

ENVIRONMENTAL ASSESSMENT ACT
[RSBC 1996] CHAPTER 119

Part 1 -- Definitions and Purpose

Definitions

1 In this Act:

- "approval under another enactment" means any approval, licence, permit or other authorization under another enactment and the plural forms of that expression have a corresponding meaning;
- "board" means the Environmental Assessment Board;
- "effects" means environmental, economic, social, cultural, heritage and health effects;
- "executive director" means the individual appointed under section 59 as the Executive Director of the Environmental Assessment Office;
- "first nation" means an aboriginal governing body, however organized and established by aboriginal people within their traditional territory in British Columbia;
- "municipality" has the same meaning as in the Municipal Act except that it includes the City of Vancouver;
- "project" means any
- (a) activity that has or may have adverse effects, or
 - (b) construction, operation, modification, dismantling or abandonment of a physical work;
- "project approval certificate" means a certificate issued by the minister under section 20 or 30 or issued by the minister pursuant to an order of the Lieutenant Governor in Council under section 34;
- "project registry" means the project registry established under section 61;
- "proponent" means any person that proposes to undertake a reviewable project, and includes the government of Canada, British Columbia, a municipality, a regional district, another province or another jurisdiction;
- "responsible minister" means the member of the Executive Council that the Lieutenant Governor in Council designates by order as the minister responsible for a specified reviewable project or specified category of reviewable projects;
- "reviewable project" means a project that is within a category of projects prescribed under section 3 or that is designated by the minister under section 4, and includes
- (a) the facilities at the main site of the project,
 - (b) any offsite facilities related to the project that the executive director may designate, and
 - (c) any activities related to the project that the executive director may designate.

Purposes

2 The purposes of this Act are

- (a) to promote sustainability by protecting the environment and fostering a sound economy and social well-being,
- (b) to provide for the thorough, timely and integrated assessment of the environmental, economic, social, cultural, heritage and health effects of reviewable projects,
- (c) to prevent or mitigate adverse effects of reviewable projects,
- (d) to provide an open, accountable and neutrally administered process for the assessment
 - (i) of reviewable projects, and
 - (ii) of activities that pertain to the environment or to land use and that are referred to the board in accordance with the terms of reference mentioned in section 51 (1) (c), and
- (e) to provide for participation, in an assessment under this Act, by the public, proponents, first nations, municipalities and regional districts, the government and its agencies, the government of Canada and its agencies and British Columbia's neighbouring jurisdictions.

Part 2 -- Environmental Assessment Process

Division 1 -- Application of this Act

Reviewable projects

3 (1) The Lieutenant Governor in Council may make regulations prescribing what constitutes a reviewable project for the purposes of this Act.

(2) For the purpose of a regulation under subsection (1), the Lieutenant Governor in Council by regulation may

(a) categorize projects according to size, production or storage capacity, location, potential for adverse effects, type of industry to which the projects are related or on any other basis that the Lieutenant Governor in Council considers appropriate, and

(b) provide differently for the different categories of projects.

(3) Subject to subsection (4), this Act and the regulations do not apply to

(a) a forest practice, as defined in the Forest Practices Code of British Columbia Act, or

(b) an activity on land that is not Crown land as defined in the Forest Act, if

(i) a regulation made under section 217 (1) of the Forest Practices Code of British Columbia Act applies to the land, and

(ii) the activity would be a forest practice if it were carried out on Crown forest land as defined in the Forest Practices Code of British Columbia Act.

(4) Subsection (3) does not affect the discretion of

(a) the Lieutenant Governor in Council under subsection (1) to make regulations prescribing that the construction, operation, modification, dismantling or abandonment of any type of timber processing facility, as defined in section 1 of the Forest Act, constitutes a reviewable project,

(b) the minister under section 4 to make an order designating as a reviewable project the construction, operation, modification, dismantling or abandonment of a timber processing facility, as defined in section 1 of the Forest Act, or

(c) the executive director to designate, for the purpose of paragraph (c) of the definition of reviewable project in section 1, any of the activities, described in subsection (3), that are related to the construction, operation or modification, dismantling or abandonment of the facilities of any reviewable project.

