



Impact Assessment Act

Canadian Nuclear Safety Commission



nuclearsafety.gc.ca



Outline

- Overview of the federal Impact Assessment (IA) legislation
- IA Process for Nuclear Designated Projects
- Federal Lands Review under the *Impact Assessment Act*
- Other CNSC Environmental Reviews



Part 1: Overview of the Federal Impact Assessment Legislation



Background (1/3)

- In June 2016, the federal government launched a review of federal environmental and regulatory processes
 - including a review of processes for federal environmental assessments
 - did not include review of CNSC's regulatory process
 - The objective was to seek Canadians' input on improvements to the current processes
- Guiding principles for federal review of environmental and regulatory processes:
 - transparent environmental assessment and regulatory processes
 - participation of Indigenous peoples in all phases
 - inclusive and meaningful public engagement
 - timely, evidence-based decisions based on reflecting the best available science and Indigenous knowledge
 - one project – one assessment



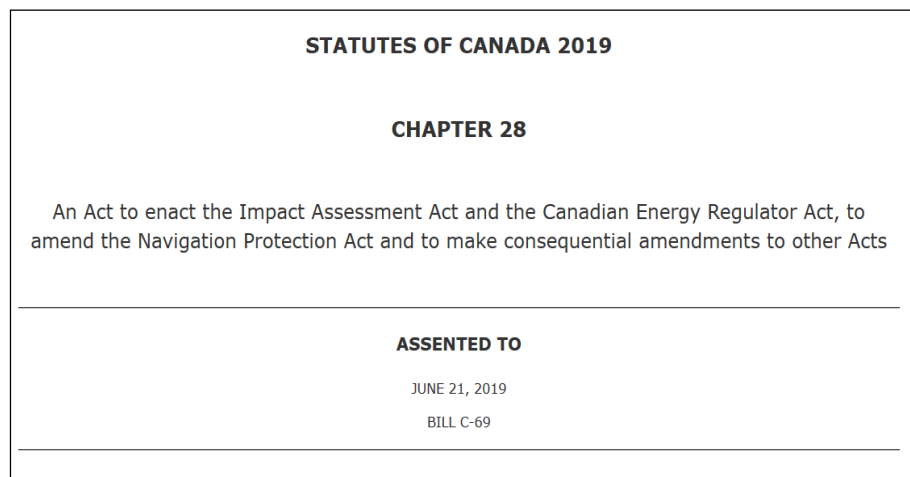
Background (2/3)

- Consultation included
 - an independent Expert Panel Review
 - three related Parliamentary reviews on the National Energy Board, the *Fisheries Act* and the *Navigable Waters Protection Act*
 - a federal “white paper” on the proposed changes
 - significant consultation with National Indigenous Organizations
 - continuous bilateral and multi-stakeholder meetings
- The nuclear industry was consulted throughout these consultation activities



Background (3/3)

- Bill C-69 was tabled on February 8, 2018 to
 - replace the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) with the *Impact Assessment Act*
 - replace the *National Energy Board Act* with the *Canadian Energy Regulator Act*
 - undertake significant changes to the *Navigation Protection Act*
- On June 21, 2019 Bill C-69 received Royal Assent





Legislative Changes

- The *Impact Assessment Act* came into force on August 28, 2019
 - created the new Impact Assessment Agency of Canada and repealed the CEAA 2012
 - includes transitional provisions
 - any designated project started prior to August 28, 2019 remains under CEAA 2012
 - designated projects, projects on federal lands

CANADA

CONSOLIDATION

CODIFICATION

Impact Assessment Act

Loi sur l'évaluation d'impact

S.C. 2019, c. 28, s. 1

L.C. 2019, ch. 28, art. 1

NOTE

[Enacted by section 1 of chapter 28 of the Statutes of Canada, 2019, in force August 28, 2019, see SI/2019-86.]

NOTE

[Édictée par l'article 1 du chapitre 28 des Lois du Canada (2019), en vigueur le 28 août 2019, voir TR/2019-86.]

