

British Columbia, Canada

Country: [Canada](#) [1]

EIA Law: Environmental Assessment Act

Law Link: [Link](#) [2]

EIA Regulations: Public Consultation Policy Regulation, B.C. Reg. 373/2002; Reviewable Projects Regulation, B.C. Reg. 370/2002

Regulations Link: [Link](#) [3]

EIA Guidelines or Other Guidance: Environmental Assessment Office User Guide (June 2015)

Guidance Link: [Link](#) [4]

Projects Requiring EIA: Government projects

Private Projects

Abridged Assessments: Yes

Assessment Detail: Some agencies have a "referral process" (to other government agencies) at the permit application phase for situations where EIA is not triggered. However, referrals are hit and miss and environment agency officials do not always have the resources to contribute to this exercise.

Best Practices in Lieu of EIA: No

Who Conducts Screening: Government

Who Conducts Screening Detail: Reviewable Projects Regulation, B.C. Reg. 370/2002. Also, the minister may by order designate a project as reviewable if the minister is satisfied that the project may have significant adverse environmental, social, economic, heritage or health effect and the project has not substantially started. EA Act, sec. 6.

Criteria for Screening: List or appendix of project or activity types

Proposed project or activity may cause significant environmental impact

Criteria for Screening Detail: Projects that are subject to environmental assessment are listed in the Reviewable Projects Regulation, B.C. Reg. 370/2002. Also, the minister may by order designate a project as reviewable if the minister is satisfied that the project may have significant adverse environmental, social, economic, heritage or health effect and the project has not substantially started. EA Act, sec. 6. Haddock (2010) notes that there are significant gaps in the Reviewable Projects Regulation that allow major development projects (e.g. exploratory oil drilling, agricultural industry, forest logging) to proceed without adequate consideration of environmental impacts. See Haddock, M. & ELC, "Environmental Assessment in British Columbia" p. 17 (available at http://www.elc.uvic.ca/publications/documents/ELC_EA-IN-BC_Nov2010.pdf)

Who Prepares EIA: Project Proponent (with or without contractor)

Who Prepares EIA Detail: Most project proponents engage a contractor to prepare the environmental assessment.

Who Pays for EIA: Project Proponent

EIA Contractor Qualifications: No

EIA Contractor Qualification Detail: This is an important issue that needs to be addressed. It is not always a problem, but there are instances in which contractor qualifications are questionable.

Conflict of Interest: No

Conflict of Interest Detail: Conflicts of interest are an important issue that are not currently addressed.

Terms of Reference: Yes

Terms of Reference Detail: The executive director of the Environmental Assessment Office or his/her delegate has broad discretion to determine the scope of the assessment, and the procedures and methods for carrying it out on an individual project basis, all of which is formalized in an order. EA Act, sec. 11(1)

Days for Decision Maker Review: 180

Automatic Approval: No

Written Decision: Yes

Written Decision Detail: The EAO must write an assessment report, and its executive director makes recommendations to the political ministers. The minister does not issue any further written decisions, and typically just signs a certificate (provided by the EAO) approving the project.

Authority to Impose Conditions: Yes

Authority to Impose Conditions Details: Ministers must attach any conditions to the environmental assessment certificate that the Ministers consider necessary. EA Act sec. 17(3)(c)

Expiry of Decision: 3-5 years

Expiry of Decision Detail: "An environmental assessment certificate must specify a deadline, at least 3 years and

not more than 5 years after the issue date of the certificate, by which time the holder of the certificate, in the reasonable opinion of the minister, must have substantially started the project." EA Act, sec. 18(1)

Financial Assurances or Bond: No

Interdisciplinary Team: No

Range of Alternatives: No

Range of Alternatives Detail: Neither the Environmental Assessment Act nor its regulations specify mandatory content for environmental assessment reports. The Executive Director of the Environmental Assessment Office (EAO) has discretion to determine the content of the EIA. See EA Act, sec. 11 (EAO has discretion to determine assessment scope, procedures and methods)

No Action Alternative: No

No Action Alternative Detail: Neither the Environmental Assessment Act nor its regulations specify mandatory content for environmental assessment reports. The Executive Director of the Environmental Assessment Office (EAO) has discretion to determine the content of the EIA. See EA Act, sec. 11 (EAO has discretion to determine assessment scope, procedures and methods)

Type(s) of Impact Analysis: Direct environmental impacts

Cumulative environmental impacts

Social impacts

Mitigation: No

Mitigation Detail: Mitigation measures or plans are not required by law or addressed in the Environmental Assessment Act, nor are there formal mitigation policies or rules that guide mitigation plans. Nevertheless, mitigation measures are expected and are commonly included in assessments.

