Policy Framework for Assessing Cumulative Effects under the *Impact Assessment Act*

On June 20, 2024, the *Budget Implementation Act, 2024*, received Royal Assent and brought into force amendments to the *Impact Assessment Act* (IAA). These changes were made in response to the Supreme Court of Canada's decision on the constitutionality of the IAA. Over the coming weeks and months, this website along with procedures, policy and guidance documents will be updated to reflect these legislative changes, as required.

May 2023

Introduction

The Government of Canada recognizes that managing cumulative effects is an important issue, as stated in the Government of Canada interim message on cumulative effects.

The Policy Framework for Assessing Cumulative Effects under the *Impact Assessment Act* (the Policy Framework) sets out the general requirements and approach for assessing the cumulative effects of designated projects under the *Impact Assessment Act* (IAA (Impact Assessment Act)). It serves as guidance to project proponents and provides direction to employees of the Impact Assessment Agency of Canada (the Agency) and others involved in federal impact assessment under the IAA (Impact Assessment Act), including federal authorities, other jurisdictions, Indigenous Peoples, stakeholders and the public.

The Policy Framework is for information purposes only. It is not a substitute for the IAA (Impact Assessment Act) or its regulations. In the event of an inconsistency between this policy framework and the IAA (Impact Assessment Act) or its regulations, the IAA (Impact Assessment Act) or its regulations would prevail. For the most up-to-date versions of the IAA (Impact Assessment Act) and regulations, please consult the Department of Justice website.

This document is subject to periodic review by the Agency. For the most up-to-date version, please consult the Policy and Guidance page on the Agency's website.

Application

The Policy Framework should be used to inform the assessment of designated projects under the IAA (Impact Assessment Act), in conjunction with other Agency policy and guidance instruments. Additional technical guidance entitled "Technical Guidance for Assessing Cumulative Environmental Effects under the *Canadian Environmental Assessment Act, 2012*" presents methodologies and considerations that may be useful in analyzing cumulative effects associated with designated projects.

The Policy Framework replaces the Agency's March 2015 Operational Policy Statement titled Assessing Cumulative Environmental Effects under the *Canadian Environmental Assessment Act, 2012,* to reflect the language and requirements of the IAA (Impact Assessment Act). However, the overall approach and steps for assessing cumulative effects have not been changed. The March 2015 Operational Policy Statement will continue to apply to ongoing assessments initiated under the *Canadian Environmental Assessment Act, 2012*.

Relevant provisions of the *Impact Assessment Act* for assessing cumulative effects

Paragraph 22(1)(a) of the IAA (Impact Assessment Act) specifies that an impact assessment must take into account effects that are likely to be caused by the carrying out of a designated project. This includes any cumulative effects that

are likely to result from a designated project in combination with other physical activities that have been or will be carried out.

Throughout the Policy Framework, the term "effects" refers to changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes, as defined in section 2 of the IAA (Impact Assessment Act) and as referenced in paragraph 22(1)(a) of the IAA (Impact Assessment Act).

Other factors that must be taken into account in an impact assessment are also identified under subsection 22(1). In many cases, these factors and cumulative effects intersect and are considered in the assessment of cumulative effects. For example, this may include, among others: mitigation measures, the effects of accidents and malfunctions, Indigenous Knowledge, the extent to which the project contributes to sustainability and any relevant regional or strategic assessment conducted under the IAA (Impact Assessment Act) or other regional studies or plans. For further guidance, tools and information about factors to consider in impact assessment, please see the Practitioner's Guide to Impact Assessment.

Consideration of cumulative effects under the *Impact Assessment Act*

The practice of impact assessment calls for examining potential effects of a project on valued components (VCs (Valued components)) and considering mitigation measures to address adverse effects. As part of the impact assessment process, a cumulative effects assessment allows for the consideration of additional mitigation measures to address effects of a designated project in combination with other physical activities that have been or will be carried out. Assessing cumulative effects provides information to the impact assessment process, which supports a fuller understanding of a project's likely residual effects to inform the public interest decision and the implementation of follow-up programs.

