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Report of the
**Commissioner of the
Environment and
Sustainable Development**
to the House of Commons

FALL

Chapter 1
Applying the Canadian Environmental
Assessment Act



Office of the Auditor General of Canada

The Fall 2009 Report of the Commissioner of the Environment and Sustainable Development comprises The Commissioner's Perspective—2009, Main Points—Chapters 1 to 4, an Appendix, and four chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

1

Applying the Canadian Environmental
Assessment Act

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Applying the Canadian Environmental Assessment Act

Main Points

What we examined

Environmental assessment is a process used to predict and mitigate the adverse environmental effects of a project before it is carried out. Under the *Canadian Environmental Assessment Act*, projects that must undergo environmental assessment include the construction, operation, modification, demolition, or abandonment of a physical work, or other physical activities specified by regulation. The Act applies to projects for which a federal department or agency (referred to as a responsible authority) has decision-making authority, whether as project proponent, regulator, land manager, or funding source.

The federal organization is then responsible for conducting an environmental assessment, from defining the scope of the project, consulting with the public where deemed appropriate, carrying out the environmental assessment, determining the significance of the environmental effects, and ensuring their mitigation. There are effectively three types of environmental assessment—screenings, comprehensive studies, and review panels. In total, some 6,000 federal environmental assessments are carried out annually by more than 100 federal organizations that must apply the Act.

We examined whether federal organizations are complying with the environmental assessment process established by the Act. We reviewed a sample of screenings that were undertaken between 2003 and 2008 and comprehensive studies and panel reviews conducted between 1995 and 2008.

The Canadian Environmental Assessment Agency is responsible for administering the Act and maintaining a public Registry Internet site of environmental assessments. Its role is to serve as a centre of expertise intended to provide leadership and coordination of the federal process. Along with responsible authorities, it ensures that environmental assessments are timely and predictable, and assists parties in building consensus and resolving disputes. We examined whether the Agency is fulfilling these responsibilities.

Audit work for this chapter was substantially completed on 23 June 2009. It covered the period between 1995 and 2008.

Why it's important

Environmental assessments are important to protect environmental quality; for example, to prevent pollution and conserve habitat and biodiversity. The *Canadian Environmental Assessment Act* requires the consideration of environmental factors in federal planning and decision making. Identifying the potential environmental effects of a project before it proceeds is critical to anticipating, preventing, and reducing environmental damages.

Conducting environmental assessment early in the planning and proposal stages of a project is important so that the analysis can be of practical use to decision makers and mitigation measures can be incorporated into the project plans. Failure to predict and mitigate adverse environmental effects before carrying out a project can lead to significant environmental degradation and increased economic costs.

Effective, timely, and meaningful public consultation can help ensure that public concerns and values are considered during the environmental assessment process.

What we found

- For the comprehensive studies and review panels we examined, responsible authorities have complied with the Act. However, it is not clear that screenings—the most common type of assessment—are meeting all of the Act's requirements. In half the files we reviewed, the rationale or analysis was too weak to demonstrate how environmental effects of projects had been considered, their significance assessed, and decisions reached. The assessment of cumulative effects remains a challenge for all types of environmental assessment.
- For projects where there is more than one responsible authority, disputes about project scope may cause serious delays in the environmental assessment process, with related consequences for project implementation. The Canadian Environmental Assessment Agency has worked with parties in trying to resolve such disputes, with limited results. The Agency does not have the authority to impose a resolution.
- The Agency does not know whether responsible authorities are conducting good-quality environmental assessments and whether assessments are contributing to the protection the environment, as intended. It has not fully established and undertaken a quality assurance program as required by amendments to the Act in 2003.
- The Agency has established and maintained the Canadian Environmental Assessment Registry Internet site. Related project files are maintained as required for most environmental assessments.

The Agency has responded. The Agency agrees with all of our recommendations. Its detailed responses follow the recommendations throughout the chapter.

Environmental assessment—A process used to predict the environmental effects of a project before it is carried out.

Responsible authority—A federal entity that has decision-making authority for a project and is required to ensure that an environmental assessment is conducted.

Proponent—A person or organization planning a project.

Law List Regulations—A list of federal statutory and regulatory approvals that trigger the need for an environmental assessment under the Act (for example, authorizations under the *Fisheries Act* or approvals under the *Navigable Waters Protection Act*).

Comprehensive Study List Regulations—A list of projects with the potential to cause significant adverse environmental effects.

Introduction

1.1 The *Canadian Environmental Assessment Act*, which came into effect in 1995, forms the basis of the federal **environmental assessment** process at the project level. The Act requires federal decision makers to consider the environmental effects of proposed projects before taking any actions that would allow a project to be carried out, in whole or in part. Environmental assessments are important to protect environmental quality.

1.2 There are two main conditions for the Act to apply. First, the proposed project has to meet the definition of a project as set out in the Act. This includes the construction, operation, modification, demolition, or abandonment of a physical work, or other physical activities specified by regulation. Second, there must be a federal **responsible authority** that has some decision-making authority for a project. Specifically, the Act is triggered when a federal organization is

- a **proponent**—proposes to carry out a project;
- a source of funding—grants financial assistance to the proponent to enable a project to be carried out;
- a land administrator—sells, leases, or otherwise disposes of land to enable a project to be carried out; or
- a regulator—issues a permit, licence, or any other approval, as prescribed in the **Law List Regulations**, to enable a project to be carried out.

Types of environmental assessment

1.3 Under the Act, there are effectively three types of environmental assessment—screenings, comprehensive studies, and panel reviews. A fourth type of environmental assessment that exists under the Act—mediation—has never been used. The Canadian Environmental Assessment Agency reports that close to 80,000 environmental assessments have been initiated since 1995.

1.4 Screenings. Screenings account for approximately 99 percent of all environmental assessments. If the proposed project is not part of the **Comprehensive Study List Regulations**, it will be subject to a screening by default. Screenings can therefore be used to assess a wide range of projects, from small-scale projects such as a grazing permit, to large-scale projects such as the development of a mine. Typically, screenings are conducted for projects that are less likely to cause significant adverse environmental effects. Between October 2003 and June 2009,

over 32,000 screenings were initiated by the responsible authorities for a project, acting as its proponent (19 percent), a source of funding (35 percent), its land administrator (15 percent), or as a regulator (31 percent). Since 1995, approximately 6,000 screenings are initiated each year.

1.5 Class screenings may be used to streamline the assessment of routine projects presenting common environmental effects, with known measures to reduce or eliminate the likely adverse effects. As of June 2009, there were 27 class screenings that were applied multiple times. Almost half of those have been developed by Parks Canada for routine projects in national parks, for example, the construction or repair of trails and day-use areas. Agriculture and Agri-Food Canada has used class screenings to complete close to 60 percent of all its environmental assessments. These are undertaken for small-scale farm infrastructure projects, such as the construction of a holding system for agricultural waste water.

