



Department of Indigenous Services Canada (DISC) Environmental Review Process (ERP)

Links to Learning
December 13th, 2017
Richmond, (BC)



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Environmental Assessment is a
PLANNING TOOL
used for anticipating and mitigating
adverse effects to the biophysical
environment **BEFORE** they occur.





Canadian Environmental Assessment Act, 2012 (CEAA)

- Legislative basis for federal practice of environmental assessment in most regions of Canada
- CEAA 2012 sets out specific requirements for projects carried out on federal lands
- Under **Section 67**, federal authorities MUST:
 - Review projects for significant environmental effects
 - Determine that such effects are unlikely, before issuing any authorizations, such as permits or leases in support of any project (s. 67)
- Report to Parliament yearly regarding this obligation (s.71)





Genesis of the Environmental Review Process (ERP)

- **Section 67** of CEEA 2012 requires that DISC must conduct an environmental review to determine whether a project is likely to cause significant adverse environmental effects before making any decision that would allow a project to proceed.
- DISC has established the ERP to satisfy its legal requirements. For this process, the onus is on the proponent to provide sufficient project detail to DISC's Environment Officers to allow for an environmental review.
- The ERP was officially launched on April 1st, 2014.
- It is expected that the number of projects on-reserve requiring an environmental review will increase over the next five years due to announced investments on infrastructure on-reserve.





Guiding Principles of the ERP

- **Level of review is proportionate with the project's potential level of risk**
 - The ERP applies environmental assessment best practices to project proposals and their specific potential risk. For example, projects with negligible risk and/or easily mitigated environmental effects will be fast-tracked.
- **Encourage collaboration between all parties involved, resulting in an efficient and transparent process**
 - Engagement with stakeholders and indigenous groups continues on the policies, with the ultimate goal of an effective and reliable evergreen process for all parties involved.
 - During an environmental review, affected parties are engaged and where needed, the legal Duty to Consult with Aboriginal groups is met.
- **Ensure that due diligence is exercised and environmental effects are considered thoroughly prior to the issuance of any authorizations**
 - DISC applies the ERP to all authorizations, regardless of whether they are statutory or not (e.g., funding).





DISC's Environmental Review Process



- Suite of nationally-consistent procedural tools and policies.
- **Small to medium-sized projects** reviewed in a timely and predictable way, with depth of review matched to project's level of risk and complexity.
- Other federal laws continue to apply on reserve.

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Other Federal Environment-related Legislation