The approach and level of effort applied to assessing cumulative effects in an impact assessment is established on a case-by-case basis and could be different for each VC (Valued component). The following should be taken into consideration:

- the changes that are likely to be caused by the project and the consequences of these changes (i.e. the effects);
- the characteristics of the project;
- the risks and uncertainties associated with the potential cumulative effects;
- the state (e.g. health, status or condition) of VCs (Valued components) that may be impacted by the cumulative effects;
- the potential for mitigation and the extent to which mitigation measures may address potential effects; and,
- the level of concern expressed by Indigenous communities or the public.

All cumulative effects assessments should include the five steps described below – scoping, analysis, mitigation, describing cumulative effects, and follow-up – and all documentation must clearly explain and justify the methods used in the assessment.

Step 1: Scoping

Scoping for a cumulative effects assessment includes: identifying VCs (Valued components) that will be subject to the cumulative effects assessment, determining spatial and temporal boundaries, and examining the relationship between the residual effects of the designated project and those of other physical activities.

Scoping begins during the Planning phase of the impact assessment impact assessment process and informs the project's Tailored Impact Statement Guidelines. Adjustments to the scope of the cumulative effects assessment can be made at different points during the impact assessment process. As the project impact assessment advances, information is gained about, for example, environmental, health, social and economic conditions, VCs (Valued components), potential effects, and the effects of other physical activities. This information may help clarify what needs to be considered in the cumulative effects assessment and to what extent. The scope is also adapted in light of information, knowledge and comments provided by Indigenous communities or the public.

Identifying valued components

The cumulative effects assessment should consider those VCs (Valued components) for which residual adverse effects

are predicted after consideration of mitigation measures, regardless of the predicted degree or extent of those effects. Proponents may also consider cumulative positive effects in the IA (Impact Assessment).

VCs (Valued components) should also be included in the cumulative effects assessment where the predicted residual effects rely heavily on uncertain mitigation measures; and if they are identified as being of particular concern in the context of cumulative effects by the public or Indigenous communities.

The cumulative effects assessment must consider other physical activities that have been carried out up to the time of the analysis or that will be carried out in the future, provided that they are likely to affect the same VCs (Valued components) as those of the designated project for which residual effects have been identified.

Determining Spatial and Temporal Boundaries

Spatial and temporal boundaries should be clearly identified and justified, and be set taking into account direction provided by the Agency.

To consider the effects of existing and future physical activities, the spatial boundaries need to encompass the potential effects on a selected VC (Valued component) of the designated project in combination with other physical activities that have been or will be carried out.

Temporal boundaries for assessing a selected VC (Valued component) should take into account past and existing physical activities, as well as future physical activities that are certain or reasonably foreseeable (see definitions further below). Temporal boundaries should also take into account the degree to which the effects of these physical activities will overlap with those predicted from the designated project.

Examining physical activities that have been carried out

Present-day environmental, health, social and economic conditions reflect the cumulative effects of many past and existing physical activities. A description of past conditions can at times improve the understanding of cumulative effects for a specific VC (Valued component).

Information on the effects of past or existing physical activities may be helpful:

- if the effects of past or existing physical activities on a specific VC (Valued component) will help predict the effects of a designated project;
- if information on past or existing physical activities will assist in the identification of appropriate mitigation measures for the designated project; or
- if an existing physical activity will be decommissioned in the future and this decommissioning would affect the future condition of a specific VC (Valued component).

Examining physical activities that will be carried out

The cumulative effects assessment of a designated project must include future physical activities that are certain, and should generally include physical activities that are reasonably foreseeable, as defined below.

- Certain: the physical activity will proceed or there is a high probability that the physical activity will proceed, e.g. the proponent has received the necessary authorizations or is in the process of obtaining those authorizations.
- Reasonably foreseeable: the physical activity is expected to proceed, e.g. the proponent has publicly disclosed its intention to seek the necessary impact assessment or other authorizations required to proceed.

Step 2: Analysis

The methods used to predict cumulative effects must be clearly described. With this information, reviewers of the Impact Statement will be able to examine how the analysis was conducted and what rationale supports the conclusions reached. Any assumptions or conclusions based on professional judgement should be clearly identified and described.

