# Supplementary Material 1:

# Summary of current impact assessment processes for proposed mining and quarry projects across jurisdictions in Canada

Supplement to:

Westwood et al. Mines, mines, & more mines: A spatiotemporal analysis of mining projects assessed under impact assessment laws and regulations in Canada. *FACETS*.

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HOW IA WORKS FOR **PROPOSED MINING PROJECTS** ACROSS CANADIAN EIA JURISDICTIONS

**Federal**

* **Legislative scheme:** *Impact Assessment Act,* 2019 + *Physical Activity Regulations*, 2019
* **How it works:**
  + Under the *IAA,* 2019, proponents with projects described on the project list of the *Physical Activities Regulations*[[1]](#footnote-2) are to provide the Impact Assessment Agency of Canada with an initial description of the project that includes all prescribed information (s. 10). This 180-day initial planning phase must also involve Indigenous and public consultation to help shape the proposed assessment. The Agency will then decide whether an impact assessment is ultimately required, based on of factors like the presence of adverse effects within federal jurisdiction as well as any comments received during the public consultation (s. 16(1) and 16(2)). The impact assessment will consider the factors prescribed by the Agency in the **Tailored Impact Statement Guidelines**, including the potential environmental, health, social and economic impacts of the proposed project. The **Impact Statement** generated by the proponent, in conjunction with Crown consultation processes, will inform the Agency’s recommendations, submitted to the Minister in the **Impact Assessment Report**. The Minister’s (or, the Governor in Council if the power is referred to it by the Minster) decision to approve the project or not, or, if the project’s adverse effects are in the public interest, to establish proponent conditions. Compliance with the **Decision Statement** will be monitored and Indigenous and community participation in follow-up will be prioritized.
* **Mining project thresholds:**
  + Section 18 of the *Regulations* specifies that new coal, diamond and metal mines or mills with a production capacity of 5000 t/day or more will be subject to the impact assessment process. The same is true for new rare earth element mines with a capacity of at least 2500 t/day or new stone quarry or sand or gravel pits with a production capacity of at least 3 500 000 t/year. Sections 19 through 25 set out additional thresholds for existing mines and speak more specifically to the process set out for uranium mines.

**BC**

* **Legislative scheme:** *Environmental Assessment Act,* 2018 + *Reviewable Projects Regulation,* 2019
* **How it works:** 
  + Projects subject to BC’s *Environmental Assessment Act,* 2018 will go through an **early engagement phase,** where all participants, including interested First Nations, will have the opportunity to establish a foundation for the whole of the environmental assessment process, including the **readiness to decision** (i.e., the decision to proceed with an environmental assessment). Building off of the early engagement phase and readiness decision, the **process planning** stage formalizes how the environmental assessment and its associated public engagement is to be carried out. The proponent will then develop their **application for an environmental assessment certificate**, which will be reviewed by participating Indigenous nations, the Technical Advisory Committee, and the Community Advisory Committee. Where necessary, revisions will be provided. The chief executive assessment officer will then develop a **draft Assessment Report** and **draft environmental assessment certificate** (with conditions). The public will have the opportunity to comment. The environmental assessment body’s **finalized referral package** will then be submitted to the minister responsible for a specified reviewable project (as designated by the Lieutenant Governor in Council to decide whether to issue a certificate or not, based on the finalized Assessment Report, the recommendations received, the sustainability and reconciliation purposes of the EAO and other matters considered relevant to the public interest. Where environmental assessment certificates are issued, **post-certificate activities** will be undertaken by the compliance and enforcement branch of the EAO.
* **Mining project thresholds:** 
  + Projects will be subject to BC’s environmental assessment process if they meet the criteria set out in the *Reviewable Projects Regulation,* are specifically designated by the Minister of the Environment and Parks, or when otherwise subject to assessment by the chief executive assessment officer at the request of the project proponent. The following mining projects are subject to provincial EA:
    - New or existing coal mines with a production capacity of at least 250 000 t/year
    - New or existing mineral mines with a production capacity of at least 75 000 t/year
    - New or existing sand and gravel pits with a production capacity of at least 500 000 t/year, or, over a period of operation lasting less than 4 years, 1 000 000 tonnes
    - New or existing placer mineral mines with a production capacity of at least 250 000 t/year
    - New or existing construction stone and industrial mineral quarries that involves the removal of construction stone or industrial minerals or both, is regulated as a mine under the *Mines Act,* and has a production capacity of at least 250 000 t/year
    - New offshore mines or the modification of such existing mines where the chief executive assessment officer has determined that the modification has the potential to result in a significant adverse environmental, economic, social, cultural, or health effect