Minister's power to designate a project as reviewable

4 The minister by order may designate a project, proposed but not yet substantially started at the time of designation, as a reviewable project, even though it does not constitute a reviewable project under the regulations if the minister is satisfied that the project has or may have a significant adverse effect and that the designation is in the public interest.

Prohibition against proceeding without approval

5 (1) Despite any other enactment, a person must not

(a) undertake or carry on any activity that is a reviewable project, or

(b) construct, operate, modify, dismantle or abandon the facilities of a reviewable project, unless the person first obtains a project approval certificate for the reviewable project.

(2) Despite any other enactment, a person must not

(a) undertake or carry on an activity that is a reviewable project, or

(b) construct, operate, modify, dismantle or abandon the facilities of a reviewable project, except in accordance with a valid project approval certificate.

Effect on permits, etc. under other enactments

6 (1) Despite any other enactment, a minister, employee or agent of the government or an employee or agent of a municipality or regional district must not issue an approval under another enactment for a person to

(a) undertake or carry on an activity that is a reviewable project, or

(b) construct, operate, modify, dismantle or abandon all or part of the facilities of a reviewable project,

unless satisfied that the person has a valid project approval certificate for that reviewable project.

(2) Despite any other enactment, an approval under another enactment is without effect if it is issued contrary to subsection (1).

Division 2 -- Applying for a Project Approval Certificate

Application

7 (1) The proponent of a reviewable project may apply for a project approval certificate by applying in writing to the executive director and paying the prescribed fee.

(2) An application for a project approval certificate must state the name, address and title of the proponent and of the individual having responsibility for answering questions relating to the application and must include or be accompanied by a preliminary overview of the reviewable project, including but not limited to a description of

(a) the purpose and major components of the project,

(b) existing information pertaining to environmental, economic, social, cultural, heritage and health characteristics and conditions in the vicinity of the project,

(c) onsite and offsite facilities of or associated with the project,

(d) the construction plan for the project and a timetable for the completion of the construction,

(e) any new or expanded public works or undertakings that will be required because of the project,

(f) the potential effects of the project,

(g) the measures that the proponent proposes in order to prevent or mitigate adverse effects,

(h) any relevant plans pertaining to land use and to related resource issues in the area of the project that are authorized under an enactment,

(i) public information distribution activities and consultation activities undertaken by the proponent and a summary of the public response and of the issues identified,

(j) any program of public information distribution or consultation proposed by the proponent during the next stages of project planning and review,

(k) information distribution activities and consultation activities undertaken by the proponent with a first nation and a summary of the first nation's response and of the issues identified,

(l) any program of information distribution or consultation proposed by the proponent with a first nation during the next stages of project planning and review,

(m) any discussions undertaken by the proponent about the effects of the project, with ministries or agencies of the government of British Columbia, with departments or agencies of the government of Canada, with municipalities or regional districts or with British Columbia's neighbouring jurisdictions,

(n) the issues identified in the discussions referred to in paragraph (m), and

(o) any other prescribed information.

Acceptance of application for review

8 (1) Within the prescribed period after receiving an application for a project approval certificate, the executive director must

(a) accept the application for review if it meets the requirements of section 7, and deliver written notice of the acceptance to the proponent, or

(b) withhold acceptance of the application for review if the application does not meet the requirements of section 7, and deliver written notice to the proponent, giving particulars of the deficiencies.

(2) The executive director, in any notice delivered under subsection (1) (a), must specify the number of copies of the application needed from the proponent for the purpose of the review and require the proponent to supply the copies.

Division 3 -- Committees

Project committee

9 (1) After an application for a project approval certificate has been accepted under section 8 for review and within the prescribed period after the proponent supplies the copies referred to in section 8 (2), the executive director must establish a project committee for the reviewable project that is the subject of the application.