Current to November 19, 2019

À jour au 19 novembre 2019

Last amended on August 28, 2019

Dernière modification le 28 août 2019

Published by the Minister of Justice at the following address:
<http://laws-lois.justice.gc.ca>

Publié par le ministre de la Justice à l'adresse suivante :
<http://lois-laws.justice.gc.ca>

Difference between IA and EA – process considerations



	From Environmental Assessment under CEAA 2012	To Impact Assessment under the IAA
Governance	CNSC was the sole Responsible Authority to carry out EAs for designated nuclear projects	The Impact Assessment Agency of Canada is solely responsible for the conduct of impact assessments
Early Planning Phase	Not applicable under CEAA 2012	This phase includes public participation and Indigenous engagement activities. CNSC would provide advice and technical expertise to the Agency
Review Process	Designated projects were assessed using the processes established under the CNSC's legislation	All designated nuclear projects will be referred to a Review Panel

Difference between IA and EA – process considerations



	From Environmental Assessment under CEAA 2012	To Impact Assessment under the IAA
Decision making	The Commission makes the EA and licensing decisions for designated nuclear projects	For designated nuclear projects, the Governor-in-Council makes the IA decision. The Commission will then make the licensing decision.
Enforcement	The Commission issues the EA decision statement with enforceable conditions. All conditions are integrated into the CNSC licence.	The Minister of the Environment and Climate Change Canada issues the IA decision statement with enforceable conditions. For designated nuclear projects, the Minister may designate any conditions that are included in the decision statement to be part of the license issued by the CNSC.

Difference between IA and EA – technical considerations



	From Environmental Assessment under CEAA 2012	To Impact Assessment under the IAA
Scope of assessment	Scope focused on environmental factors	<p>The scope broadened to include the following factors:</p> <ul style="list-style-type: none">• environment• economic• social• health• gender• impacts on Indigenous rights• positive and negative <p>Includes the principle of sustainability</p>



IAA Regulations

➤ *Physical Activities Regulations*

- describes designated projects (Project List)
- refer to Annex A for key changes to the Project List

➤ *Information and Management of Time Limits Regulations*

- outlines the information that the proponent must provide to support early planning
- outlines the documents the Agency must provide to guide the IA
- provides the circumstances in which the Agency may suspend the legislated timelines



Designated Projects

- Designated projects are described in the *Physical Activities Regulations* (Project List)
- Project List was developed to capture major projects with the greatest potential for adverse effects on areas of federal jurisdiction
 - including environmental effects arising from federally regulated projects related to **nuclear**, interprovincial pipelines and offshore energy activities
- Minister may designate any project not described in regulations, based on factors set in the legislation



Part 2: IA Process for Nuclear Designated Projects

Impact Assessments of Nuclear Designated Projects



- Impact assessments of all designated projects regulated by the CNSC will be conducted by a Review Panel
- The goal is a single process to discharge the requirements of both the IAA and the *Nuclear Safety and Control Act* (NSCA)

**“One project, one review”
for designated projects regulated by CNSC**



Memorandum of Understanding

- In October 2019, the CNSC signed a [Memorandum of Understanding](#) with the Impact Assessment Agency of Canada
- Eight annexes to the MOU outlining roles and responsibilities of the Agency and the CNSC:
 - Information Sharing and Notification
 - Public Engagement and Participation
 - Crown Consultation
 - Appointment to rosters and Review Panels

IA Process Overview





Phase 1: Planning (180 days)

- CNSC participation in engagement with public and Indigenous groups
- CNSC support in development of outputs:
 - Public Participation Plan
 - Indigenous Engagement and Partnership Plan
 - Impact Assessment Cooperation Plan
 - Tailored Impact Statement Guidelines
 - Permitting Plan





Tailored Impact Statement Guidelines

- CNSC inputs in the development of the Tailored Impact Statement Guidelines for a proposed project
- The Guidelines provide direction to the proponent on the Impact Statement including
 - factors to be considered
 - the methodology to be followed
 - other information requirements