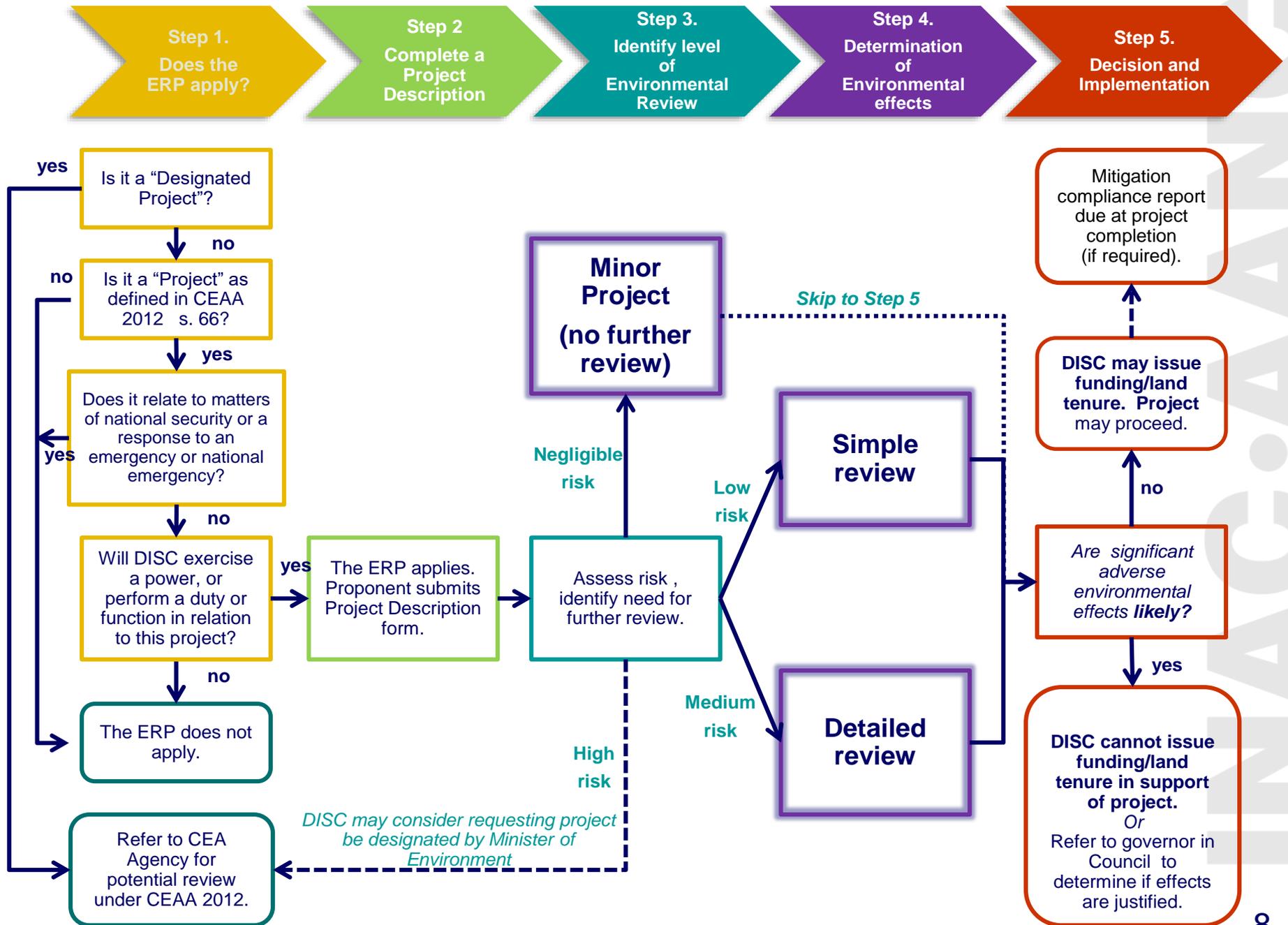
Proposed projects are assessed against requirements under federal environmental-related legislation

- *Canadian Environmental Assessment Act, 2012*
- *Species at Risk Act (2002)*
- *Canadian Environmental Protection Act, 1999*
- *Indian Oil and Gas Act (1995)*
- *Migratory Birds Convention Act (1994)*
- *Dominion Water Power Act (1985)*
- *Fisheries Act (1985)*
- *Historic Sites and Monuments Act (1985)*
- *Indian Act (1985)*
- *Navigable Waters Protection Act (1985)*

Some regulations under these acts are particularly pieces of interest for projects on-reserve. Regional Environmental Units can guide you.