**AB**

* **Legislative scheme:** *Environmental Protection and Enhancement Act,* 2000 + *Environmental Assessment (Mandatory and Exempted Activities) Regulation,* 1993
* **How it works:**
  + Proponents of projects subject to Alberta’s environmental assessment process will first submit a **Project Summary Table** and a map to the Director. Oftentimes, this summary will be sufficient for the Director to decide whether an environmental assessment report will be necessary. Should more information be required, the Director can call for the preparation of a **Screening Report,** which the Director will consider alongside public comment. Where Environmental Impact Assessment reports are deemed necessary, the proponent will then need to prepare **proposed Terms of Reference** and a **First Nations Consultation Plan.** The Director will consider these documents alongside public comments in then issuing the **final Terms of Reference** (which will delineate the scope of the Environmental Impact Assessment report to be prepared). The completed **Environmental Impact Assessment report** will next be submitted to the Environmental Assessment Director for technical review. The Director will refer the report to the applicable Board or to the Minister to become part of the **public interest decision** once they are satisfied that the report is complete and that the terms of reference have been met. Absent a finding from the Minister that the project is *not* in the public interest, the project will then be subject to the **regulatory approvals process.**
* **Mining project thresholds:**
  + The *Environmental Assessment (Mandatory and Exempted Activities) Regulation* holds that all quarries producing over 45 000 t/year, surface coal mines producing over 45 000 t/year and oil sands mines will be subject to provincial environmental assessment. In addition, the Director designated by the Minister under the *Environmental Protection and Enhancement Act* maintains the discretion to determine whether all projects not listed in the regulations will be subject to environmental assessment. Similarly, the Minister may also mandate the preparation of an Environmental Assessment Report for projects which would otherwise be exempt from environmental assessment under the Regulations.

**SK**

* **Legislative scheme:** *Environmental Assessment Act,* 1980
* **How it works:**
  + Proponents of projects subject to Manitoban environmental assessment are to submit an **application for Ministerial Determination** with a **technical proposal** to the EA Breach for review, alongside an online application. The EA branch will then **screen the proposal**, which may include forwarding the application to the ministry’s Technical Resources Branch, or the Saskatchewan Environmental Assessment Review Panel. The EA Commissioner will then make a determination on whether an **Environmental Impact Assessment** is required before the proponent can proceed with the project. Where this is the case, proponents will need to prepare a **Terms of Reference** document for their project, identifying key impacts to be studies as part of the EIA. The TOR will be reviewed by the EA Branch before the proponent will undertake the EIA and prepare the **Environmental Impact Statement**. Once completed, the proponent will forward the EIS to the EA Branch for review, who may be asked to produce additional information to address any deficiencies. Once satisfied with the EIS, the EA Branch will compile the **final Technical Review Comments** to assist the public in reviewing the proponent’s EIS and the government decision-makers in reaching a **final determination to approve, reject, or impose conditions on the project**. The Minister maintains the right to investigate or otherwise inspect the project throughout its lifecycle to ensure that the approval terms and conditions are being met.
* **Mining project thresholds:**
  + All developments within Manitoba’s jurisdiction will be subject to provincial environmental assessment. The *Environmental Assessment Act* defines “development” as being any project, operation or activity or any alteration or expansion thereof likely to, among other things, have an effect on any unique, rare, or endangered feature of the environment or otherwise have a significant impact on the environment.

**MB**

* **Legislative scheme:** *Environment Act,* 1988 + *Classes of Development Regulations,* 1988
* **How it works:**
  + Proponents of developments subject to the Manitoba environmental assessment process are required to submit an **Environment Act Proposal.** The proposal documents will then be distributed to the **Technical Advisory Committee** and posted on the public registry, where comments from the public will be solicited. The EAB Contact will then review the comments generated. At this point, if no additional information is required, nor a public hearing warranted, the EAB contact will prepare a **summary report of the comments** and will **draft the licence** in a manner that addresses environmental effects and mitigation strategies. The **EAB Director will then make a licensing decision**, either refusing or approving the development.[[2]](#footnote-3)
* **Mining project thresholds:**
  + According to the *Classes of Development Regulations,* all mines other than pits and quarries are class 2 developments. Potash mines and milling facilities are class 3 developments. Sections 11 and 12 of the *Environment Act,* respectively, require that these developments obtain a valid licence from the minister through the environmental assessment process before being constructed or otherwise brought into operation.

**ONT**

* **Legislative scheme:** *Environmental Assessment Act,* 1990
* **How it works:** 
  + Ontario’s environmental assessment process does not generally apply to private sector proponents, significantly reducing the number of mines subject to this regime.[[3]](#footnote-4) Where the *Environmental Assessment Act* does apply, two possible types of assessments emerge: individual environmental assessments (for large-scale, complex projects having the potential for significant environmental effects requiring approval from the Ministry of the Environment, Conservation and Parks), or streamlined environmental assessments (for routine projects with predictable and manageable environmental effects, where a self-assessment and decision-making process is appropriate).
    - **Individual environmental assessment:** The process for complex projects begins with the proponent developing and submitting a **Terms of Reference,** engaging in public consultation and outlining basic project information and the plan for preparing and evaluating the environmental assessment. The Ministry will then coordinate a **technical review** of the Terms of Reference document, making a recommendation to the Minister as to whether or not to approve the Terms of Reference. Next, the proponent will prepare and submit the **environmental assessment document**, which will include, among other things, a record of consultation, a monitoring framework, and a list of environmental effects that may be caused. The Director of the Environmental Assessment Branch will then review the assessment and publish its **Ministry Review,** which will be subject to a 5 week period of public comment. After this, the Ministry of the Environment, Conservation and Parks will make a **final decision** to approve the project, impose conditions, or refuse it. Proponent reporting on compliance with commitments and conditions in the environmental assessment will be required.
    - **Streamlined environmental assessment:** Projects with predictable impacts can follow a streamlined self-assessment process to fulfill the requirements of the *Environmental Assessment Act* without submitting an individualized environmental assessment to the ministry. There are 11 different class environmental assessments, each for a different governmental body and accounting for approximately 90% of public projects carried out in Ontario. Under this streamlined framework, after having an approved **Terms of Reference,** the proponent will prepare a **class environmental assessment** and submit it for approval. Once approved, the standardized class assessment framework will replace the project-specific approval required from the Minister under individual environmental assessment and the proponent can proceed in its project planning activities.