**Sets the scope of the Review Panel under the
*Impact Assessment Act***

Public Participation and Indigenous Consultation



- The Agency will lead the whole-of government consultation activities
 - once the IA decision is made, the CNSC takes the lead on Crown consultation activities
- CNSC will work with the Agency on all public participation and Indigenous consultation activities
- Agency will provide and administer participant funding for IA until issuance of an IA Decision Statement



Phase 2: Impact Statement (3 years)

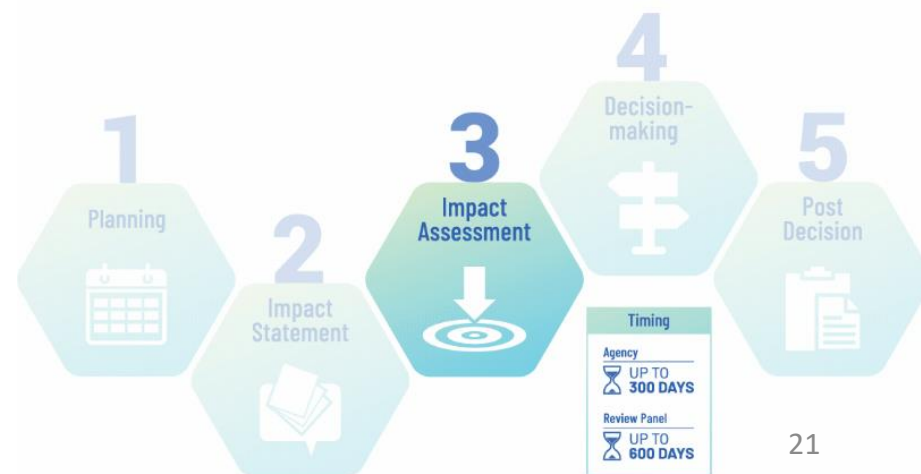
- Agency will consult the CNSC in the development of the Terms of Reference for the Review Panel
- CNSC will assist the Agency in making a determination on conformity of the Impact Statement with Tailored Impact Statement Guidelines



Phase 3: Impact Assessment (300-600 days)



- Appointment of Review Panel Members
 - cross-appointment of Members to be Panel of the Commission under the NSCA
- Review Panel hold public hearings on both IA and first licence
- Review Panel prepares IA report – two parts
 - IA recommendations and necessary information for licensing decision



Appointments of Review Panel Members



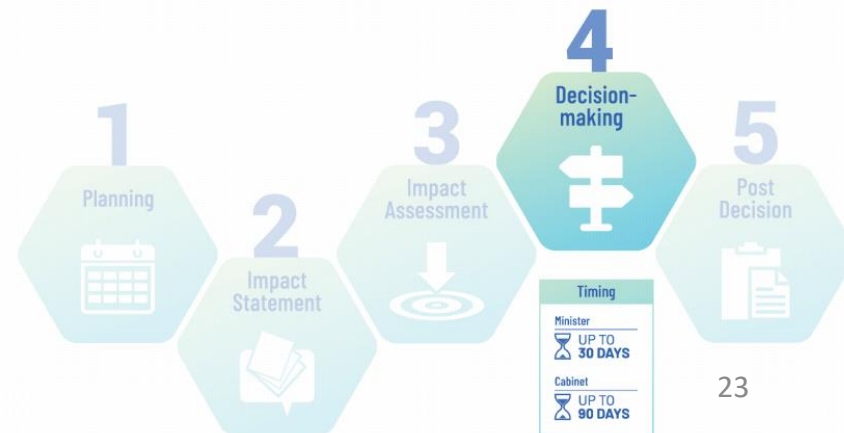
- For Review Panels,
 - the Chairperson is appointed by the Agency
 - at least one Member of the Panel would be from the CNSC's roster of Commission members
- It is proposed that other members of the Review Panel also be appointed as temporary Commission members subject to Governor-in-Council approval

Any subsequent licences, would only be subject to CNSC's licensing process



Phase 4: Decision-Making (90 days)