(2) The executive director must invite each of the following to nominate a number of individuals not exceeding the number specified for that nominator by the executive director, to represent the nominator on a project committee established under subsection (1):

(a) the government of British Columbia;

(b) the government of Canada;

(c) any municipality or regional district in the vicinity of the project or in which the project is located;

(d) any first nation whose traditional territory includes the site of the project or is in the vicinity of the project;

(e) any of British Columbia's neighbouring jurisdictions in the vicinity of the project.

(3) After the establishment of a project committee and at the request of a body listed in subsection (2) (a) to (e), the executive director may invite that body to nominate to the project committee a number of individuals, not exceeding the number specified by the executive director, from any agency or department of a body listed in subsection (2) (a) to (e), not already represented on the project committee at the time of the invitation.

(4) An individual who ceases to be a member of a project committee may be replaced by an individual to be named to the committee by the original nominator, and a project committee is comprised of the continuing nominees under subsections (2) and (3) and any individuals named to the committee as replacement members.

(5) The executive director is the chair of a project committee unless the executive director delegates the responsibility of chairing that committee to another individual employed in the Environmental Assessment Office.

(6) Subject to the regulations, a project committee may

(a) determine its own procedure, and

(b) provide for the conduct of its meetings.

Purpose of project committee

10 The purpose of a project committee established for a reviewable project is, in respect of that project,

(a) to provide to the executive director, the minister and the responsible minister expertise, advice, analysis and recommendations, and

(b) to analyze and advise the executive director, the minister and the responsible minister as to,

(i) the comments received in response to an invitation for comments under this Act,

(ii) the advice and recommendations of the public advisory committee, if any, established for that reviewable project,

(iii) the potential effects, and

(iv) the prevention or mitigation of adverse effects.

Public advisory committees

11 (1) At any time after an application for a project approval certificate has been filed at the project registry, the executive director may establish for the reviewable project that is the subject of the application a committee to advise and make recommendations to the project committee on matters of public concern.

(2) The executive director may appoint to the committee individuals, each of whom is interested in, or represents an organization that is interested in, the outcome of the review of the application.

(3) A public advisory committee may

(a) determine its own procedure,

(b) provide for the conduct of its meetings, and

(c) for the project for which the committee is established, invite representatives of a body referred to in section 9 (2) (a), (b), (c), (d) or (e) to attend its meetings and participate in its advice and recommendations.

Division 4 -- Amendments to Application

Proponent may request amendments

12 (1) A proponent that intends to make a material change to

(a) a reviewable project that is the subject of an application for a project approval certificate that has been accepted under section 8 for review, or

(b) the manner of implementing the reviewable project,

may submit a written request to the executive director to amend the existing application as necessary to accommodate the intended change.

(2) The request for amendments must set out the particulars of the intended amendments to the application and must be submitted before issuance or refusal of a project approval certificate under section 20, 30 or 34.

Discretion to allow amendments

13 (1) Within the prescribed period after receiving a request under section 12 to amend an application for a project approval certificate, the executive director, on the recommendation of the project committee, must

(a) make an order allowing the amendment, and deliver written notice of the order to the proponent if

(i) the request adequately describes the intended changes to the project or to the manner of implementing the project or both, as the case may be, and

(ii) there will be adequate opportunity in the next stages of the review of the application to assess the intended changes and to take the changes into account in deciding whether or not to issue a project approval certificate, or

(b) make an order refusing to allow the amendment, and deliver written notice of the order to the proponent, if the criteria in paragraph (a) (i) and (ii) are not satisfied.

(2) An order under subsection (1) (a) may

(a) vary the review process as considered necessary by the executive director, on the recommendation of the project committee, and

(b) contain conditions relating to publicizing the intended changes and their potential effects.

(3) An order under this section must be accompanied by written reasons.