1.6 Comprehensive studies. Comprehensive studies are typically used for large-scale or complex projects likely to have significant adverse environmental effects. The *Comprehensive Study List Regulations* identify the types of projects that must be assessed through a comprehensive study. Examples include large-scale oil and natural gas developments, nuclear power developments, electrical-generation projects, industrial plants, and certain projects in national parks. For example, the construction and operation of a metal mine with a production capacity of over 3,000 tonnes per day would need to be assessed as a comprehensive study. Similar mining projects beneath this threshold would be assessed using a screening. On average, approximately 8 comprehensive studies are initiated each year. Since 1995, responsible authorities have initiated 105 comprehensive studies. Early on in the comprehensive study, the Minister of the Environment has to decide whether the project should continue to be assessed as a comprehensive study, or whether it should be referred to a mediator or review panel. If the Minister decides the project should continue as a comprehensive study, the project can no longer be referred to a mediator or review panel.

1.7 Panel reviews. A review panel consisting of independent experts may be appointed by the Minister of the Environment where

- it is uncertain that a project may cause significant adverse environmental effects,

- a project may cause significant adverse environmental effects and it is uncertain if these effects are justified in the circumstances, or
- there is public concern.

For example, the proposed Sydney Tar Ponds and Coke Ovens Remediation Project raised significant public concern and was referred to a review panel in 2005. The review panel is advisory; it submits recommendations to the Minister and to the responsible authority. On the completion of the assessment, the government prepares a response to the review panel's recommendations, and upon Governor in Council approval, the responsible authority then makes a decision about whether or not to take action that enables the project to proceed, in whole or in part. On average, fewer than five panel reviews are initiated each year. Since 1995, 44 panel reviews have been initiated.

1.8 The Act specifies the factors that must be considered when conducting an assessment. Except for public participation and follow-up, the requirements are very similar, whether conducting a screening (small or large project), a comprehensive study, or a panel review (Exhibit 1.1).

1.9 Environmental assessment decisions. The outcome of an environmental assessment is a decision on whether a project is likely to cause significant adverse environmental effects. Before determining if it will take an action that would allow the project to proceed, a responsible authority must first ensure that an environmental assessment is conducted. According to the Agency, the significance of the environmental effects should be determined through a combination of scientific data, regulated thresholds, standards, social values, and professional judgment. Exhibit 1.2 outlines a responsible authority's potential environmental assessment conclusions and the decisions that it may make. It should be noted that Governor in Council approval is needed for any decision following an assessment by a review panel, and for any decision to provide federal support following a comprehensive study if the Minister of the Environment determines that significant adverse effects are likely.

Federal organizations involved in the application of the Act

1.10 More than 100 federal organizations are required to apply the Act. The responsible authority's role is to ensure that an environmental assessment is conducted, before making any decision regarding a proposed project.

Exhibit 1.1 The Act has similar requirements for the three types of environmental assessment

Feature	Environmental Assessment Type		
	Screening	Comprehensive Study	Panel Review
Determination of environmental assessment type	Default	<i>Comprehensive Study List Regulations</i>	Referred to panel review by Minister of the Environment (usually following request by responsible authority)
Scope	Determined and issued by responsible authority	Determined and issued by responsible authority	Issued by the Minister of the Environment
Responsibility for environmental assessment analysis	Self-directed assessment by responsible authority	Self-directed assessment by responsible authority	Independent review panel
Factors to consider in the environmental assessment, as required by section 16 of the Act	<ul style="list-style-type: none"> • Environmental effects of the project, including cumulative effects and effects of accidents and malfunctions • Significance of the environmental effects • Comments from the public • Mitigation measures • Any other matter relevant to the screening 	<ul style="list-style-type: none"> • Environmental effects of the project, including cumulative effects and effects of accidents and malfunctions • Significance of the environmental effects • Comments from the public • Mitigation measures • Purpose of the project • Alternative means of carrying out the project • Need for and requirements of any follow-up program in respect of the project • Capacity of renewable resources likely to be affected by the project • Any other matter relevant to the comprehensive study or panel review 	
Public participation	Discretionary	Mandatory	Mandatory
Follow-up program	Discretionary	Mandatory	Mandatory
Responsibility for environmental assessment decision	Responsible authority	Responsible authority	Responsible authority

Exhibit 1.2 A responsible authority could make a number of potential conclusions and decisions

Responsible Authority Environmental Assessment Conclusion	Responsible Authority Environmental Assessment Decision
<ul style="list-style-type: none"> Significant adverse environmental effects are <i>not</i> likely. 	<ul style="list-style-type: none"> May provide federal support.
<ul style="list-style-type: none"> Significant adverse environmental effects are likely and cannot be justified in the circumstances. 	<ul style="list-style-type: none"> May not provide federal support.
<ul style="list-style-type: none"> Significant adverse environmental effects are likely and may be justified in the circumstances. 	<ul style="list-style-type: none"> With approval of the Governor in Council, may provide federal support.

Source: Adapted from the Canadian Environmental Assessment Agency

1.11 Self-assessment is considered a cornerstone principle of the federal process. The Act places the responsibility and the accountability for integrating the results of the environmental assessment into federal decisions on responsible authorities. As such, responsible authorities make numerous decisions that determine how an environmental assessment will be conducted. For example, they identify the scope of a project and the factors that must be considered in the environmental assessment. In addition, they are responsible for ensuring the quality of the environmental assessment, for determining the significance of the environmental effects, and for ensuring mitigation. Given the number of departments and agencies applying the Act, there is a wide range of approaches in conducting assessments.

1.12 The Canadian Environmental Assessment Agency reports to the Minister of the Environment and is mandated with the overall administration of the Act. It provides leadership and serves as a centre of expertise. Under the Act, the Agency has duties and powers, including to

- administer and promote the environmental assessment process,
- promote uniformity and harmonization,
- ensure opportunity for timely public participation, and
- assist parties in building consensus and resolving disputes.

Canadian Environmental Assessment Registry—A government-wide mechanism that facilitates public access to records relating to environmental assessments conducted under the *Canadian Environmental Assessment Act*.

Federal Environmental Assessment Coordinator—For each screening or comprehensive study, the Coordinator acts as the principal point of contact for federal authorities during the assessment process. The Coordinator's main function is to coordinate federal authorities that might be involved and to consolidate the required information for the assessment.

Changes to the Act

1.13 In 2003, a series of amendments to the *Canadian Environmental Assessment Act* came into force, which included the following:

- to improve coordination among federal participants and public participation,
- to establish the **Canadian Environmental Assessment Registry** Internet site,
- to create a requirement for the Agency to establish and lead a quality assurance program for assessments conducted under the Act, and
- to create the role of the **Federal Environmental Assessment Coordinator**.

Another legislative review of the Act is scheduled to be undertaken in 2010.

Focus of the audit

1.14 This audit examined whether federal entities are applying key provisions of the *Canadian Environmental Assessment Act* and regulations under the Act. We examined whether

- the Canadian Environmental Assessment Agency is assisting in resolving disputes and providing coordination to support the timely and predictable preparation of high-quality environmental assessments,
- environmental assessments are being conducted and reports prepared as required under the Act,
- mitigation and follow-up programs are being implemented where required,
- requirements for the Canadian Environmental Assessment Registry are being met, and
- the Agency has established a quality assurance program.