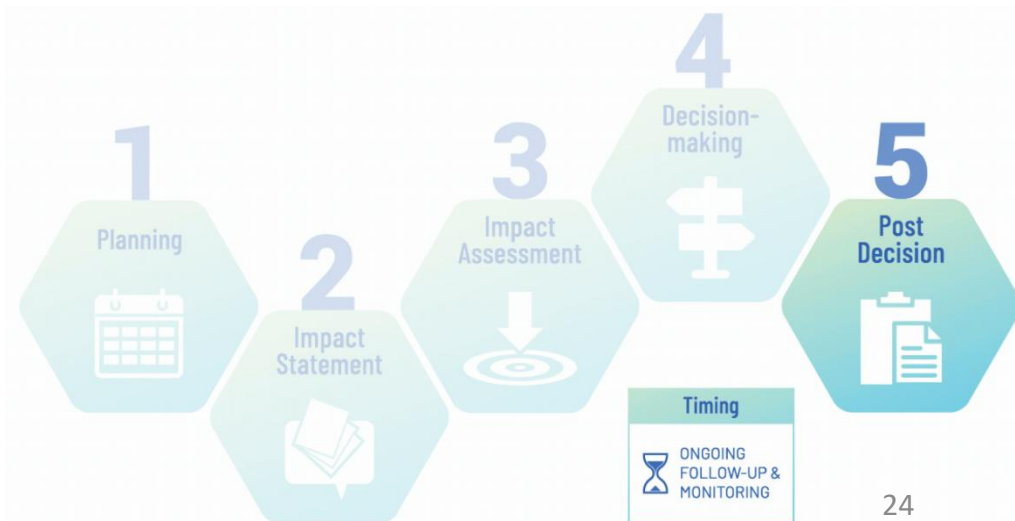
- Referral to Governor-in-Council to make public interest determination
 - if in public interest, Minister issues IA decision
- Agency will, in consultation with the CNSC, provide advice to the Minister to designate conditions in the IA decision statement to be included in the CNSC licence
- If the Minister issues a positive decision, the Review Panel (as the Commission) makes a licensing decision





Phase 5: Post-Decision

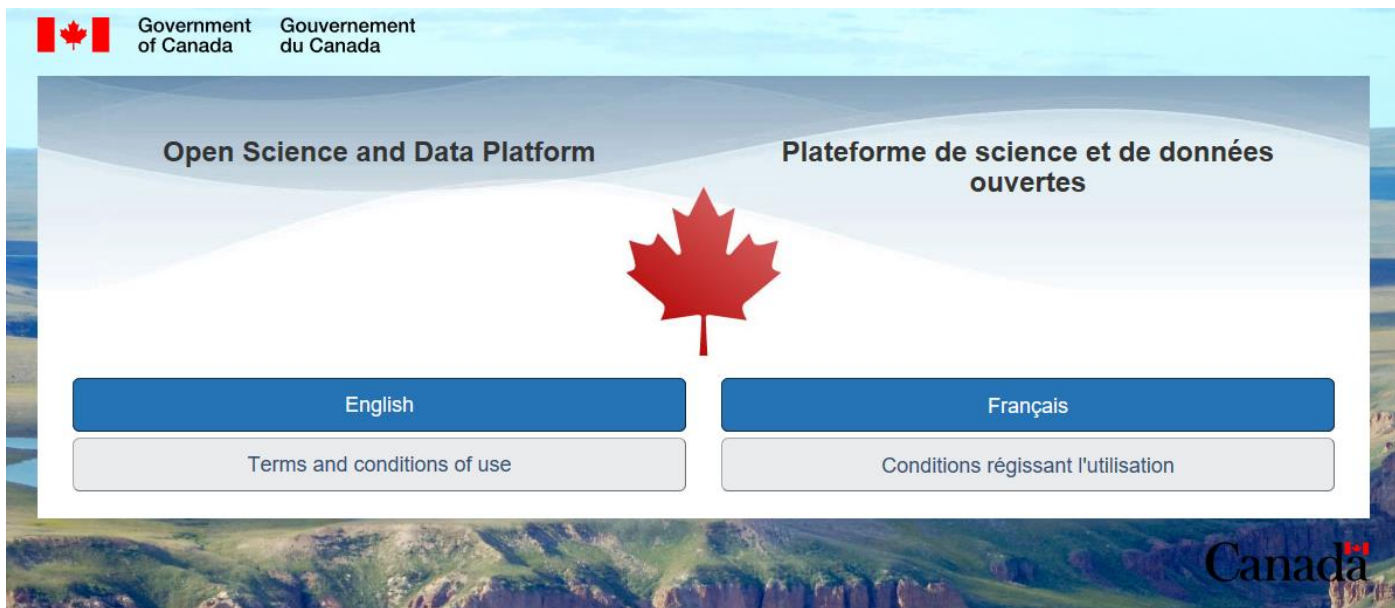
- Any conditions established by the Minister are designated to be part of the CNSC licence:
 - conditions will be enforced by the CNSC
- Annex B provides a summary of the role of the Review Panel / Commission in the IA process