**QC**

* **Legislative scheme:** *Environmental Quality Act (Loi sur la qualité de l'environnement),* 1972 + *Règlement relatif à l’évalutation et l’examen des impacts sur l’environnement de certain projets,* 2018 (southern region), *James Bay and Northern Québec Agreement, Regulation respecting the environmental and social impact assessment and review procedure applicable to the territory of James Bay and Northern Québec* (northern region)
* **How it works :**
  + **Southern region:** Title I of the *Environmental Quality Act* applies in the southern region of Québec. Here, project proponents will submit a **formulaire d’Avis de projet** to the Minister of Environment, Climate Change, of Fauna and Parks, who will specify which elements must appear in the impact study. The proponent will then undertake to **complete the impact study**, notifying the public of the environmental assessment on the public registry and considering any comments received. The Bureau d’audiences publiques sur l’environnement (BAPE) will consider the information forwarded to it by the project proponent and make recommendation to the Minister as to whether or not to approve the project. The ministry will complete its own analysis and based off of this, in combination with the BAPE’s recommendation, the **Minister will make the final decision**. Once approved, the proponent will continue to be responsible for project supervision, follow up, and compliance activities
  + **Northern region:** Title II of the *Environmental Quality Act* contains provisions specific to environmental assessments in northern Québec to reflect the active participation of Cree, Inuit and Naskapi communities. The *James Bay and Northern Québec Agreement* provides for the creation of two environmental advisory committees to supervise the administration of its environmental protection regimes: one north of the 55th parallel, and one south. The Administrator (either being the Minister of Sustainable Development, Environment and Parks, the chairman of the Federal Environmental Assessment Review Office, of the Administrator of the appropriate Cree Band Council, depending on the nature of the project) is to make a final approval decision based on the recommendation of the applicable advisory committees. The same five-step process applies regardless of the specific procedure followed. First, the proponent will send a **notice of intent** and **preliminary information** regarding the project to the Administrator. The applicable committee will then make a **recommendation** to the Administrator as to whether the development should be subject to an impact study, formulating guidelines outlining the proposed study in accordance with the *Regulation respecting the environmental and social impact assessment and review procedure applicable to the territory of James Bay and Northern Québec*. The Administrator’s decision regarding the nature and scope of the study will be transmitted to the proponent, who will **prepare the impact study** accordingly. The proponent will then **submit the impact study** to the Administrator, who will then send it to the applicable review committee and hold public hearings as needed. South of the 55th parallel, the Review Committee (COMEX) will make an approval recommendation to the Administrator and north of the 55th parallel, the Kativik Environmental Quality Commission (KEQC) will decide whether or not to approve the project. The **Administrator maintains the final say** for all projects, consulting with the COMEX of KEQC if they cannot accept the recommendation or decision made.
* **Mining project thresholds:**
  + Schedule 1 of the *Environmental Quality Act* specifies the projects subject to the Title I (southern) environmental assessment process. This includes:
    - Extractive metallurgy plants with maximum annual capacity being at least 40 000 metric tons
    - Extractive metallurgy plants or mines for the production of rare earth or rare earth compounds or for radioactive elements or compounds or uranium refining
    - Mines with a maximum daily capacity of at least 2000 metric tons of any metal ore or 500 metric tons of any other ore
    - Mines within an urbanization permitter identified in or within 1000 m the development scheme of an Indian reserve, regardless of the ore mined and the extraction capacity
  + Title II (northern) environmental assessment processes apply to effectively all mines and mine expansions

**NBs**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

**NS**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

**NL**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

**PEI**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

**NWT**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

**YK**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

**NV**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

**Inuvialuit Settlement Region**

* **Legislative scheme :**
* **How it works :**
* **Mining project thresholds:**

1. Or, if the proponent’s project has been designated by the Minster [↑](#footnote-ref-2)
2. Note that Class 3 projects (i.e., potash mines) will be subject to a Ministerial licensing decision instead [↑](#footnote-ref-3)
3. The *Environmental Assessment Act* can also be made to apply to private sector proponents through a designation regulation, or proponents can elect to complete individual EAs (https://www.ontario.ca/document/preparing-reviewing-and-using-class-environmental-assessments-ontario-0/part-preparing) [↑](#footnote-ref-4)