1.15 We reviewed a sample of screenings that were undertaken between 2003 and 2008 and comprehensive studies and panel reviews conducted between 1995 and 2008. More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

Observations and Recommendations

Long-standing issues in federal coordination

1.16 One of the first steps of the environmental assessment process is for federal authorities to determine the scope of a project. The scope of a project defines the parts of the project that are to be included or excluded from the environmental assessment analysis. Responsible authorities have the discretion to establish a project's scope according to their mandate or responsibilities. Their decision regarding the scope of a project determines whether the environmental assessment will be a screening or a comprehensive study. This discretion has been periodically challenged and appealed in court. A related appeal is to be heard by the Supreme Court of Canada (Exhibit 1.3).

Exhibit 1.3 Decisions by responsible authorities have been challenged in court

1. In 2000, a mine known as the Fort Hills Oil Sands Project (True North) was proposed near Fort McMurray, Alberta. Fisheries and Oceans Canada defined the scope of the project as the destruction of a fish-bearing stream and undertaking associated works, therefore requiring a screening. Environmental groups believed that a comprehensive study should have been undertaken because the entire project as proposed by the proponent met the criteria under the *Comprehensive Study List Regulations*. The groups challenged the scoping decision. Both the Federal Court in September 2004 and Federal Court of Appeal in January 2006 held that the scoping by the responsible authority was reasonable in the circumstances.

2. In a separate case, following the 2003 amendments to the *Canadian Environmental Assessment Act*, the Red Chris Copper–Gold Mine in British Columbia was proposed. Fisheries and Oceans Canada's decision to consider the project as one that required a screening was challenged in the Federal Court. In September 2007, the court agreed with the applicant that the responsible authority in its determination of environmental assessment type should have considered the project in its entirety, based on the project description. This would have required a comprehensive study to be undertaken and therefore public consultation at an early stage in the environmental assessment process. This decision was appealed and was overturned in June 2008 by the Federal Court of Appeal. On 18 December 2008, the Supreme Court of Canada allowed the applicant to appeal this decision. The appeal had not yet been heard at the time of our audit.

1.17 In cases where multiple responsible authorities are involved in the environmental assessment of a project, each retains discretion to determine its scope of a project and its environmental assessment. In such instances, proper federal coordination is important to achieving the goal of a predictable, timely, and efficient environmental assessment process. We examined whether the Canadian Environmental Assessment Agency is fulfilling its role of providing overall federal coordination, particularly with regard to assisting parties in resolving disputes when required.

Disagreement relating to scoping causes delays and can result in multiple assessments

1.18 According to responsible authorities and the Agency, reaching consensus and establishing the scope of a project when there is more than one responsible authority is a long-standing issue. It is a point of contention between responsible authorities and an ongoing problem for achieving timely federal coordination. This is particularly the case when the *Canadian Environmental Assessment Act* is triggered by a regulatory function, such as the issuing of a permit, licence, or any other approval as prescribed in the *Law List Regulations* of the Act. In these cases, responsible authorities have the discretion to include in the project's scope only those components of the proponent's work that may have an impact on aspects of the environment that fall within their specific departmental mandate and therefore over which they have authority.

1.19 Resolving disagreements among responsible authorities and achieving scoping decisions often takes several months to coordinate and can lead to serious delays in the process. For example, it took responsible authorities 11 months to reach agreement on the scope for the Galore Creek Copper–Gold–Silver Mine Project in British Columbia. Over this period, Transport Canada and Natural Resources Canada determined that the project triggered a comprehensive study, whereas Fisheries and Oceans Canada was still obtaining information to determine the extent of its scope. The scope of the project was ultimately decided as a comprehensive study.

1.20 The Agency and key departments have also recognized that such situations have led to inconsistency in applying the Act and have sometimes significantly delayed initiation of substantive work on assessments. This has not only affected the duration of the federal environmental assessment process, but also created an impediment to the coordination of federal and provincial processes. Delays in the environmental assessment process can translate into delays in the implementation of projects, which have potential related economic costs.

1.21 In addition to delays, differences in scoping can cause one project to undergo various types of assessment and result in more than one report. For example, while the Keltic Petrochemical and Liquefied Natural Gas Facilities project in Nova Scotia was subject to a comprehensive study that was initiated in 2005, Fisheries and Oceans Canada and Transport Canada defined different project scopes based on their areas of responsibility. Responsible authorities told us they

were made aware a few months after the comprehensive study was initiated that the project would also include the construction of a dam. Transport Canada and Fisheries and Oceans Canada then began conducting a screening for the dam. Both assessments for this project are listed on the Internet site of the Canadian Environmental Assessment Registry under different titles as well as under different types of environmental assessment. In a separate example, in 2007, a comprehensive study for the Liquefied Natural Gas Transshipment and Storage Terminal project in Newfoundland was initiated by the responsible authorities Transport Canada and Fisheries and Oceans Canada, who again defined different project scopes. In such situations, it is difficult for the public to easily understand or find all the relevant information relating to one entire project and therefore to be in a position to provide informed comments.

Efforts at improving coordination and scoping of projects have been numerous

1.22 There have been numerous attempts to resolve the scoping issue. In his 2001 report to Parliament following a five-year review of the implementation of the Act, the Minister of the Environment proposed to bring greater certainty, predictability, and timeliness in the environmental assessment process. In 2003, the creation of the Federal Environmental Assessment Coordinator role was aimed at improving coordination among responsible authorities in order to reduce delays and improve consistency.

1.23 In 2005, the Government of Canada issued the Cabinet Directive on Implementing the *Canadian Environmental Assessment Act*. The Directive aims to make the environmental assessment process more predictable, certain, and timely. It includes a policy for determining an appropriate project scope that would result in a single federal environmental assessment for one proposed project. A memorandum of understanding to implement this policy was signed by the Agency and key federal departments. An Interim Approach for Determining Scope of Project for Major Development Proposals with Specific Regulatory Triggers under the *Canadian Environmental Assessment Act* was then agreed to by the **Environmental Assessment Programs Committee** to help departments determine a scope that would form the basis for a single environmental assessment of a project.

Environmental Assessment Programs Committee—A committee consisting of the Canadian Environmental Assessment Agency, Fisheries and Oceans Canada, Transport Canada, Health Canada, Environment Canada, and Natural Resources Canada.

1.24 Following this, in 2007, the Government of Canada issued the Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects. One of its key objectives is to cut the average regulatory review period from four years to about two,

without compromising regulatory standards. The Major Projects Management Office was established in February 2008 under Natural Resources Canada, to provide overarching management of the federal regulatory process for major natural resource projects. The Office also works in collaboration with federal regulatory departments and agencies to develop and implement new approaches to improve the accountability, predictability, transparency, and timeliness of the federal regulatory process.

1.25 As part of its leadership role, under the Act and the 2005 Cabinet Directive, the Canadian Environmental Assessment Agency is pivotal in coordinating and facilitating timely and predictable environmental assessments. The Directive states the following:

The Agency will assist parties in building consensus and resolving disputes in a manner that supports the predictable, timely and efficient administration of the federal environmental assessment process, especially where there are disputes between federal authorities on determining an appropriate scope of a project or scope of the factors to be considered in an assessment.