Division 5 -- Distribution of Information for Comment

Public information and consultation

14 (1) After

- (a) the acceptance for review of an application under section 8 for a project approval certificate and within the prescribed period after the proponent supplies the copies referred to in section 8 (2), or
 - (b) the acceptance for review of a project report under section 26 and within the prescribed period after the proponent supplies the copies referred to in section 26 (2),
the executive director, in consultation with the project committee, must make a written assessment of the adequacy of any measures that the proponent has taken or proposed relating to the distribution of information about the reviewable project that is the subject of the application or project report.
- (2) The proponent must advertise the availability of the application or project report, as the case may be, in the prescribed manner.
- (3) The written assessment may
- (a) specify further measures necessary to ensure adequate distribution of information about the reviewable project, including but not limited to each or any combination of the following measures:
 - (i) the advertisement of the application for a project approval certificate or of the project report, as the case may be;
 - (ii) public consultation;
 - (iii) consultation with one or more first nations;
 - (iv) the distribution to persons or organizations, specified by the executive director, of copies of the application or project report, or notices of their availability for inspection at one or more locations specified by the executive director,
 - (b) set a period within which the specified further measures are to be carried out, and
 - (c) assign responsibility for carrying out each of the specified further measures, either to the proponent or to the Environmental Assessment Office.
- (4) The Environmental Assessment Office or the proponent, depending on which of them is assigned the responsibility under subsection (3) (c) for a specified further measure, must carry out that measure within the period set for it under subsection (3) (b).

Cost of distributing information

- 15 (1) The proponent is liable for the cost of carrying out any measure for which the executive director assigns responsibility under section 14 (3) (c), including any cost incurred by or on behalf of the Environmental Assessment Office in carrying out a measure for which that office is assigned the responsibility.
- (2) Despite subsection (1), the executive director may direct that the liability for the cost of a measure for which he or she assigns responsibility under section 14 (3) (c) be shared by the proponent and the Environmental Assessment Office in the proportions specified by the executive director.

Public comment on steps in the review process

- 16 (1) Within the prescribed period after any of the following steps in the review of a reviewable project, the executive director must give notice to the public inviting comments, relevant to that step, about the potential effects of the project:
- (a) the receipt by the executive director from the proponent of the copies, referred to in section 8 (2), of the application accepted under section 8 for review;
 - (b) the preparation, under section 21, of the draft project report specifications;
 - (c) the receipt by the executive director from the proponent of the copies, referred to in section 26 (2), of a project report accepted under section 26 for review;
 - (d) the preparation, under section 31, of the draft terms of reference.

- (2) In a notice under subsection (1) the executive director must specify a period within the prescribed limits during which any comments must be received at the office of the executive director in order to be taken into account
- (a) in the decision under section 19 to either
 - (i) refer the application to the minister and responsible minister for a decision under section 20, or
 - (ii) order that the project report be prepared under Division 7 and that the project undergo further review under Division 8,
 - (b) in preparation in final form under section 24, of the project report specifications,
 - (c) in a referral, under section 29, of the application to the minister and responsible minister for a decision under section 30, or
 - (d) in the preparation in final form, under section 32, of the terms of reference.

Circulating material internally and to others

17 Within the prescribed period after each of the steps referred to in section 16 (1), in the review of a reviewable project, the executive director must circulate, to the extent that it is practical and appropriate to do so, a notice of that step, inviting comments about the potential effects of the reviewable project from

- (a) within the government of British Columbia,
- (b) the government of Canada and its agencies,
- (c) municipalities or regional districts in the vicinity of the project or in which the project is located,
- (d) first nations whose traditional territory includes the site of the project or is in the vicinity of the project, and
- (e) any of British Columbia's neighbouring jurisdictions in the vicinity of the project.

Proponent's opportunities to respond

18 Within the prescribed period after expiry of a period specified under section 16 for receiving comments about the potential effects of a reviewable project, the executive director must

- (a) advise the proponent of any comments received in response to an invitation under section 16 or 17, and
- (b) give the proponent an opportunity to respond in writing to the comments other than those relating to the preparation, under section 31, of the draft terms of reference for the public hearing.

