

AME BRIEFING

PROPOSED REVIEWABLE PROJECTS REGULATION – INTENTIONS PAPER

BC ENVIRONMENTAL ASSESSMENT ACT

September 9, 2019

<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/environmental-assessment-revitalization/policy-and-regulation-development/public-engagement-on-revitalization-implementation>

OVERVIEW

The BC Environmental Assessment Office (EAO) has released an intentions paper for a proposed Reviewable Projects Regulation (RPR) that will support the new Environmental Assessment (EA) Act. The Act was passed in November 2018 and is expected to come into force along with the new RPR in late 2019. This is the first substantial revision to the RPR in 15 years.

The proposed RPR continues to focus on design or production thresholds as the primary means of determining whether a project is reviewable under EA. However, there is also the introduction of new *effects* thresholds as well as *notification* thresholds that will apply to all projects including mines. The EAO has also clarified some terminology including the *production capacity* threshold for mines. Production threshold is defined as consisting of ore only and does not include waste rock.

PROJECT DESIGN/PRODUCTION THRESHOLDS

The proposed RPR maintains the same production capacity threshold for *new* mineral and coal projects. The mineral production threshold remains at 75 000 tonnes/year or approximately 200 tonnes/day of ore production. Most new mineral mines will continue to require an EA based on this threshold. It is worth noting that the federal threshold is significantly higher at 5000 tonnes/day of ore production.

Modification thresholds outlined in the table below only apply to existing projects that have never received an environmental assessment certificate. Any significant changes to existing projects will not be required to undergo a second EA. They will be subject to the amendment provisions of the Act where the proposed changes can be thoroughly assessed with decisions on amendments made by the Executive Director of the EAO.

Design/Production Thresholds for Mineral and Coal Mines

Project Category	Current Threshold – new projects	Proposed threshold – new projects	Current threshold - modification	Proposed threshold – modification <i>(only applies to projects that never received in EA certificate)</i>	Federal thresholds
Mineral Mines	Production capacity > 75 000 tonnes/year mineral ore	No changes	Meet threshold for new project AND <ul style="list-style-type: none"> disturb > 750 hectares of land not previously permitted for disturbance OR disturb land not previously permitted for disturbance that is > 50% of area that was previously permitted for disturbance 	Meet threshold for new project AND disturb land not previously permitted for disturbance that is > 50% of area that was previously permitted for disturbance (land disturbance effects threshold would also apply)	Metal (including diamond) other than rare earth element, placer mine or uranium mine New: -≥ 5000 tonnes/day ore production capacity (= 1.825 million tonnes / year, based on 365 days) Modification: ≥ 50% increase in ore production and total ore production to ≥ 5000 tonnes/day or more Rare earth element New: production capacity ≥ 2500 tonnes/day (912,500 tonne /year, based on 365 days) Modification: ≥ 50% increase in area of mine operations and total ore production to ≥ 2500 tonnes / day
Coal Mines	Production capacity > 250,000 tonnes/year clean/raw coal	No changes	Meet threshold for new project AND <ul style="list-style-type: none"> disturb > 750 hectares of land not previously permitted for disturbance OR disturb land not previously permitted for disturbance that is > 50% of area that was previously permitted for disturbance 	Meet threshold for new project and disturb land not previously permitted for disturbance that is > 50% of area that was previously permitted for disturbance (land disturbance effects threshold would also apply)	New: ≥ 5000 tonnes/day coal production capacity (=1.825 million tonnes/ year, based on 365 days) Modification: ≥ 50% increase in area of mine operations and total production of ≥ 5000 tonnes/day or more

Table modified from the Reviewable Projects Regulation Intentions Paper

MODIFICATION TO EXISTING PROJECTS WITHOUT AN EA CERTIFICATE

Existing projects without an EA certificate are those that were in operation before 1995 when the first EA act came into force or that were below threshold when they started. Significant changes or expansions to these projects will require an EA, where the proposal meets one or more of the effects thresholds, and/or the proposal meets the modification thresholds set out for the project's specific category (see table above).

EFFECTS THRESHOLDS

In addition to the production thresholds, the new RPR is proposing that projects will also be reviewed against several effects thresholds to determine if it is reviewable. If the project exceeds any one of the effects thresholds it will be reviewable. Given the low production threshold for mineral projects (75 000 tonnes/year of ore), the majority of these projects will be subject to an EA based on the production threshold alone. As such, the proposed effects thresholds may not impact very many mining projects.

Four categories of effects thresholds are being proposed:

- **Greenhouse gases:** a project is reviewable if it meets or exceeds 1% of the BC legislated 2030 target for greenhouse gases (i.e. $\geq 382,000$ tonnes of greenhouse gases annually). According to analysis by the EAO most mining projects will fall below this threshold. Only the largest coal mines in the Elk Valley would be over this threshold. The EAO is also seeking feedback on whether this target should be for direct emissions of the project or whether other sources of emissions should be considered.
- **Protected areas:** a project will be reviewable if it is within certain types of prescribed protected areas that generally exclude industrial activity (such as a Class A provincial park). See here for the proposed list: https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/environmental-assessment-revitalization/documents/rpr-engagement/appendix_i_prescribed_protected_areas_final.pdf
- **Linear Disturbance:** a project is reviewable if it involves a new linear disturbance of more than 60 km (such as a new transmission line or road).
- **Area of Disturbance:** A project is reviewable if it involves creating new, permanent disturbance of 600ha or more.

NOTIFICATION THRESHOLDS

The new EA Act includes a provision for notification to the EAO for projects that fall under the reviewable thresholds. After notification the EAO may refer the project to the Minister for designation as reviewable.