Related Initiatives under the IAA

- Government of Canada initiatives related to cumulative effects under the IAA:
 - Regional Assessments
 - Open Science and Data Platform



CNSC readiness for the IAA



- CNSC staff developed an implementation plan to ensure readiness for the IAA
- Key activities include:
 - development of MOU with the Agency
 - updates to REGDOC-2.9.1, *Environmental Principles, Assessments and Protection Measures, v 1.1* to reflect changes to the IAA
 - presentations to industry
 - ongoing engagement activities with Indigenous groups
 - obtaining lessons learned from other federal departments and agencies
- Further examples of CNSC's readiness for implementing the IAA are provided in Annex C



Part 3: Federal Lands Reviews under the IAA



Projects on Federal Lands

- For projects not on the Project list but proposed on federal lands
- Examples of sites on federal lands include Chalk River Laboratories, Whiteshell Laboratories, Douglas Point Waste Facility, and Royal Military College
- Agency has developed interim guidance



Whiteshell Laboratories



Federal Lands Reviews under the IAA

- **Same** as CEAA 2012 – scope focused on environmental effects and not other IA factors
- **New** requirements:
 - public comments invited
 - posting notices on Public Registry
 - factors to consider (s.84):
 - adverse impacts on the rights of Indigenous peoples
 - Indigenous and community knowledge
 - comments received from the public
 - technically and economically feasible mitigation measures

Role of the Commission



– Projects on Federal Lands

- Federal lands review will be integrated into CNSC's licensing process
- Commission must determine whether the completion of the proposed project is likely to cause significant adverse environmental effects



Part 4: Other CNSC Environmental Reviews



Other CNSC Environmental Reviews

- Information on the CNSC's environmental review processes are found in [REGDOC-2.9.1, Environmental Principles, Assessments and Protection Measures, v 1.2](#)
- Other CNSC Environmental Reviews
 - federal lands review under the IAA
 - ongoing EAs under CEAA, 2012
 - CNSC's licensing process
 - EAs under Provincial/Territorial Regimes or Land Claim Agreements

Ongoing Environmental Assessment under CEAA 2012 (1/3)



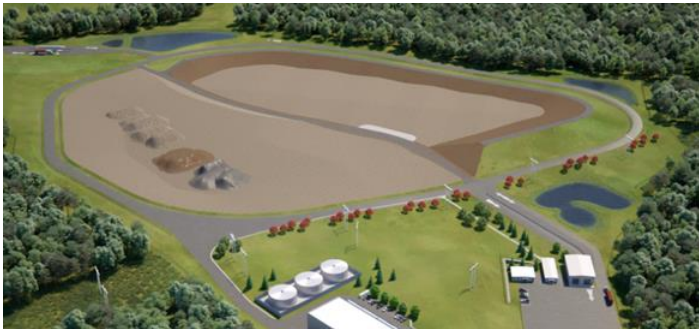
- Ongoing projects with EAs initiated under CEAA 2012 are continuing under this current process
 - any designated project started prior to August 28, 2019 remains under CEAA 2012
- The IAA contains provisions to enable the projects to advance in this way



Ongoing Environmental Assessments under CEAA 2012 (2/3)