Division 6 -- Decision on an Application

for a Project Approval Certificate

Decision

19 (1) Within the prescribed period after expiry of the period specified under section 16 for receiving comments about an application for a project approval certificate, and after taking into account the application and any comments about it that have been received, the executive director, on the recommendation of the project committee, must

- (a) refer the application to the minister and responsible minister for a decision under section 20, or
 - (b) order that a project report be prepared in accordance with Division 7 and that the project undergo further review under Division 8.
- (2) However, the executive director may make a referral under subsection (1) (a) only if he or she, in consultation with the project committee,
- (a) ascertains, and in the referral reports to the ministers, that any specified further measures under section 14, relating to the distribution of information about the project, have been carried out,

(b) considers, and in the referral reports to the ministers, that the application identifies and adequately describes the potential effects of the project, including all significant adverse potential effects, and

(c) examines, and in the referral reports to the ministers about, whether or not, in the opinion of the project committee, the application sets out practical means of preventing or reducing to an acceptable level all significant adverse effects of the project.

(3) A referral under subsection (1) (a) must be accompanied by recommendations of the project committee relevant to a decision under section 20 and by the reasons for those recommendations.

(4) An order under subsection (1) (b) must be accompanied by recommendations of the project committee relevant to a review under Divisions 7 and 8 and by reasons for those recommendations.

(5) Notice of a referral or order under this section must be delivered to the proponent.

Ministers' power to approve, reject or require further review

20 Within the prescribed period after the referral, under section 19, of an application for a project approval certificate to the minister and the responsible minister

(a) the ministers must consider the application and any recommendations of the project committee,

(b) the minister with the concurrence of the responsible minister must

(i) issue the project approval certificate to the proponent and attach any conditions to the certificate that the ministers consider necessary,

(ii) refuse to issue the project approval certificate to the proponent, or

(iii) order that a project report be prepared in accordance with Division 7 and that the project undergo further review under Division 8,

(c) the ministers must give written reasons for a decision under paragraph (b), and

(d) the decision and reasons must be delivered to the proponent.

Division 7 -- Preparation of a Project Report

Draft project report specifications

21 Within the prescribed period after an order, under section 19 (1) (b) or 20 (b) (iii), that a project report be prepared and that the project undergo further review, the executive director must

(a) prepare project report specifications in draft form that identify, and require the project report to contain or be accompanied by, any information, analysis, plans and other records that the executive director, on the recommendation of the project committee, considers relevant to an effective assessment of the potential effects of the project, and

(b) deliver a copy of the draft project specifications to the proponent.

Matters to be included in project report

22 Without limiting section 21, the project report specifications may identify, and may require the project report to contain or be accompanied by, information and analysis that reveal, explain or give particulars of

(a) the rationale for the project,

(b) the site selection procedure for the project, the reason why the site was chosen and a description of alternative sites considered,

(c) the existing environmental, economic, social, cultural, heritage and health characteristics and conditions that may be affected by the project,

(d) the potential for direct and indirect effects of the project,

(e) alternatives to the methods of construction, operation, modification, dismantling or abandonment proposed in the application,

(f) the potential effects of the alternatives referred to in paragraph (e),

- (g) potential impacts on the exercise of aboriginal rights,
- (h) health issues,
- (i) the potential for accidents with adverse effects,
- (j) data necessary or useful to enable the assessment of the probable cumulative effects of the project,
- (k) the potential cross-boundary effects of the project, and
- (l) means of incorporating energy efficiency and energy conservation measures into the design and operation of the project.

Plans to be provided

23 Without limiting section 21, the project report specifications may identify, and require the project report to contain or be accompanied by, one or more plans, showing in a manner satisfactory to the executive director how the proponent intends to carry out all or any combination of the following:

- (a) public consultation about the project;
- (b) consultation with first nations whose traditional territory includes the site of the project or is in the vicinity of the project;
- (c) measures to prevent or mitigate adverse effects of the project;
- (d) monitoring the effects of the project;
- (e) evaluating the adequacy of any measures proposed to prevent or mitigate adverse effects of the project.