Overview of the Environmental Review Process

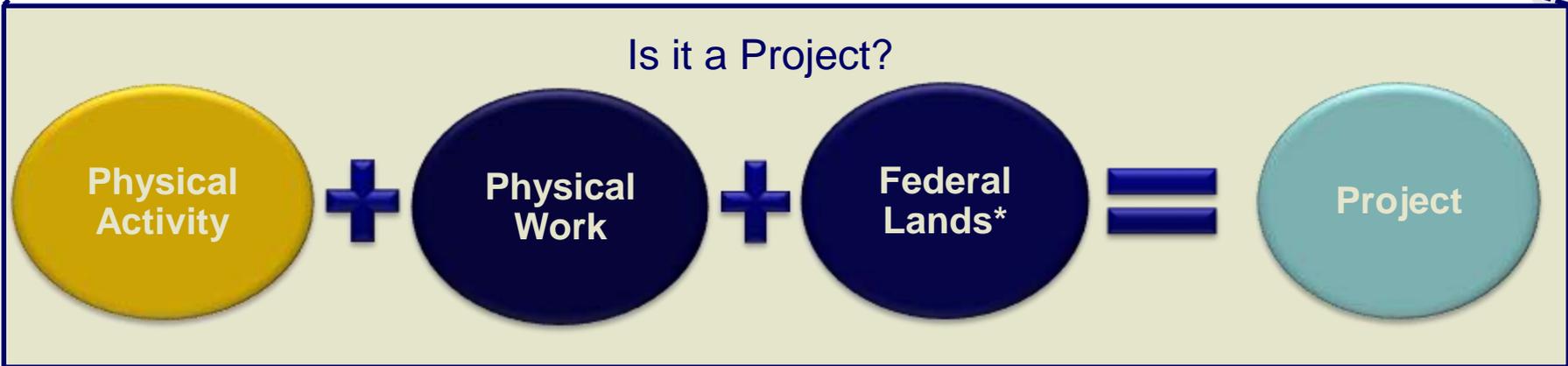
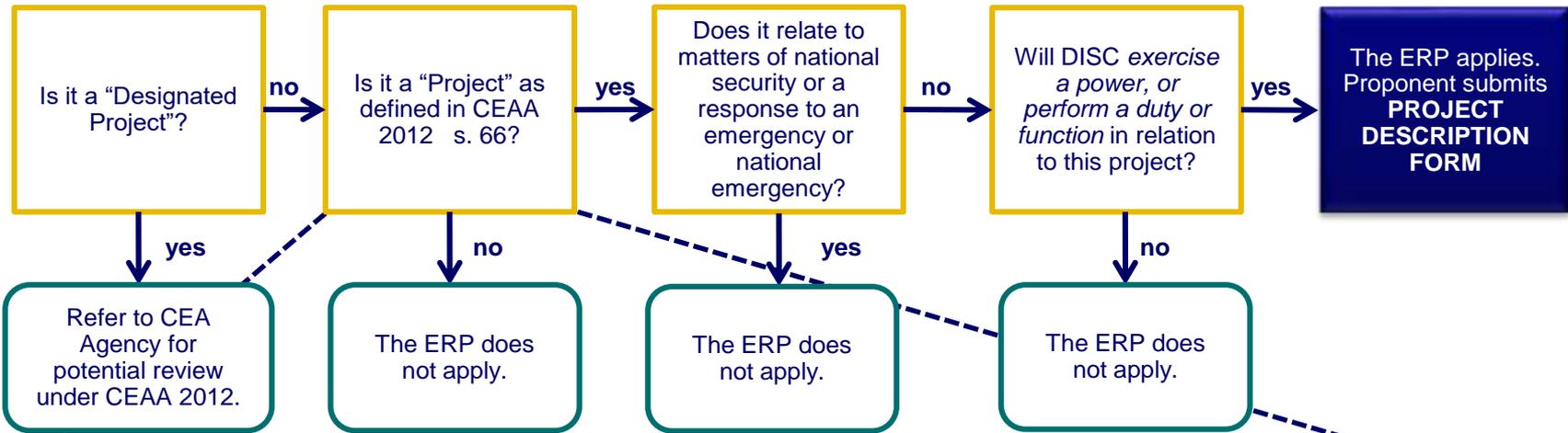




Step 1. Does the ERP apply?

NOTE: DISC policy considers the release of funds as an authorization.

STEP 1: Does ERP Apply?



- “Operational” FNLM and Self-Governing First Nations may be excluded





When does the ERP Apply?

Statutory Authorization
(Indian Act permits/leases, ministerial loan guarantees)

DISC is the **proponent**

DISC Funding



- *Construction*
- *Renovation*
- *Installation*
- *Decommissioning*



First Nation reserve land

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When ERP does NOT apply?

- NOT considered a “project”:
 - Housing or other loan **repayments**
 - Purchase or repair of vehicles and equipment
 - Desktop studies
 - Conferences
- **Indian Oil and Gas Canada** - they adopted the ERP and modified it to meet its specific needs when issuing authorizations, in conjunction with the provincial oil and gas regulators.
- **First Nations Land Management Act** – until they have their own environmental law in place, they operate under CEAA, 2012 or choose to adopt 1992 CEAA standard.
- **Self-governing First Nations** – they apply their own processes as departmental authorizations are limited.

IMPORTANT

If in doubt, consult your DISC Environmental Specialist!

Environmental Specialists may provide input into feasibility studies, and terms of references to advise on environmental legislative requirements and best practices, if needed.