Proponent	Project	EA start date
Canadian Nuclear Laboratories	Whiteshell Reactor #1 <i>In Situ</i> Decommissioning Project	May 16, 2016
Canadian Nuclear Laboratories	Near Surface Disposal Facility Project	May 5, 2016
Canadian Nuclear Laboratories	Nuclear Power Demonstration Closure Project	May 5, 2016



Near Surface Disposal Facility Project



Whiteshell Reactor #1 *In Situ* Decommissioning Project



Nuclear Power Demonstration Closure Project

Ongoing Environmental Assessments under CEAA 2012 (3/3)

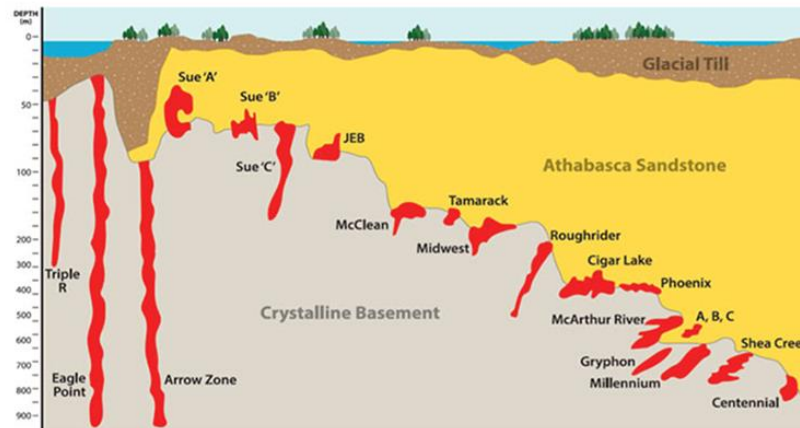


Proponent	Project	EA start date
Global First Power	Micro Modular Reactor Project	July 15, 2019
NexGen Energy Ltd.	Rook I Project	May 2, 2019
Denison Mines Corporation	Wheeler River Project	May 31, 2019*

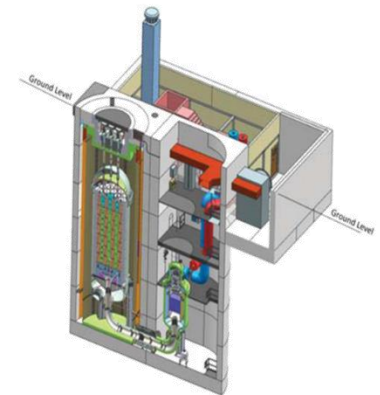
*On hold at licensee's request



Wheeler River Project



Rook I Project



MMR Project

EAs under Provincial/Territorial Regimes or Land Claim Agreements



- In both cases, the CNSC acts as a technical expert throughout the EA process but has no EA decision-making role
- The Commission retains decision making on licensing matters, and uses the information gathered in the EA process to inform its licensing decision under the NSCA
- When multiple jurisdictions are involved, these processes are harmonized as much as possible to reduce duplication and promote efficiency

Summary – Ongoing Commission Operations



- Environmental effects of all nuclear facilities or activities are considered and evaluated when licensing decisions are made
- All licence applications that demonstrate potential interactions between the facility or activity and the environment are subject to either an environmental protection review under the NSCA or an EA under the CEAA 2012
- For each licensing decision, the Commission (or a Designated Officer) must be satisfied that the applicant or licensee will make adequate provision for the protection of the environment and the health and safety of persons before a licence can be granted



Overall Summary

- Impact assessments of all nuclear designated projects will be conducted by a Review Panel
- MOU in place with IA Agency which outlines roles and responsibilities for Review Panels for nuclear projects
- Commission retains decision-making for licensing matters
 - under the IAA, the Minister makes the IA decision
 - for federal lands review or environmental protection reviews, the Commission determines if the project is likely to cause significant adverse effects



References

- [Impact Assessment Agency of Canada](#)
- [Impact Assessment Act](#)
- Impact Assessment Regulations
 - [Information and Management of Time Limits Regulations](#)
 - [Physical Activities Regulations](#)
- [CNSC-IAAC MOU and annexes](#)
- [CNSC Environmental Reviews](#)
- [REGDOC-2.9.1: Environmental Principles, Assessments and Protection Measures](#)



Canadian Nuclear
Safety Commission

Commission canadienne
de sûreté nucléaire

Questions?