Preparation and submission of project report according to specifications

24 Within the prescribed period after expiry of the period specified under section 16 for receiving comments concerning the draft project report specifications, the executive director must

- (a) prepare the project report specifications in final form by making any revisions that the executive director, on the recommendation of the project committee, considers necessary for an effective assessment of the potential effects of the project, and
- (b) deliver the final form of the project report specifications to the proponent together with a request that the proponent
 - (i) prepare the project report in accordance with the project report specifications, and
 - (ii) submit the project report to the executive director for review under Division 8.

Division 8 -- Review of a Project Report

Definitions for Division 8

25 In this Division:

"approval" includes a licence, permit or other authorization or an amendment to any of them;

"specified enactment" means

- (a) section 13 (5) (licence to carry on the business of aquaculture) of the Fisheries Act,
- (b) any of the following provisions of the Forest Act:
 - (i) section 48 (free use permit);
 - (ii) section 51 (authorization of an agreement in the form of a licence to cut to a person who does not otherwise have the right to harvest Crown timber);
 - (iii) section 115 (road permit and road use permit for timber harvesting);
 - (iv) section 117 (road use permits for industrial use),
- (c) section 2 (4) and (5) (special use permit) of the Forest Practices Code of British Columbia Act,
- (d) section 12 (permit to alter an archeological site) of the Heritage Conservation Act,
- (e) section 54 (permit for access to controlled access highway) of the Highway Act,

- (f) section 5 (certificate granting leave for an industrial road to cross or join, or be crossed or joined, by a public road or highway) of the Highway (Industrial) Act,
- (g) section 10 or 11 (permit for work in, on or about a mine) of the Mines Act,
- (h) either of the following provisions of the Mining Right of Way Act:
- (i) section 3 (consent or permit to take and use private land, or to use Crown land, for a right of way);
- (ii) section 4 (1) (b) (written approval described in that provision relating to the taking and using of private land, or the using of Crown land, for a right of way),
- (i) section 20 (park use permit) of the Park Act,
- (j) either of the following provisions of the Sewage Disposal Regulation, B.C. Reg. 411/85:
 - (i) section 3 (authorization for the construction, installation, alteration or repair of a sewage disposal system);
 - (ii) section 4 (authorization to use, operate or cover a sewage disposal system,
- (k) section 17 or 18 (an energy removal certificate) of the Utilities Commission Act,
- (l) either of the following provisions of the Waste Management Act:
 - (i) section 10 (permit to introduce waste into the environment, to store special waste or recycle special waste);
 - (ii) section 11 (approval for the introduction of waste into the environment, the storage of special waste or the treatment or recycling of special waste),
- (m) any of the following provisions of the Water Act:
 - (i) section 8 (approval for the diversion, use, or both, of water);
 - (ii) section 7, 12 or 14 (water licence), or
- (n) section 2 (permit for the construction, alteration, or extension of a waterworks system) of the Safe Drinking Water Regulation, B.C. Reg. 230/ 92.

Accepting a project report for review

26 (1) Within the prescribed period after the submission of a project report to the executive director in accordance with a request under section 24 (b) (ii), the executive director, on the recommendation of the project committee, must

- (a) accept the project report for review if it meets the final form of the project report specifications and deliver written notice of the acceptance to the proponent, or
- (b) withhold acceptance of the project report for review if the project report does not meet the final form of the project report specifications and deliver written notice to the proponent, giving particulars of the deficiencies.

(2) The executive director, in any notice delivered under subsection (1) (a), must specify the number of copies of the project report needed from the proponent for the purpose of the review and require the proponent to supply the copies.