Step 2
Complete a
Project
Description

Step 2: Complete the PROJECT DESCRIPTION FORM

- Preliminary Assessment of project based on risk to environment
- Project Proponent must complete in as much detail as possible
- Components
 - Project Information (including contacts)
 - Land Description
 - Flora and Fauna characteristics
 - Species at Risk, Migratory Birds, Fish
 - Indigenous Traditional/Cultural Uses
 - Indigenous Consultations
 - Comments and Other Information

Most common delay from incomplete or inadequate PROJECT SUMMARY

Affaires autochtones et Développement du Nord Canada / Aboriginal Affairs and Northern Development Canada Optional Procedure Annex A

INAC ENVIRONMENTAL REVIEW - PROJECT DESCRIPTION

Purpose: Under CEAA 2012, INAC is required to ensure that projects and/or activities that occur on federal/reserve lands requiring authorization by the department do not cause significant adverse environmental effects. This form gathers the preliminary information required to assist in the determination of the potential adverse effects from a proposed project prior to the department enabling the project to proceed. This form will also help determine if further information and/or further review is required. For more information please visit: <http://www.sedac.inac.gc.ca/eng/1345141523060/1345141555633>

Components are to complete sections A through G.

Section A: Project information

Project Name: _____

Proponent Name: Send Name, Company name, etc. _____

Proponent Contact: Name of contact person _____

Role/Position: Role/Position _____

Proponent Address: Proponent address _____ **Postal Code:** Postal code _____

Telephone No.: Proponent phone no. _____ **Fax No.:** Fax No. _____

Email address: Contact on all _____

Project Start Date (construction phase): Enter date here. _____ **Completion Date (construction phase):** Enter date here. _____

Location: Enter legal land description and/or GPS coordinates _____

Project Summary: Provide a brief project overview. Please include nature of the project, a description of the physical works that are related to the project including the purpose, size, capacity, expected lifespan. Include land area required and attach any maps, plans or figures with you submission

Infrastructure: Describe any major infrastructure items associated with the project, (eg. Fuels tanks, buildings, garages, sewer lines, gas lines, power lines, communication lines, etc.)

Activities: Describe project activities. Include activities associated to pre-planning, site preparation, construction phases, operation, and decommissioning.

Waste generation: A description of any solid, liquid, gaseous or hazardous waste that is likely to be generated during any phase of the project and of plans to manage those wastes.

Form last updated Dec 10, 2012
SDM/CIOM # 1105555





Preparing Effective Project Descriptions

Common information left out

PROPONENT NAME & CONTACT INFO

INFRASTRUCTURE INFORMATION

- Identification of all proposed works/activities
- Building size(s) (f² or m²)
- Type of heating system (i.e. diesel, electric, propane, wood)
- Type/size of fuel tank(s) (if applicable)
- Type of water (piped, well)
- Type of sewage (piped, septic)

FOR SEPTIC SYSTEMS AND WELLS:

- Indicate if Health Canada Environmental Health Officer will inspect.
- Confirm that well installations will be completed by a licensed well drilling company.

FOR FUEL SYSTEMS:

- Confirm that an appropriately licensed petroleum mechanic or oil burner technician will install and inspect the fuel tank system(s).
- Confirm that tank systems will be registered under CEPA Storage Tank Systems for Petroleum Products and Allied Petroleum Projects Regulations (SOR/2008-197) (as applicable).

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Step 2 Complete a Project Description