However, the Agency does not have the authority to impose a decision when responsible authorities cannot reach an agreement.

Reaching consensus and resolving disputes on scoping remain a challenge

1.26 In 2009, the Environmental Assessment Programs Committee assessed the interim approach's first year of implementation (2007). The Committee found that responsible authorities had an inconsistent interpretation and different understanding of the interim approach. The Committee also found that the interim approach is not advancing the achievement of timely decisions on scope, which reiterates the challenges that key departments and the Agency have identified.

1.27 The previous efforts at trying to resolve the long-standing issue of scoping have mainly added more process. The Canadian Environmental Assessment Agency has worked with parties in trying to resolve such disputes, with limited results. Despite legislative and non-legislative attempts to improve the predictability, certainty, and timeliness of the environmental assessment process, scoping remains a challenge. In this context, new approaches to resolving this issue could be explored. During the upcoming legislated review of the Act in 2010, there will be opportunities to examine the functioning of the current Act as well as potential solutions to address issues. Given its central position as the administrator of the Act and the overall coordinator of

the process, the Agency is in a unique position to analyze these issues and to propose solutions.

1.28 Recommendation. The Canadian Environmental Assessment Agency should propose to the Minister of the Environment options for resolving serious, long-standing federal coordination issues, including the scoping of projects and other related issues.

The Agency's response. Agreed. The recommendation is consistent with views that have been expressed over the last several years—that there are systemic issues that inhibit the efficient and effective implementation of the *Canadian Environmental Assessment Act*. The upcoming review of the Act will provide the opportunity for a parliamentary committee to examine the provisions and operation of the Act. In support of this review, the Canadian Environmental Assessment Agency will advise the Minister of the Environment on options for resolving issues, including those identified by the Commissioner of the Environment and Sustainable Development in this audit report. The Agency would also subsequently provide advice and recommendations to the Minister on responding to Parliament's recommendations.

The environmental assessment process

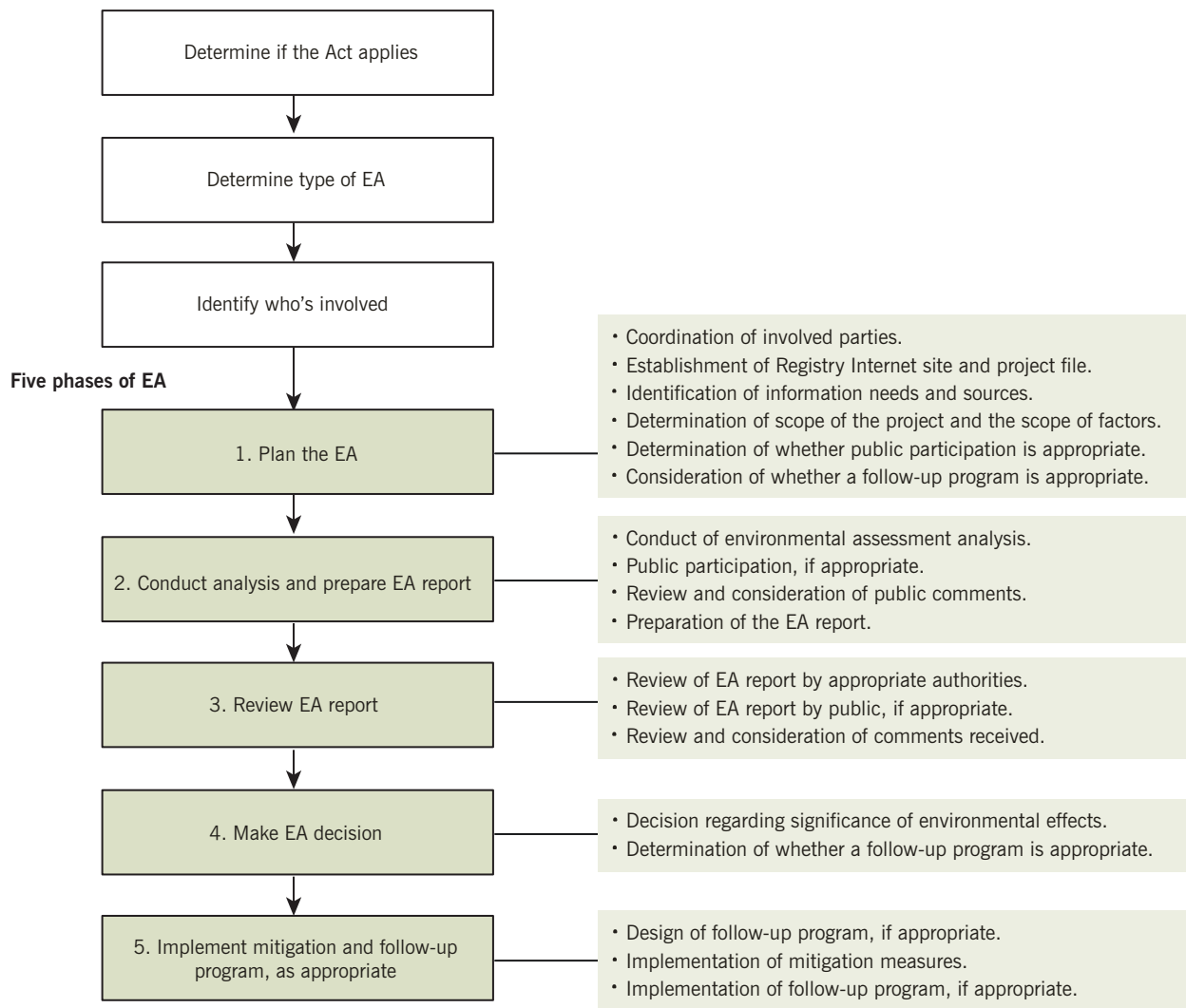
1.29 According to the Canadian Environmental Assessment Agency, environmental effects analysis involves the identification of interactions between a proposed project and the environment, and an analysis of those interactions to predict the potential for significant adverse environmental effects. This is integral to the concept and practice of environmental assessment.

1.30 The environmental assessment process should be applied as early as possible in the planning stages of a project and before irrevocable decisions are made. The *Canadian Environmental Assessment Act* sets out the specific steps to be followed in the federal environmental assessment process. This process has essentially five phases, from planning the environmental assessment to implementing mitigation measures or a follow-up program as a result of environmental assessment decisions (Exhibit 1.4).

1.31 We examined whether responsible authorities are applying the environmental assessment process according to the Act, including the consideration of the factors set out in section 16 of the Act (Exhibit 1.1) in their screenings, comprehensive studies, and panel reviews. We examined a random sample of environmental assessment files to determine how responsible authorities considered environmental effects, as well as opportunities for public participation,

in making their decisions. We examined whether responsible authorities ensure mitigation measures are implemented as required by the Act and whether follow-up programs are being carried out when required. We expected that relevant data, documentation, analyses, rationales, and any explanations would be available in files to support the consideration and mitigation of adverse environmental effects.