Thank You!



Visit us online



Like us on Facebook



Follow us on Twitter



View us on YouTube



Subscribe to updates



Contact us

Annex A – Comparison of CEAA 2012 and IAA Project List (1/4)



CEAA 2012	IAA project list	Net change
<p>The expansion of an existing facility for the processing, reprocessing or separation of an isotope of uranium, thorium, or plutonium, that would result in an increase in production capacity of 50% or more and a total production capacity of 100 t/year or more</p>	<p>The construction, operation and decommissioning of one of a new facility for the processing, reprocessing or separation of isotopes of uranium, thorium, or plutonium, with a production capacity of 100 t/year or more</p>	<p>Threshold increase</p>
<p>The expansion of an existing facility for the manufacture of a product derived from uranium, thorium or plutonium that would result in an increase in production capacity of 50% or more and a with a production capacity of 100 t/year or more</p>	<p>The construction, operation and decommissioning of one of a new facility for the manufacture of a product derived from uranium, thorium or plutonium, with a production capacity of 100 t/year or more</p>	<p>Threshold increase</p>
<p>The expansion of an existing facility for the processing or use, in a quantity greater than 10^{15} Bq per calendar year, of nuclear substances with a half-life greater than one year, other than uranium, thorium or plutonium, that would result in an increase in processing capacity of 50% or more</p>	<p>The construction, operation and decommissioning of a new facility for the processing or use, in a quantity greater than 10^{15} Bq per calendar year, of nuclear substances with a half-life greater than one year, other than uranium, thorium or plutonium</p>	<p>Threshold increase</p>

Annex A – Comparison of CEAA 2012 and IAA Project List (2/4)



CEAA 2012	IAA project list	Net change
<p>The construction and operation of new facility for the storage of irradiated fuel or nuclear waste, on a site that is not within the licensed perimeter of an existing nuclear facility</p>	<p>The construction and operation of a new facility for the storage of irradiated nuclear fuel or nuclear waste, outside the licensed boundaries of an existing <i>nuclear facility</i>, as defined in section 2 of the <i>Nuclear Safety and Control Act</i>, other than a facility for the onsite storage of irradiated nuclear fuel or nuclear waste associated with one or more new fission or fusion reactors that have a combined thermal capacity of less than 200 MWth</p>	<p>Threshold established</p>
<p>The construction and operation of a new facility for the long-term management or disposal of irradiated fuel or nuclear waste</p>	<p>The construction and operation of a new facility for the long-term management or disposal of irradiated nuclear fuel or nuclear waste</p>	<p>No change</p>
<p>The expansion of an existing facility for the long-term management or disposal of irradiated fuel or nuclear waste that would result in an increase in the area, at ground level, of the facility of 50% or more</p>	<p>The expansion of an existing facility for the long-term management or disposal of irradiated nuclear fuel or nuclear waste, if the expansion would result in an increase in the area of the facility, at ground level, of 50% or more</p>	<p>No change</p>

Annex A – Comparison of CEAA 2012 and IAA Project List (3/4)



CEAA 2012	IAA project list	Net change
<p>The construction, operation and decommissioning of a new nuclear fission or fusion reactor.</p>	<p>The site preparation for, and the construction, operation and decommissioning of, one or more new nuclear fission or fusion reactors if that activity is located within the licensed boundaries of an existing Class IA nuclear facility and the new reactors have a combined thermal capacity of more than 900 MWth</p>	<p>Threshold established</p>
	<p>The site preparation for, and the construction, operation and decommissioning of, one or more new nuclear fission or fusion reactors if that activity is not located within the licensed boundaries of an existing Class IA nuclear facility and the new reactors have a combined thermal capacity of more than 200 MWth</p>	<p>Threshold established</p>

Annex A – Comparison of CEAA 2012 and IAA Project List (4/4)