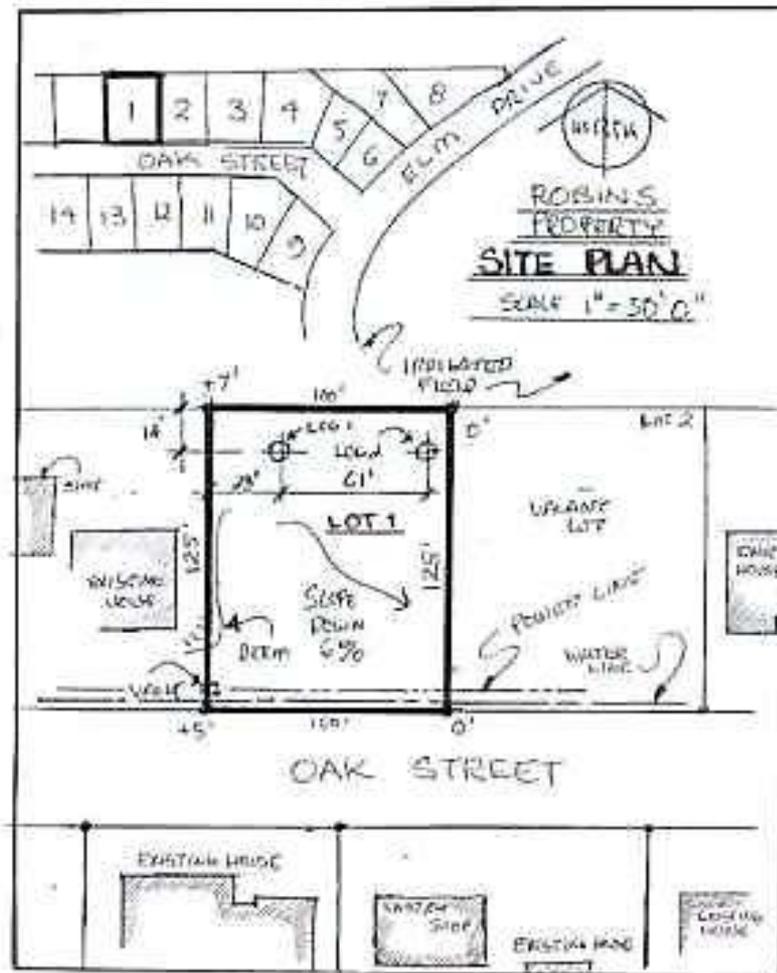


Preparing Effective Project Descriptions

PROJECT SITE MAP

- Compass direction
- Scale
- Latitude/longitude
- Lot number & plan number (if available)
- Setback distances to water, roadways, etc.
- Fuel tank(s) & fuel tank system(s) (if applicable)
- Proposed/existing water well(s) & pipes (if applicable)
- Proposed/existing septic tank(s)/system(s) & pipes (if applicable)
- Identification of any environmentally sensitive areas, SAR critical habitat

Prepare Scale Drawing Below





Step 3: Identify Level of Environmental Review

Risk analysis determines level of environmental review required

Risk analysis includes considerations for potential

- Pollution (soil, air, surface or groundwater)
- Effects on species at risks or migratory birds, fish or fish habitat, other valued ecosystem components, on Aboriginal or Treaty rights

Also taken into consideration is the ability of any identified risks to be managed via best practices, standard mitigation measures, or regulatory means.

3 Levels of environmental review

- Minor Negligible risk
 - Simple Low risk
 - Detailed Medium risk
- High risk Referral for designation to the Minister of Environment and Climate Change (designated project)





DISC's Environmental Review Process

CEAA

Risk Level	Negligible	Low	Medium	High (and/or potential for public concern)
Level of Review	<p>Minor</p> <p>Small-scale or routine "projects" with low/negligible environmental risk</p> <p>Well-understood, predictable environmental effects that can be managed with generic mitigation measures and/or standard best practices</p>	<p>Simple</p> <p>Project on the Minor Projects List has a greater than Negligible Risk potential</p> <p>Project is not on the Minor Projects List</p> <p>Insufficient information (i.e. impacts to Species at Risk, etc.)</p>	<p>Detailed</p> <p>Requires additional supporting studies to make decisions</p>	<p>Referral for designation pursuant to s.14 (2) of CEAA 2012</p> <p>Projects with (a) too much risk to environment, (b) too many unknown variables or effects, or (c) too much public concern</p>
Action Required	<p>No need for further environmental review past the Project Description form</p> <p>Effects can be managed through standard mitigation measures and/or best management practices.</p>	<p>Mitigation measures must be identified for project components where potential environmental risk is identified.</p> <p>Any additional recommendations (e.g., tank registration requirements) provided by the environment officer must be implemented.</p>	<p>The project is large or complex, and risk and potential effects are not readily known.</p> <p>A detailed assessment of potential environmental effects is required.</p>	<p>Minister of Indigenous Affairs and Northern Development refers the project to the Minister of Environment and Climate Change Canada for official "designation"</p> <p>Undergoes environmental assessment under the CEA Agency instead</p>
Examples	<p>Construction of a single house</p> <p>Renovations of an existing structure (e.g. community facility)</p> <p>Installation of infrastructure for telecommunications or internet</p> <p>Installation of an underground fuel storage tank</p> <p>Upgrades to existing roads</p>	<p>Construction of a Commercial Park</p> <p>Construction of a residential sub-division</p>	<p>Construction and operation of a waste incinerator</p> <p>Construction of a stone quarry with a production capacity of less than 3.5 M tons/year</p> <p>Construction and operation of an aquaculture operation</p> <p>Construction of an all-season highway</p>	<p>Any project with high environmental risk, for which there is a high level of public and/or Aboriginal concern</p>
Tools	<p>Minor Projects List</p> <p>Minor Building Construction Best Management Practices</p> <p>Project Description Form (initial intake form)</p>	<p>Simple Environmental Review Form</p> <p>Mitigation Measures Compliance report</p>	<p>The Guide to Completing a Detailed Environmental Review Report</p>	