Exhibit 1.4 The environmental assessment (EA) process has five phases



Note: In each of the five phases, specific Registry obligations must also be fulfilled.

Source: Adapted from the Canadian Environmental Assessment Agency

Comprehensive studies and panel reviews are meeting requirements

1.32 We found that the comprehensive studies and panel reviews included in our sample routinely considered all the factors set out in section 16 of the Act. They provided extensive analyses of the effects of the project and were well documented, with a description of the components of the undertaking, the components of the environment, and the environmental effects anticipated and their significance. In all cases, the public had been consulted on the environmental assessment and its results. Given this, we found that the rationale for decision making was well developed and documented.

1.33 Assessing cumulative effects remains a challenge. The assessment of cumulative effects allows for the identification of the incremental effects on the environment that may occur as a result of the combined influences of various actions. These incremental effects may be significant even though the effects of each action, when independently assessed, are considered insignificant. For example, although sedimentation as a result of one mining project may not have a significant impact on fish spawning habitat in a stream, there could be a significant impact due to combined sedimentation from the project and regional forestry operations. During an environmental assessment, the Act requires that responsible authorities consider cumulative effects that are likely to result from the project in combination with other projects that have been or will be carried out.

1.34 The comprehensive studies and panel reviews we examined each contained an assessment of cumulative effects. Although the Agency has issued guidance on how to address cumulative effects in environmental assessments, responsible authorities have told us that they still consider cumulative effects assessment to be a challenge. For example, information relating to past or future projects is often incomplete or not available. The Agency's guidance on cumulative effects suggests that, particularly in cases where there are multiple projects in the same geographic area, regional studies can provide the best and most complete assessment of cumulative effects.

1.35 For some large projects that occur in extensively developed areas, responsible authorities have begun to develop or participate in multi-stakeholder partnerships to identify and manage cumulative effects at a regional level. For example, given the scale and pace of development, the cumulative effects of oil sands development on the environment—air emissions, threats to water quantity and water quality, and impacts on ecosystems—are a serious concern. As noted by a review panel, “these key issues must be addressed with urgency if

oil sands development is to continue at the current pace.” In 2000, the Cumulative Environmental Management Association (CEMA) was formed in partnership with industry, non-government organizations, First Nations, and all levels of government. CEMA’s mandate is to develop recommendations on managing the environmental impacts resulting from multiple industrial developments and resource use within the oil sands region of northern Alberta. Oil sands developments are predicted to continue for decades. Committees such as this can contribute to monitoring the evolution of environmental effects at the regional level.

1.36 Follow-up programs are implemented. Under the Act, the purpose of a follow-up program is to verify the accuracy of the environmental assessment and determine the effectiveness of any mitigation measures. Large projects may take years to construct and put into operation. While their related follow-up programs may take years to be completed, the information gathered can be used to identify unanticipated environmental effects and to correct problems as they arise to ensure that they do not result in environmental degradation. For instance, in the case of hydroelectric projects, numerous environmental components are monitored to verify the accuracy of the assessment and adapt management practices to better protect the environment (Exhibit 1.5).

1.37 We found that follow-up programs are being implemented as required for the comprehensive studies and panel reviews that we examined. These follow-up programs were designed to ensure the implementation of mitigation measures, verify the accuracy of the environmental assessment of a project, and monitor environmental effects in order to determine the effectiveness of the measures taken to mitigate the effects.

It is unclear how screenings are satisfying all the requirements of the Act

1.38 The majority of environmental assessments are conducted for small projects. Screenings comprise 99 percent of all environmental assessments conducted under the Act. Analysis conducted by the Agency found that nearly all screenings dealt with projects predicted to have a low potential to cause adverse environmental affects or to pose significant environmental risks. Our sample of screening files confirms this. Regardless, the Act specifies that all types of environmental assessment (whether screening, comprehensive study, or panel review) shall include a consideration of the significance of the adverse environmental effects of the project.

Exhibit 1.5 Mitigation and follow-up programs allow for adjustments and corrective actions throughout the implementation and operation of a project

Since 1995, several major hydroelectric projects have been assessed as a comprehensive study or panel review under the *Canadian Environmental Assessment Act*. We examined files for four of these in Quebec—Eastmain-1-A and Rupert River Diversion Project; Toulmoustouc Hydroelectric Facility; Péribonka Hydroelectric Facility; and Partial Diversion of the Portneuf River. For each project, we found that a follow-up program has been developed and is being implemented by the proponent, Hydro-Québec. Requirements for implementing mitigation measures, conducting follow-up activities, and reporting on results and corrective actions were included as conditions in the federal regulatory approvals that were issued following the environmental assessment.

While their follow-up programs are still years from completion, reports on results have already begun to produce information useful for adaptive management. For example, a key environmental concern related to the construction of reservoirs associated with the projects is their impact on mercury levels in fish. As a result of the follow-up programs, additional studies have been conducted to measure actual mercury levels and compare these with predicted effects.

We also observed instances where corrective actions have been taken by the responsible authorities, Fisheries and Oceans Canada (DFO) and Transport Canada. For example, for the Toulmoustouc Hydroelectric Facility, Hydro-Québec must provide an annual report on fish productivity. In 2007, DFO analyzed the report and conducted field visits to verify the accuracy of the information provided. Following this, DFO required the proponent to improve future follow-up activities in relation to fish spawning and to take associated corrective actions.

1.39 We found that for half of the screenings in our sample, the determination of environmental effects was weak, often consisting of checklists or generic statements, and provided limited or no analysis or explanation of how environmental effects were rated. Without a documented rationale to support a determination, it is difficult to understand the predicted environmental effects and their significance. The lack of a documented rationale makes it impossible to ascertain to what extent requirements were considered.

1.40 According to the Act, mitigation is the elimination, reduction, or control of the adverse environmental effects of a project. For example, in order to stabilize disturbed areas and to avoid erosion, mitigation measures such as seeding or sodding may need to be implemented. The Act requires that a responsible authority, once it has decided to provide support for a project, ensure that the mitigation measures identified in the environmental assessment are appropriately implemented.

1.41 Not all screenings will require mitigation. Where a requirement for mitigation is identified, we found that, for 77 percent of screenings, the obligation to implement mitigation measures was integrated into

decision-making documents issued by the responsible authority. These documents included, for example, regulatory authorizations or agreements for funding support. However, many of these documents did not include a requirement to report on the implementation of mitigation measures and most did not include evidence in the file that mitigation measures had actually been put in place. Improvement to a project's design through the implementation of mitigation measures is among the key outcomes of the environmental assessment process. If not carried out appropriately, real protection of the environment may not be achieved.

1.42 While a follow-up program is mandatory only for comprehensive studies and panel reviews, all environmental assessments are required to consider whether a follow-up program is appropriate for the project. Responsible authorities required a follow-up program for less than two percent of screenings. The Agency's Operational Policy Statement for Follow-up Programs under the *Canadian Environmental Assessment Act* specifies that follow-up programs should be considered, for example, in cases where environmental effects were assessed using new or unproven technology, or where cumulative effects are an important component of the assessment. Given this, and the fact that screenings are often conducted for very small projects, it is reasonable to assume that a follow-up program might not be required in many cases. Nevertheless, we expected some rationale or explanation as to how the determination was reached to be included in the screening files. We found that about half the files we examined had little or no evidence to support this consideration of the need for a follow-up.