Concurrent process under other enactments

27 At any time after the acceptance, under section 8, of a proponent's application for a project approval certificate but not after the proponent submits the project report under section 24 (b), the proponent may deliver notice to the executive director

- (a) identifying the approvals that the proponent is applying for under the specified enactments in relation to the reviewable project that is the subject of the project report,
- (b) attaching or enclosing the copies of the applications and supporting material, confirming that the applications have been filed under the specified enactments, and
- (c) requesting that those applications be given consideration under the specified enactments concurrently with the continuing review under this Act of the proponent's application for a project approval certificate.

Special provision for concurrent process

28 (1) It is the duty of the ministry receiving an application and supporting material, under a specified enactment,

- (a) to proceed expeditiously with the consideration and any review of the application, in accordance with the specified enactment,
- (b) to inform the proponent and the project committee, within the same prescribed period as that prescribed for the purpose of section 29 (2), that, subject to any order that may be made under section 34 (2), the approval applied for under the specified enactment
 - (i) will be issued after section 6 of this Act allows it to be issued but within the period prescribed for the purpose of subsection (2), indicating the conditions, if any, that are likely to be attached at the time of approval,
 - (ii) will be refused, indicating the reasons for the intended refusal, or
 - (iii) will be postponed to a later date for a decision, indicating the reasons for the postponement.

(2) Within the prescribed period after the issuance of a project approval certificate under this Act, the appropriate authority under the specified enactment under which the proponent of the project applies for an approval must

- (a) issue the approval applied for,
- (b) refuse to issue the approval applied for, giving the reasons for the refusal, or
- (c) specify a later date on which the proponent may expect a decision under the specified enactment, giving the reasons for the postponement.

Referral to ministers for decision

29 (1) In making a referral, under this section, of an application for a project approval certificate, the executive director must take into account the application, the project report and any comments received about them.

(2) Within the prescribed period after expiry of the period specified under section 16 (2), for receiving comments concerning the project report, the executive director, on the recommendation of the project committee, must refer the application to the minister and responsible minister for a decision under section 30.

(3) Despite subsection (1), the executive director must not make a referral under this section unless any specified further measures under section 14, relating to the distribution of information about the project, have been carried out.

(4) A referral under this section may be accompanied by recommendations of the project committee relevant to a decision under section 30.

Ministers' power to approve, reject or refer to board

30 (1) Within the prescribed period after the referral, under section 29, of an application for a project approval certificate to the minister and the responsible minister,

- (a) the ministers must consider the application and any recommendations of the project committee,
- (b) the minister with the concurrence of the responsible minister must
 - (i) issue a project approval certificate to the proponent and attach any conditions to the certificate that the ministers consider necessary,
 - (ii) refuse to issue the project approval certificate to the proponent, or
 - (iii) refer the application to the Environmental Assessment Board for the public hearing required under section 52,
- (c) the ministers must give written reasons for the decision under subsection (1) (b), and
- (d) the decision and written reasons must be delivered to the proponent.

(2) If a referral is made under subsection (1) (b) (iii), the Lieutenant Governor in Council may designate a regular or temporary member of the board to act as chair for the purpose of the public hearing.

Minister to specify draft terms of reference for public hearing

31 (1) Within the prescribed period after the referral of an application for a project approval certificate to the Environmental Assessment Board, under section 30 (1) (b) (iii),

(a) the minister with the concurrence of the responsible minister must specify draft terms of reference for the public hearing, required under section 52, of the application, and
(b) the draft terms of reference must be delivered to the proponent.

(2) The draft terms of reference may include either or both of the following:

(a) a requirement that the board inquire into, and recommend whether, in relation to the application for a project approval certificate that is referred, any approvals should be given under one or more of the specified enactments;

(b) a requirement that the Environmental Assessment Board's hearings of specified applications for project approval certificates be consolidated into one hearing.