Step 3: Identify Level of Environmental Review

Minor Environmental Review

- Small-scale or routine "projects" with low/negligible environmental risk
- Well-understood, predictable environmental effects that can be managed with generic mitigation measures and/or standard best practices

Examples

- Construction of single house
- Renovations of an existing structure (e.g. community facility)
- Installation of an underground fuel storage tank
- Upgrade to existing roads

Tools

- ✓ DISC Minor Project List
- ✓ Project Description Form

➤ No further environmental review is required



Step 3: Identify Level of Environmental Review

Simple Environmental Review

- Greater than negligible risk
- Additional information required to support decision
- Project is not on the *DISC Minor Projects List*
- Mitigation measures must be identified for project components where potential environmental risk is identified

➤ **Simple Environmental Review** report is completed by someone with knowledge of the site and the potential effects of the project (responsibility of the proponent)

Examples

- Construction of a waste water/sewage treatment plant
- Construction of a residential sub-division
- Construction of a gas station

Tools

- ✓ Simple Environmental Review Form





Simple Environmental Review Form

Elements Assessed:

- Surface and Groundwater
- The Land
- Flora and Fauna
- Air and Noise
- Socio-Economic, Culture and Heritage
- Other Considerations
- List Supporting Documents

Operational Procedure Form C

INAC SIMPLE ENVIRONMENTAL REVIEW REPORT

Purpose: Following a review of your submitted Project Description, it has been determined that your project requires a standard environmental review as per INAC's environmental review process to satisfy the requirements of s. 87 of the Canadian Environmental Assessment Act, 2012 (CEAA 2012).

Canada has statutory, contractual and common law obligations to consult with Aboriginal groups when the Crown contemplates conduct that might adversely impact potential of established Aboriginal or Treaty rights. In some cases environmental effect can trigger Canada's obligations to consult and, where appropriate, accommodate. To the extent possible, INAC relies on the proponents to gather information about the impact of the proposed project on the potential and/or established Aboriginal or Treaty rights for s. 87 determinations. The information collected and any additional research will be used by the department in its decision-making process.

Please note that funding for your project or issuance of an instrument (e.g. permit, lease, designation, loan guarantee, etc.) cannot be confirmed until a determination of environmental effects and the duty to consult has been completed by INAC. This form or other approved form(s) will need to be satisfactorily completed before a determination can be made. Please note that INAC may also require additional mitigation measures not listed in this form.

It is the responsibility of the Proponent to ensure that the proposed activity or project complies with all applicable federal, provincial/territorial and municipal legislation and regulations as required. The proponent should include a list of all permits/approvals required for this project, along with relevant correspondence, in Appendix A.

Instructions: Please provide responses to all of the questions in each of the categories below, based on current knowledge or preliminary investigations by checking the appropriate box. If you are uncertain of a response to a question, it is the proponent's responsibility to conduct further inquiries consultation or studies to accurately answer the question. When answering the questions describe the project preparation, construction, operation and decommissioning. When answering questions, mitigation or impact management measures are not to be considered. Mitigation or impact management measures are only to be described for any questions with an answer of "YES."

Alternatively, you may produce a report that includes the information necessary to determine whether your project is likely or unlikely to cause adverse environmental effects. Also include the appropriate mitigation measures. When identifying such measures, consider any impacts to the environment as well as human health and socio-economic conditions during project preparation, construction, operation and decommissioning. To expedite the processing of your file, provide us with the most accurate and comprehensive information possible.