Quality of screenings is unknown

1.43 As many screenings documented limited or no rationale on file to support the responsible authority's consideration for the requirements of the Act, it is unclear whether all requirements were met. This raises questions about the quality of these environmental assessments and whether the environment is protected as intended. If potential environmental effects are not properly understood, there is a risk that a project could result in adverse environmental effects that were not anticipated. Conversely, overestimating the magnitude of adverse environmental effects could result in mitigation measures that are unnecessary and expensive.

1.44 The quality of environmental assessments has never been evaluated for the federal government as a whole. Screenings are the most frequent type of environmental assessment that the federal responsible authorities conduct. Given our findings and the large

volume of screenings initiated each year, such an evaluation by the Agency could identify strengths and weaknesses in the current practice. Corrective actions could then be identified where required.

1.45 Recommendation. The Canadian Environmental Assessment Agency should conduct an evaluation of the quality of environmental assessments, in particular for screenings conducted under the *Canadian Environmental Assessment Act*, including assessing their effectiveness in protecting the environment.

The Agency's response. Agreed. The Agency will develop a framework for analysis of the quality of screening reports. The framework will encompass indicators of key aspects of the environmental assessment, including the proposed mitigation measures. A sample of screening reports will be analyzed against the framework on an ongoing basis, and the analysis will be provided to responsible authorities to enable continuous improvement. The sample for analysis will be selective in recognition of the large percentage of screenings that relate to small-scale projects that likely have low potential for significant adverse environmental effects. The results of the analysis will be publicly reported on an annual basis.

Public participation—An active approach to seeking information and feedback from the public. Techniques for public participation can include open houses, public meetings, radio or public notices, and newspaper advertisements.

Public comments—All input received from the public regardless of the approach used to obtain it. For example, this could include comments received from the public on the scope of the project as posted on the Registry's Internet site.

Responsible authorities conduct little public participation in screenings

1.46 Ensuring that there are opportunities for timely and meaningful **public participation** is a stated purpose of the *Canadian Environmental Assessment Act*. Under section 16 of the Act, every screening, comprehensive study, or panel review must consider **public comments**. For every assessment, there is an opportunity for the public to provide comments on the Canadian Environmental Assessment Registry Internet site.

1.47 In addition to public comments, responsible authorities need to determine whether public participation, as set out in subsection 18(3) of the Act, is appropriate. Consulting the public as part of the assessment is discretionary for screenings. Where public participation is considered appropriate, notice must be given on the Canadian Environmental Assessment Registry Internet site.

1.48 In 2006, the Ministerial Guideline on Assessing the Need for and Level of Public Participation in Screenings under the *Canadian Environmental Assessment Act* was issued. In its 2007 report, *Federal Screenings: An Analysis based on Information from the Canadian Environmental Assessment Registry Internet Site*, the Agency reported that public participation notices were posted on the Registry

Internet site for less than one percent of screenings. Responsible authorities and the Agency agreed to cooperate on further work to enhance their understanding of the use of public participation in screenings. This work resulted in a draft report that stated that there appeared to be a considerable lack of clarity and a wide divergence of opinion on the circumstances that warranted public participation and that further actions were needed to achieve a consistent interpretation. As of April 2009, this collaborative work was still not finalized.

1.49 Although none of the screenings in our sample included public participation as set out in section 18(3) of the Act, 19 percent did consider the results of other public consultation processes such as those conducted by the project’s proponent or the province. Given that screenings are often conducted for very small projects, it is reasonable to assume that public participation might not be required in many cases. We expected some rationale or explanation to be included in the files as to how this determination was reached. However, 65 percent of screenings in our sample did not include in the files a rationale or explanation for this consideration.

1.50 Recommendation. The Canadian Environmental Assessment Agency should complete its collaborative work with responsible authorities on public participation in screenings and provide recommendations for improvement.

The Agency’s response. Agreed. The Agency will finalize the report on public participation in screenings by the end of 2009.

Canadian Environmental Assessment Registry

1.51 The Canadian Environmental Assessment Registry consists of two complementary components: an Internet site and project files. The Internet site is an electronic registry administered by the Canadian Environmental Assessment Agency that contains key records relating to an environmental assessment that are contributed by a responsible authority or the Agency—for example, notice of the start of an assessment, opportunities for public participation, information on follow-up programs, and decisions. The project file is maintained by the responsible authority or the Agency and includes all records produced, collected, or submitted from the beginning of the environmental assessment until the responsible authority makes its environmental assessment decision or, for those projects that require one, the end of any follow-up program. Both the Internet site and the project file must be maintained in a manner that ensures convenient public access.

1.52 We examined whether the Agency has established and maintained the Registry's Internet site as per the requirements of the *Canadian Environmental Assessment Act*. We also examined whether the responsible authorities are including the required documentation in the Registry and establishing project files. We examined whether the Agency and responsible authorities are undertaking these activities in a manner that facilitates timely and convenient public access.

The Agency has established quality controls for the Registry Internet site

1.53 We found that the Agency has established and maintained the Registry's Internet site. Public access to the site is available through the Agency's website. Search tools are available to help the public find information on all comprehensive studies and panel reviews, as well as all screenings initiated in or after October 2003. Since 2008, the Agency has also maintained a site for archived environmental assessments to make it clearer to the public when an environmental assessment is completed and thus no longer open for public comment.

1.54 Responsible authorities input information to the Internet site of the Registry. It is the responsible authorities' role to ensure that the information related to environmental assessments they post on the site is both accurate and appropriate. The reliability of the data on the Internet site depends on the quality control procedures for the Registry. We found that the Agency ensures that the Internet site functions well at a technical level, and has established and continues to improve on quality controls to ensure the consistency of the information entered into the database. For example, in 2007, a study conducted by the Agency found weaknesses relating to the timeliness, accessibility, and accuracy of screening documents posted on the Registry Internet site. The Agency has since implemented some corrective actions to address those issues but it has not yet assessed their overall effectiveness.

Project files are created as required for most environmental assessments

1.55 We found that project files were complete for all comprehensive studies and panel reviews included in our sample. Although responsible authorities created a project file for all screening files we examined, we found that 20 percent of these files showed gaps in timely posting of the information on the Registry Internet site.

1.56 Our examination also found differences in the tracking and accountability systems of the entities responsible for these files. Some entities are now using or developing a system where information

entered into a departmental tracking system communicates directly with the Registry database. Where adopted as a best practice, not only could this reduce gaps in data entry, but also reduce duplication of information and lessen the workload for responsible authorities.

Quality assurance

1.57 One of the roles of the Canadian Environmental Assessment Agency is to promote and monitor the quality of assessments conducted under the *Canadian Environmental Assessment Act*. Since 2003, the Act requires the Agency to establish and lead a quality assurance program for all environmental assessments conducted under the Act.