Data collection and/or generation are important components of a cumulative effects assessment. At times, it may be challenging to obtain or generate data to support the analysis. Potential cumulative effects should be considered in the analysis, as appropriate, even when there is little supporting data or there is predictive uncertainty. Reviewers of the Impact Statement should be presented with a complete picture of the potential types and scale of cumulative effects. Analysis should also consider whether cumulative effects are differential by applying Gender-Based Analysis Plus (GBA

(Gender-Based Analysis) Plus). In all cases, uncertainties and assumptions underpinning an analysis should be described and information sources clearly documented.

Scientific data supporting a cumulative effects assessment can often be supplemented in various ways, including the use of computer models or data from other areas with comparable conditions.

Community knowledge available to the proponent must be incorporated into the cumulative effects assessment, in keeping with appropriate ethical standards and without breaking obligations of confidentiality, if any.

Indigenous communities should be fully involved in the identification and assessment of cumulative effects, beginning with early engagement and the conduct of Indigenous Knowledge studies to inform ongoing understanding of the cumulative effects of the project in combination with other physical activities. The input of Indigenous communities should inform all parts of the cumulative effects assessment (e.g., the spatial and temporal extent, the section of VCs (Valued components) and physical activities, mitigation and characterization of effects). For more information on confidential Indigenous Knowledge, see our guidance: Protecting Confidential Indigenous Knowledge under the *Impact Assessment Act*.

In addition, the assessment of impacts on the rights of Indigenous Peoples needs to consider the context of cumulative effects. For more on how this should be done, see Guidance: Assessment of Potential Impact on the Rights of Indigenous Peoples.

Step 3: Mitigation

Taking into account direction from the Agency, the proponent must identify technically and economically feasible measures to mitigate adverse cumulative effects. This would include an assessment of the effectiveness of measures applied to mitigate cumulative effects.

As with project-specific effects, mitigation of cumulative effects can be in the form of elimination, reduction or control of a designated project's cumulative effects, which are the preferred approaches. Where this is not possible, offset for any damage caused by the residual effects of a designated project should be considered through replacement, restoration, or compensation.

In cases where measures to mitigate cumulative effects are beyond the control of the proponent, proponents should identify any parties that have the authority to act on these measures. In addition, they must summarize in the Impact Statement any commitments by the other parties to implement the necessary measures and any associated communication plans.

Step 4: Describing cumulative effects

An impact assessment must include a description of cumulative effects that are likely to result from the project in combination with other physical activities, taking into account the implementation of mitigation measures. An impact assessment must also characterize the extent to which the adverse cumulative effects within federal jurisdiction, and the adverse direct or incidental effects [1], are significant. For more information, see Guidance: Describing Effects and Characterizing Extent of Significance.

Predictions in relation to cumulative effects should be clearly presented and rationalized against defined criteria. Where relevant, these should include the magnitude, geographical extent, timing, frequency, duration and reversibility of the potential adverse effects, as well as any important contextual factors (including Indigenous Knowledge). In some cases, it may be more appropriate to describe effects using other criteria, such as the nature of the impacts, proportionality, directionality, causation or probability. Furthermore, in addition to key criteria, the description of cumulative effects may consider evidence-, scientific- or value-based management or ecological benchmarks, such as standards, guidelines, objectives or descriptors.

Step 5: Follow-up

Follow-up programs are put in place by the proponent to verify the accuracy of the impact assessment and evaluate the effectiveness of mitigation measures. Where applicable, these should include consideration of cumulative effects. Participation in existing follow-up programs or establishing new ones may be warranted, as determined on a case-by-case basis. In developing the follow-up program framework the proponent should take into account the considerations

outlined in the Agency guidance on *Follow-up Programs under the Canadian Environmental Assessment Act* and the Agency's guidance on *Adaptive Management Measures under the Canadian Environmental Assessment Act 1992*. Additional guidance and considerations for follow-up programs may be set out in the project-specific Tailored Impact Statement Guidelines issued to the proponent at the end of the Planning phase.

Footnotes

1 Direct or incidental effects are defined in section 2 of the *Impact Assessment Act* as: "effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a physical activity or designated project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that activity or project to be carried out, in whole or in part."

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