The form or alternative report must be returned (preferably email) to the appropriate Environmental Officer at Aboriginal Affairs and Northern Development Canada (INAC). Should you have any questions, please contact your regional Environment Officer.

During project implementation, all mitigation measures listed in the following sections must be documented in the INAC Mitigation Measures Compliance Report.

Project Name: **Proponent Name:**

Band/Reserve: **Project Location:**

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Step 3: Identify Level of Environmental Review

Detailed Review

- Project is large or complex and potential effects are not ready known
- Requires additional supporting studies to make decision
- Study commissioned based on Terms of Reference (responsibility of the proponent)

Examples

- Construction and operation of a waste incinerator
- Construction and operation of aquaculture facilities
- Construction of all-season highway

Tool

- ✓ Guide to Completing a Detailed Environmental Review Report

- **Detailed Environmental Review** report is completed by a qualified environmental professional (responsibility of the proponent)

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Step 3: Identify Level of Environmental Review

Designated Projects

- *CEAA 2012 Regulations Designating Physical Activities*
- Minister of DISC may refer to Minister of Environment and Climate Change for designation when:
 - Too much risk to environment
 - Too many unknown variables/effects
 - Too much public concern
- If Minister of Environment and Climate Change declines to designate, DISC continues with Detailed Review process

Example

- Any project with high environmental risk, for which there is high level of Aboriginal/public concern





Step 4: Determination of Environmental Effects

DISC regional environment officer reviews materials to make decision

- Assess effectiveness of mitigation measures, need for external experts, need for project redesign or modification, etc.
- Identification for need of (additional) mitigation measures if required
- Mitigation measures are required wherever there are negative project-environment interactions

Project Activities		Valued Ecosystem Components			
		Vegetation	Air Quality	Species at Risk	Water Quality
Site clearing		-	/	-	-
Excavation		/	-	/	-
Construction		/	-	/	-
Landscaping		+	/	+	+
Operation		/	/	/	/
Decommissioning		+	-	/	/

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**It is the responsibility of the
proponent and/or their consultant(s)
to propose mitigation measures**

**DISC Environmental Specialists can
assist or provide guidance on this task**





Step 5: Decision and Implementation

- Record of project, decision and all documentation recorded in DISC Integrated Environmental Management System (database)
- Decision approval levels
 - Minor environmental reviews recommended for approval or non-approval at officer level (section H of the Project Description form)
 - Simple environmental reviews approved or not approved at manager level on recommendation of environment officer
 - Detailed Projects approved by regional directors general level on recommendation of environment officer and manager
 - Designated Projects approved by Minister of Environment and Climate Change
- Implementation includes completion of project design and construction AND all required mitigation measures





Record Management

Integrated Environmental Management System (IEMS)

- The central database used to store information for all projects requiring a determination and subject to reporting to Parliament
- IEMS contains project information, decision points and tracks key steps and service standards

Responsibilities

DISC Programs Officials

- Enter information from program application into the web-based Project Description form and submit it to DISC Environment Officers via IEMS.

DISC Environment Officers

- Maintain project file in IEMS and meet service standards to ensure the process is implemented efficiently.





Mitigation Measures Compliance Report

- Verify the application of the mitigation measures
- Must be filled after project completion
- Help to ensure that the potential negative environmental effects have been properly mitigated

Operational Procedure Annex E

INAC MITIGATION MEASURES COMPLIANCE REPORT

Purpose: This mitigation measures compliance report or a similar report verifying the application of the mitigation measures prescribed in the Environmental Review Report must be filled after project completion. This will help INAC ensure that the potential negative environmental effects of the project have been properly mitigated. INAC recommends that a qualified environmental professional or the work site manager completes this report or be consulted during the process. Please provide us with the most accurate and comprehensive information possible. Return the completed report to the attention of the INAC Official below.

Name and coordinates of INAC Official: [Click here to enter text.](#)

Project Name: [click here to enter text.](#) **Project Proponent:** [click here to enter text.](#)

Project Completion Date: [click here to enter a date.](#) **Project IEMS ID Number:** [click here to enter text.](#)

Compliance Confirmation Activity: [eg on site visit or other](#) **Activity Date:** [click here to enter a date.](#)

Have the mitigation measures been integrated into plans and specifications of a contract? Yes No

Implementation of Mitigation Measures

Note: Throughout project realization, the Proponent must ensure that mitigation measures are implemented and that this information is documented. Support documents: photos or reports, may have been requested. Lines may be added as necessary. For each mitigation measure prescribed in the Environmental Review Report, please provide the following information. Also attach any record of regulatory approval.