1.58 In order to undertake this critical function, the Agency has the power to request that responsible authorities provide information on the environmental assessments they conduct, to examine this information, and to report to the Minister of the Environment on the quality of the environmental assessments and implementation of the process by responsible authorities. Given the requirement of the Act and the time that has elapsed since the requirement was put in place, we expected the Agency to have established a quality assurance program.

The Agency has not fully established a quality assurance program

1.59 We found that the Agency has not yet fully established a quality assurance program. There is no clear framework, strategic direction, targets, or performance measures.

1.60 The Agency has initiated some quality assurance activities, but these are piecemeal and only partially cover the existing environmental assessment practice. For example, the Agency produced one public quality assurance report in December 2007. This report used information publicly available on the Registry Internet site to look at three aspects of screenings:

- the nature of screenings and their potential for adverse environmental effects;
- the screening process, including issues such as frequency and timeliness of notices of public participation and follow-up programs; and
- the quality of services provided by the Registry Internet site, including the frequency of screening reports made available online.

A similar study was completed to address comprehensive studies but this has not been finalized or made public.

1.61 The Agency has not formally outlined what the most important issues are and their effect on the quality of environmental assessments or made recommendations for improvements. A quality assurance program could provide critical analyses of issues such as those raised in this chapter, including the scoping of a project, the quality of environmental assessment reports, and the implementation of mitigation measures. This could build the groundwork for corrective actions to be identified and implemented. This analysis could also provide valuable information for consideration in the upcoming legislative review of the Act.

1.62 Recommendation. The Canadian Environment Assessment Agency should complete the development of the quality assurance program and implement it.

The Agency's response. Agreed. To date, the work of the Agency's quality assurance program has largely been descriptive and has included issues of quality, compliance, and provision of information to support improvements. As the program progresses, the Agency will implement a more systematic approach by setting out the specific issues to be examined, the methods for examining those issues, and time frames for completion. The program will focus on key practices and implementation issues that will inform the 2010 parliamentary review. The results of the analysis will be provided to federal authorities with recommendations to guide continuous improvement and will be reported on publicly.

Conclusion

1.63 For the comprehensive studies and panel reviews that we have examined, the federal government is complying with the environmental assessment process established by the *Canadian Environmental Assessment Act* and is meeting its key provisions, including those related to implementation of mitigation measures. The situation is not as clear for screenings. It is not possible for us to conclude whether they comply with requirements. The assessment of cumulative effects remains a challenge for all types of environmental assessment.

1.64 For screenings, we found that files documented limited or no analysis or rationales for key decisions and, therefore, it is not clear how environmental effects have been considered or their significance assessed. Although mitigation measures were often identified to reduce the anticipated environmental effects and included in the responsible

authority's decision-making documents, there was little evidence provided on file to indicate that they had been implemented.

1.65 The Canadian Environmental Assessment Agency has a coordination and leadership role in the application of the Act. Responsible authorities often disagree on key issues such as how a project scope should be defined. These situations have resulted in serious delays in the conduct of environmental assessments. We found that the Agency has assisted parties in trying to resolve such disputes, with limited results. The Agency does not have the authority to impose a resolution on responsible authorities.

1.66 The Agency has not fully established and undertaken a quality assurance program as required by the 2003 amendments to the Act and therefore cannot provide assurance that responsible authorities are conducting quality environmental assessments. Further, the Agency does not know to what extent environmental assessments are contributing to the protection of the environment as intended.

1.67 The Agency has established and maintained the Canadian Environmental Assessment Registry Internet site. Departments and agencies are responsible for ensuring that the information they post on the site is accurate, appropriate, and timely. We found that most related project files are maintained as required.

About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objectives

The overall audit objective was to determine the extent to which federal entities comply with key provisions of the *Canadian Environmental Assessment Act*. Our audit work included five sub-objectives:

- to determine whether the Canadian Environmental Assessment Agency is assisting in resolving disputes and providing coordination to support the timely and predictable preparation of high-quality environmental assessments,
- to determine whether federal entities are complying with the environmental assessment process established by the Act,
- to determine whether federal entities are ensuring implementation of mitigation measures and follow-up programs,
- to determine whether the Canadian Environmental Assessment Agency and federal entities are meeting the requirements for the Canadian Environmental Assessment Registry, and
- to determine whether the Canadian Environmental Assessment Agency has established a quality assurance program.

Scope and approach

The *Canadian Environmental Assessment Act* is applied across the federal government by federal departments and agencies that are responsible either for the administration of the Act or for its implementation. For each of the audit sub-objectives, we interviewed key department officials in Ottawa and in regions across the country.

We undertook extensive reviews of documentation that we requested or that was supplied to us by the Canadian Environmental Assessment Agency and the departments and agencies conducting the assessments included in our examination. We gathered information from a questionnaire, interviews, and file reviews and examined the systems and practices that are used to conduct environmental assessments. To examine the files included in our sample, we used a standard template that included key indicators for compliance based on requirements of the Act.

Screenings (including class screenings) account for approximately 99 percent of all federal environmental assessments; the remaining 1 percent comprises comprehensive studies and panel reviews. In 2003, amendments to the Act modified the requirements for environmental assessment. We selected for review environmental assessment files from the assessments that were initiated between 2003 and 2008. The only files we reviewed from outside this period were some comprehensive studies and some panel reviews; this was to account for the lag time between project approvals and when follow-up programs are implemented and conducted.

The following describes the detailed sampling approach applied at each level of environmental assessment.

Screenings. From a population of 31,924 screening files (2003 to 2008), a representative sample of 54 files (including 9 class screenings) was randomly selected for further analysis. This sample provided a confidence interval of plus 10 percent when generalized to the entire population of 31,924 at a 90 percent level of confidence (sampling parameters were computed using IDEA Data Analysis Software from CaseWare Inc.). The results of the audit work on this sample allowed us to conclude on the application of this type of environmental assessment by the federal government as a whole. It is important to note that specific findings cannot be ascribed to individual departments, as the sampling methodology was not designed for that purpose. This audit work does not allow us to conclude on the performance of individual departments.

Comprehensive studies. Given the size and complexity of comprehensive study files, we limited our review to 12 files. We randomly selected 9 files from among those projects that are undertaking, or should have undertaken, a follow-up program according to the Act, and chose an additional 3 files as cases of specific interest to issues addressed in the chapter. We also limited our selection of files to those entities already identified in the screenings sample. This audit work did not allow us to conclude on the application of this type of environmental assessment by the federal government as a whole, but permitted us to make observations related to this type of environmental assessment.

Panel reviews. There are fewer panel reviews compared with the two other types of environmental assessment. We examined five panel review files. This work did not allow us to conclude on the application of this type of environmental assessment by the federal government as a whole, but permitted us to make observations related to this type of environmental assessment.