In addition to the requirements below, the EAO is considering a notification requirement when a modification to an existing project exceeds the threshold for new projects.

The following notification requirements are being considered:

- A Federal EA is required
- A project is within 15% of RPR thresholds
- A project has a direct annual workforce of ≥ 250 (these projects are considered to have potential for increased social impacts)

RPR PROPOSED MODEL

The following flow chart outlines the process that will be used to determine if a project is reviewable. The first step is to determine if the project is in a prescribed category. Mines are one of the prescribed categories, so all mines would proceed to threshold review.

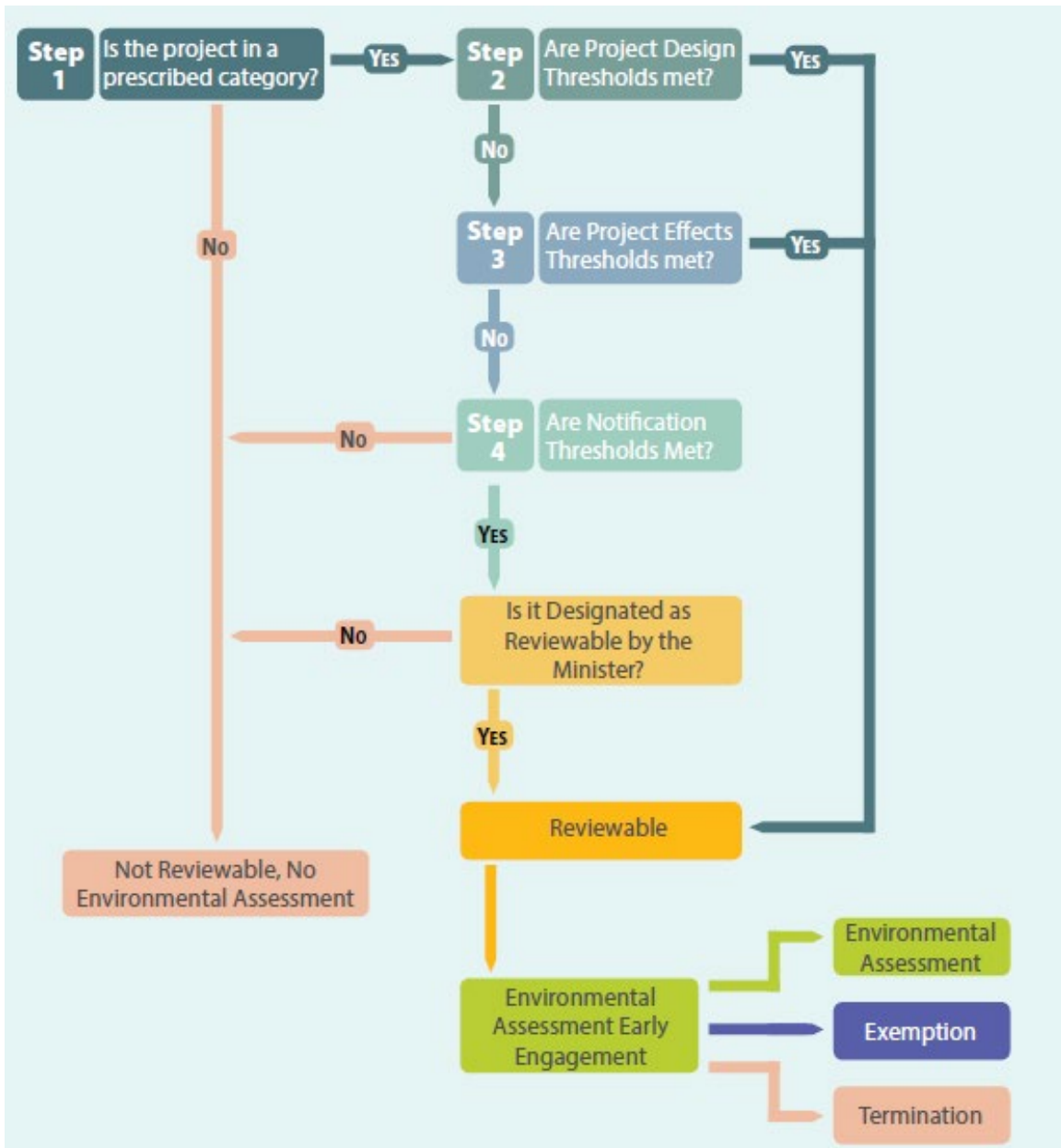


Figure from the Reviewable Projects Regulation Intentions Paper

COMMENT ON THE PROPOSED RPR

The EAO is seeking feedback on the proposed RPR until October 7, 2019. Details on how to comment on the intentions paper can be found here: <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/environmental-assessments/environmental-assessment-revitalization/policy-and-regulation-development/public-engagement-on-revitalization-implementation>

Some of the topics that you may wish to comment on include:

- Production thresholds for mineral projects – is 75 000 tonnes/year of ore appropriate for mineral projects? If not, what would you recommend? Why are the provincial and federal thresholds so different?
- Effects thresholds – are the proposed thresholds for greenhouse gases, protected areas, linear disturbance and area of disturbance appropriate? Should the greenhouse gas threshold be for direct emissions of the project or should it include other sources of emissions? Are the proposed protected areas appropriate?
- Notification thresholds – are the notification thresholds appropriate and/or required? Should the EAO include a notification requirement when a modification to an existing project exceeds the threshold for new projects?

For more information, please contact Rob Stevens, VP of Regulatory and Technical Policy at AME:
rstevens@amebc.ca

RS/September 9, 2019