Mitigation Measure	Was the mitigation measure implemented?		Support document attached? Photo or Report		If "No", please provide further explanation
	Yes	No	P	R	

Storage Tanks

For projects involving storage tank systems for petroleum products of allied petroleum products subjected to the Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations, please provide the following information:

Regulations available at: <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2008-197/index.html>

System(s) Identification Number(s) at Environment Canada: [Click here to enter text.](#)

System(s) Registration Date(s): [Click here to enter a date.](#)

Emergency Plan in place? Yes No If no, please explain: [Click here to enter text.](#)

Emergency Plan implementation date: [Click here to enter a date.](#)

Was the work performed by an approved or certified person or company? Yes No If no, please explain: [Click here to enter text.](#)

Date that work was undertaken (YYYY-MM-DD): [Click here to enter a date.](#)





How much time does Environmental Review take?

- Timelines are not legislated (as opposed to environmental assessment for designated projects under CEAA, 2012)
- Environmental reviews are completed in a timely-fashion; do not aim to delay projects unnecessarily
- Submission of a complete package to the Department will result in a timelier review

IMPORTANT REMINDER

Proponents/Program officers are strongly encouraged to contact their regional Environmental Specialists in the early stage of project planning



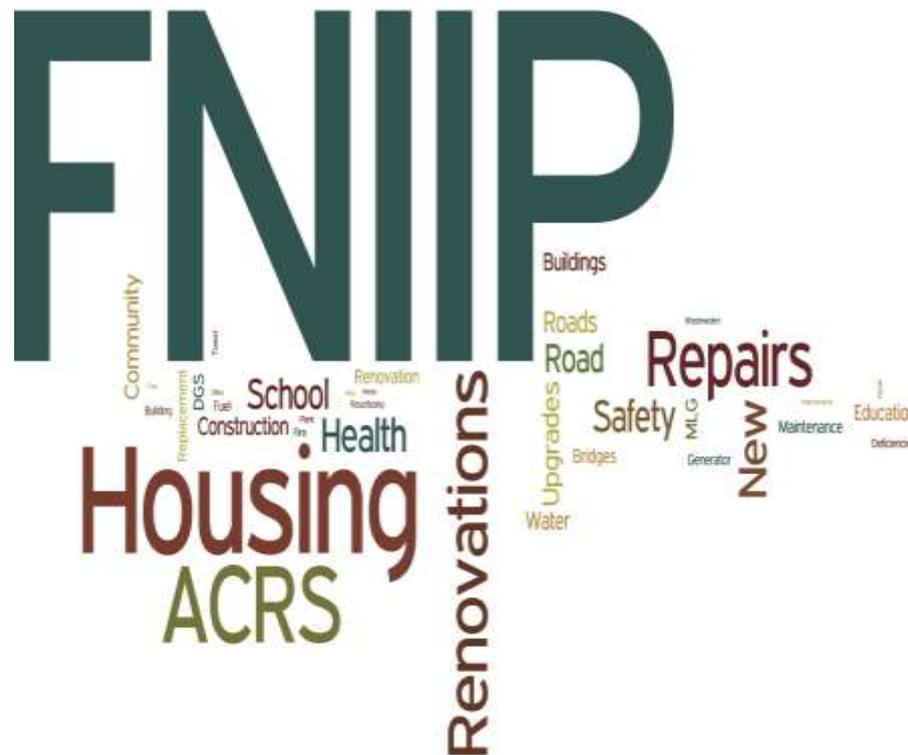


2015-2016 Highlights

1,182 projects reviews

- 1,092 minor projects
- 110 simple reviews
- 15 detailed reviews

➤ 75% of projects reviewed were infrastructure related (residential /community building projects and property development)





Where to find information?

Contact Information

Elizabeth Kovics & Donna Maher

Senior Environmental Specialists
Lands and Economic Development

Elizabeth.Kovics@Canada.ca

Donna.Maher@Canada.ca

Internet:

<https://www.aadnc-aandc.gc.ca/eng/1396026888671/1396027117504>





QUESTIONS ?

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