The audit scope did not include the following:

- environmental assessments that are conducted in Canada's North, as with few exceptions, the Act does not apply north of 60° latitude. Alternative legislation or agreements are in place to govern the application of federal environmental assessments in the Yukon (*Yukon Environmental and Socio-economic Assessment Act*), Nunavut (Nunavut Land Claims Agreement), and most of the Northwest Territories (for example, *Mackenzie Valley Resource Management Act*);
- First Nation consultation arising from the Crown duty to consult and accommodate First Nations with respect to projects that may potentially impact their constitutionally protected rights;
- federal and provincial harmonization to conduct environmental assessment—the 1998 *Canada-wide Accord on Environmental Harmonization* and its *Sub-agreement on Environmental Assessment* provide the foundation for a cooperative approach when both levels of government have environmental assessment responsibilities. To support these commitments, the Agency has negotiated bilateral agreements with several provinces and territories for cooperation on environmental assessments;
- the Major Project Management Office established in 2008; and
- the regulatory package for infrastructure projects under the *Canadian Environmental Assessment Act* announced in March 2009.

Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
Federal Coordination and Dispute Resolution	
We expected that the Canadian Environmental Assessment Agency would have established standards for dispute resolution for the preparation of environmental assessments that include timeliness, predictability, and efficiency.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, section 63 • Cabinet Directive on the Implementation of the <i>Canadian Environmental Assessment Act</i> (2005), section 9
We expected that the Agency would have implemented its standards for dispute resolution.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, section 63 • Cabinet Directive on the Implementation of the <i>Canadian Environmental Assessment Act</i> (2005), section 9
Environmental Assessment Process	
We expected that federal entities would have ensured due consideration of section 16 factors in their screenings, comprehensive studies, and panel reviews.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 16 and 16.1
We expected that federal entities would have a process for undertaking screenings and class screenings to meet the requirements set out in the <i>Canadian Environmental Assessment Act</i> .	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 5, 11, 12, 15, 17 to 20, and 38 • <i>Exclusion List Regulations</i> • <i>Federal Authorities Regulations</i> • <i>Inclusion List Regulations</i> • <i>Law List Regulations</i> • <i>Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements</i> • Treasury Board of Canada Secretariat Management Accountability Framework
We expected that federal entities would have a process for undertaking comprehensive studies to meet the requirements set out in the <i>Canadian Environmental Assessment Act</i> .	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 5, 11, 15, 17, 21 to 28, 37, and 38 • <i>Exclusion List Regulations</i> • <i>Federal Authorities Regulations</i> • <i>Inclusion List Regulations</i> • <i>Law List Regulations</i> • <i>Comprehensive Study List Regulations</i> • <i>Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements</i> • Treasury Board of Canada Secretariat Management Accountability Framework

Criteria	Sources
We expected that federal entities would be involved in the process for undertaking panel reviews to meet the requirements set out in the <i>Canadian Environmental Assessment Act</i> .	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 5, 11, 15, 17, 28, 29 to 37, 38, 40, and 41 • <i>Exclusion List Regulations</i> • <i>Federal Authorities Regulations</i> • <i>Inclusion List Regulations</i> • <i>Law List Regulations</i> • Treasury Board of Canada Secretariat Management Accountability Framework
We expected that federal entities would show that they have ensured implementation of the mitigation measures set out in their environmental assessment reports for screenings, comprehensive studies, and panel reviews.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 20 and 37
We expected that federal entities would show that they have implemented their follow-up programs for projects subject to comprehensive studies, panel reviews, and when deemed appropriate, for projects subject to screenings.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, section 38
Canadian Environmental Assessment Registry	
We expected that the Canadian Environmental Assessment Agency would have established and maintained an Internet site as per the requirements of the Act.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 55, and 55.1
We expected that federal entities would contribute records to the Registry and maintain project files as per the requirements of the Act.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 55, 56, and subsection 71(2)
Quality Assurance Program	
We expected that the Agency would have established and carried out a quality assurance program for assessments conducted under the Act.	<ul style="list-style-type: none"> • <i>Canadian Environmental Assessment Act</i>, sections 56.1 and 63 • Cabinet Directive on the Implementation of the <i>Canadian Environmental Assessment Act</i> (2005), section 11

Management reviewed and accepted the suitability of the criteria used in the audit.

Period covered by the audit

The period audited for this chapter spans the coming into force of the *Canadian Environmental Assessment Act* in January 1995 until June 2009. Review of individual projects was based on a sample of screenings initiated between October 2003 and December 2008, and a sample of comprehensive studies and panel reviews initiated between January 1995 and December 2008.

Audit work for this chapter was substantially completed on 23 June 2009.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 1. The number in front of the recommendation indicates the paragraph number where it appears in the Chapter. The numbers in parentheses indicate the paragraph numbers where the topic is discussed.

Recommendation	Response
Long-standing issues in federal coordination	
<p>1.28 The Canadian Environmental Assessment Agency should propose to the Minister of the Environment options for resolving serious, long-standing federal coordination issues, including the scoping of projects and other related issues. (1.16–1.27)</p>	<p>Agreed. The recommendation is consistent with views that have been expressed over the last several years—that there are systemic issues that inhibit the efficient and effective implementation of the <i>Canadian Environmental Assessment Act</i>. The upcoming review of the Act will provide the opportunity for a parliamentary committee to examine the provisions and operation of the Act. In support of this review, the Canadian Environmental Assessment Agency will advise the Minister of the Environment on options for resolving issues, including those identified by the Commissioner of the Environment and Sustainable Development in this audit report. The Agency would also subsequently provide advice and recommendations to the Minister on responding to Parliament's recommendations.</p>
The environmental assessment process	
<p>1.45 The Canadian Environmental Assessment Agency should conduct an evaluation of the quality of environmental assessments, in particular for screenings conducted under the <i>Canadian Environmental Assessment Act</i>, including assessing their effectiveness in protecting the environment. (1.38–1.44)</p>	<p>Agreed. The Agency will develop a framework for analysis of the quality of screening reports. The framework will encompass indicators of key aspects of the environmental assessment, including the proposed mitigation measures. A sample of screening reports will be analyzed against the framework on an ongoing basis, and the analysis will be provided to responsible authorities to enable continuous improvement. The sample for analysis will be selective in recognition of the large percentage of screenings that relate to small-scale projects that likely have low potential for significant adverse environmental effects. The results of the analysis will be publicly reported on an annual basis.</p>

Recommendation	Response
<p>1.50 The Canadian Environmental Assessment Agency should complete its collaborative work with responsible authorities on public participation in screenings and provide recommendations for improvement. (1.46–1.49)</p>	<p>Agreed. The Agency will finalize the report on public participation in screenings by the end of 2009.</p>
<p>Quality assurance</p>	
<p>1.62 The Canadian Environment Assessment Agency should complete the development of the quality assurance program and implement it. (1.57–1.61)</p>	<p>Agreed. To date, the work of the Agency's quality assurance program has largely been descriptive and has included issues of quality, compliance, and provision of information to support improvements. As the program progresses, the Agency will implement a more systematic approach by setting out the specific issues to be examined, the methods for examining those issues, and time frames for completion. The program will focus on key practices and implementation issues that will inform the 2010 parliamentary review. The results of the analysis will be provided to federal authorities with recommendations to guide continuous improvement and will be reported on publicly.</p>

Report of the Commissioner of the Environment and Sustainable Development—Fall 2009

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