Draft EIA Available Detail: The public sees the "final" EIA that is submitted for approval, but does not see any subsequently edited versions, if any, that may reflect the developer's response to public input.

Draft EIA Locations: Not available

Public Notice of Final EIA: Yes

Public Notice of Final EIA Detail: B.C. Reg. 373/2002 (Public Consultation Policy Regulation), sec. 5

Final EIA Available: Yes

Final EIA Available Detail: The EIA is made available on the website of the Environmental Assessment Office (EAO).

Final EIA Locations: Internet

Agency or ministry office

Fee to View EIA Documents: No

Fee to Obtain EIA Documents: No

Availability of Reference Studies: Yes

Availability of Reference Studies Detail: B.C. Reg. 373/2002 (Public Consultation Policy Regulation), secs. 6(1)(k) & (l)

Public Notice of Final Decision: Yes

Public Notice of Final Decision Detail: B.C. Reg. 373/2002 (Public Consultation Policy Regulation), sec. 6(1)(c)

Public Scoping: Yes

Public Review of TOR: Yes

Public Review of TOR Detail: The Environmental Assessment Office issues a draft "Application Information Requirements" identifying the issues to be addressed in the assessment. The EAO seeks feedback on the AIR from a working group, First Nations, and the public.

Public Participation Opportunities: Scoping

Terms of reference

Public Meetings and/or public hearings

Review of final EIA

Public Meetings: Yes

Public Input at Meeting: Yes

Criteria to Hold Public Meeting: Public meeting and/or hearing is automatically required

Other

Days for Public to Review Final EIA: 30-75

Public Comments on Draft EIA: No

Public Comments on Final EIA: Yes

Public Comments on Final EIA Detail: B.C. Reg. 373/2002 (Public Consultation Policy Regulation), sec. 7(1)

Response to Public Comments: No

Response to Public Comments Detail: EAO officials do not normally respond to public comments. The proponent must prepare a "response table" that indicates their response to public comments received, but the public does not see this until after the project is approved, and does not know how the EAO considers their comments or the

adequacy of the proponent's response to those comments. These matters are addressed in an "assessment report" that is released after politicians have decided whether to approve the project.

Facilitation of Public Participation: Yes

Facilitation of Public Participation Detail: There are provisions to encourage participation from First Nations. This is required by common law, i.e. court decisions imposing on government a duty of consultation due to constitutionally protected rights of indigenous groups (known in Canada as First Nations). The Crown must consult First Nations any time it knows of an asserted aboriginal right (including title) and it is considering an action or decision that could adversely affect that right.

Citizen Administrative Review: No

Citizen Judicial Review: Yes

Citizen Judicial Review Detail: Only if there are legal grounds to support judicial review. The Act is highly discretionary, so there are seldom legal grounds. Judicial review is not available to challenge the adequacy of an EIA -- only illegality.

Project Monitoring: Yes

Project Monitoring Detail: There is broad agreement, even within government, that monitoring provisions are weak. The EAO does not have field staff, so they expect other agencies to be their "eyes and ears." Those agencies often feel it is not their job or mandate.

Enforceability of EIA: No

Enforceability of EIA Detail: It is not required by statute, but would be part of a court's consideration of whether the litigant has standing.

Enforceability of Permit: No

Province: British Columbia

Days for Public to Review Draft EIA: 0

Modified: October 25th, 2019

Source URL: <https://elaw.org/eialaw/british-columbia-canada>

Links

[1] <https://elaw.org/countries-and-regions/canada>

[2] http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_02043_01

[3] http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/12_373_2002

[4] <https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/eao-guidance-eao-user-guide.pdf>