CEAA 2012	IAA project list	Net change
<p>The construction, operation and decommissioning of a new uranium mine or uranium mill on a site that is not within the licensed boundaries of an existing uranium mine or uranium mill.</p>	<p>The construction, operation and decommissioning, outside the licensed boundaries of an existing uranium mine, of a new uranium mine with an ore production capacity of 2 500 t/day or more.</p>	<p>Threshold established</p>
<p>The expansion of an existing uranium mine that would result in an increase in the area of mine operations of 50% or more</p>	<p>The expansion of an existing uranium mine, if the expansion would result in an increase in the area of mining operations of 50% or more and the total ore production capacity would be 2500 t/day or more after the expansion.</p>	<p>Threshold increase</p>

Annex A – Comparison of CEAA 2012 and IAA Project List (4/4)



CEAA 2012	IAA project list	Net change
<p>The construction, operation and decommissioning of a new uranium mine or uranium mill on a site that is not within the licensed boundaries of an existing uranium mine or uranium mill.</p>	<p>The construction, operation and decommissioning, outside the licensed boundaries of an existing uranium mill, of a new uranium mill with an ore production capacity of 2 500 t/day or more.</p>	<p>Threshold established</p>
<p>The expansion of an existing uranium mine or uranium mill that would result in an increase in the area of mine operations of 50% or more.</p>	<p>The expansion of an existing uranium mill, if the expansion would result in an increase in the area of mining operations of 50% or more and the total ore production capacity would be 2500 t/day or more after the expansion.</p>	<p>Threshold increase</p>

Annex B – Summary of Role of the Review Panel / Commission



Phase	Activity	Role of the Review Panel
Planning	Public and Indigenous Engagement	No role for the Review Panel
	Development of Tailored Impact Statement Guidelines and Plans	
Impact Statement	Development of Terms of Reference for the Review Panel	No role for the Review Panel
Impact Assessment	Appointment of members of Review Panel	Hold hearings on both IA and first licence Prepare IA report and recommendations for conditions to the Minister
	Conduct analysis of Impact Statement	
	Prepare Impact Assessment (IA)	
Decision Making	Minister makes IA decision	Make licensing decision, if positive IA decision
Post Decision	CNSC enforces conditions	Subsequent hearings / licensing decisions

Annex C – CNSC Readiness for Implementation of IAA (1/3)



Activity	Status
Collaboration with IAAC and other Government Departments	
CNSC-IAAC Memorandum of Understanding and 8 annexes	Completed
Collaboration agreements with Saskatchewan and Ontario	In progress
NWMO-IAAC-CNSC Integrated IA Discussion: APM Project	Completed
Public Registry	
Develop an enhanced, one-window public registry through a phased approach and improve online tools	Phase 1 – Completed
	Phase 2 – In progress

Annex C – CNSC Readiness for Implementation of IAA (2/3)



Activity	Status
Regulatory framework	
Revisions to Regulatory Document-2.9.1, <i>Environmental Protection: Environmental Principles, Assessments and Protection Measures</i> , vs 1.1	October 2020 (TBC)
Improvements to Environmental Protection Reviews under the NSCA	Ongoing
Communications	
Updates to EA webpages, both internally and externally, to reflect changes and make reference to the proposed <i>Impact Assessment Act</i>	Completed
Internal communications for CNSC staff: <ul style="list-style-type: none"> • all-staff message and social media postings following Royal Assent • MOU and Annexes posted on both websites in mid-October • open learning session for all-staff delivered in January 2020 	Completed

Annex C – CNSC Readiness for Implementation of IAA (3/3)



Activity	Status
Roster and Panel Members	
Potential candidates for CNSC roster and Panel Members	Ongoing
Training	
CNSC staff participated in IAAC-led webinars and training sessions	Completed
External Awareness (Industry)	
CNSC staff have engaged broadly with industry, including presentations to: <ul style="list-style-type: none"> • Canadian Nuclear Association • Nuclear Waste Management Office • CANDU Owner’s Group • Atomic Energy Limited 	Completed