new right-of-way or will lead to a community that lacks all-season public highway access; or (c) a railway line designed for trains that have an average speed of more than 200 km/h.	<i>(linked to CEAA) Deleted “proposed”. Added “operation, decommissioning and abandonment”.</i>
30. The <u>proposed</u> construction <u>or</u> decommissioning of (a) an aerodrome located within the built-up area of a city or town; (b) an airport; or (c) an all-season runway with a length of 1 500 m or more.	29. The construction, <u>operation, decommissioning and abandonment</u> of (a) an aerodrome located within the built-up area of a city or town; (b) an airport; or (c) an all-season runway with a length of 1 500 m or more.	<i>(linked to CEAA) Deleted “proposed”. Added “operation” and “abandonment”. Replaced “or” with “and”.</i>
31. The <u>proposed</u> extension of an all-season runway by 1 500 m or more.	30. The extension of an all-season runway by 1 500 m or more.	<i>(linked to CEAA) Deleted “proposed”.</i>
32. The <u>proposed</u> construction, decommissioning <u>or</u> abandonment of a facility used exclusively for the treatment, incineration, disposal or recycling of hazardous waste, or an expansion of such a facility that would result in an increase in its production capacity of more than 35 per cent.	31. The construction, <u>operation, decommissioning and abandonment</u> of a facility used exclusively for the treatment, incineration, disposal or recycling of hazardous waste, or an expansion of such a facility that would result in an increase in its production capacity of more than 35%.	<i>(linked to CEAA) Deleted “proposed”. Added operation. Replaced “or” with “and”.</i>