Final terms of reference

32 Within the prescribed period after expiry of the period specified under section 16 for receiving comments concerning the draft terms of reference for the public hearing of an application for a project approval certificate, the minister with the concurrence of the responsible minister must

(a) prepare the final form of the terms of reference, by making any revisions to the draft terms of reference that the ministers consider necessary, and

(b) deliver the terms of reference in final form to the proponent of the project.

Report to Lieutenant Governor in Council after public hearing

33 On conclusion of a public hearing, under section 52, of an application for a project approval certificate, the board must submit to the Lieutenant Governor in Council a written report that includes

(a) the board's recommendation whether to issue or refuse to issue the project approval certificate applied for,

(b) if the board recommends issuance of the project approval certificate, the board's further recommendations as to any conditions for the project approval certificate that the board considers necessary, including but not limited to conditions relating to

(i) preventing or mitigating any adverse effects of the project,

(ii) monitoring the effects of the project, and

(iii) evaluating the adequacy of the measures to prevent or mitigate the adverse effects of the project,

(c) if the board recommends issuance of the project approval certificate and the terms of reference for the public hearing included the consideration of matters relating to the issuance of any approvals under one or more of the specified enactments, the board's further recommendations as to

(i) the issuance, under the relevant specified enactments, of the approval or approvals, and

(ii) any conditions for the approval or approvals, and

(d) a summary of the evidence received and submissions made in the course of the public hearing.

Lieutenant Governor in Council's decision to approve or reject

34 (1) Within the prescribed period after receiving the board's report under section 33, the Lieutenant Governor in Council must order that

(a) the project approval certificate that is the subject of the report be issued by the minister, subject to any conditions that the Lieutenant Governor in Council may specify, or

(b) the project approval certificate be refused.

(2) In an order made under subsection (1) (a) the Lieutenant Governor in Council may also order that any approvals, under one or more of the specified enactments, be issued in relation to the

project, within the prescribed time after the date of the project approval certificate, and subject to any conditions that the Lieutenant Governor in Council may specify in the order.

(3) An order under subsection (1) is final and binding.

(4) If the Lieutenant Governor in Council makes an order under subsection (2), requiring the issuance of an approval under one or more of the specified enactments, any person, board, tribunal or agency that, apart from this Act, has the authority or power to issue or decide to issue the approval must issue it in accordance with the order, despite anything in the specified enactments.

(5) Despite anything in the specified enactments, the issuance of an approval under a specified enactment, in accordance with an order made under subsection (2), is

(a) final and binding, and

(b) not subject to review or appeal under that enactment.

Division 9 -- Project Approval Certificate

When project begins

35 (1) A project approval certificate must specify a deadline, at least 3 years and not more than 5 years after the issue date of the certificate, by which the holder of the certificate must substantially start the project.

(2) On application by the holder of a project approval certificate, the minister with the concurrence of the responsible minister may extend the deadline specified in the certificate.

(3) An application under this section must state the reasons why the proponent wishes an extension of the deadline.

Project approval certificate remains in effect

36 Subject to cancellation or suspension under section 71, a project approval certificate remains in effect for the life of the project.

Project may proceed in stages

37 A project approval certificate may allow the holder of the certificate to implement the project in stages that are identified in the certificate.

Conditions on project approval certificates

38 (1) A project approval certificate may contain, in addition to other conditions attached under this Act, conditions that require the holder of the certificate, on an ongoing basis,

(a) to monitor any effects of the project,

(b) to compare the anticipated effects of the project, as set out in the project report, with the actual effects of the project,

(c) to evaluate the adequacy of the measures taken by the holder to prevent or mitigate any adverse effects of the project, and

(d) to report in writing to the executive director the results of the activities described in paragraphs (a) to (c).

(2) The conditions that, under this section or another provision of this Act, may be attached to a project approval certificate for a reviewable project include conditions applicable to the construction of that reviewable project and, after completion of its construction, to the subsequent operation, modification, dismantling or abandonment of the facilities constructed.

Part 3 -- Guidelines for Review and

Category Assessment Requirements

Division 1 -- Review Guidelines for Other Enactments

Definitions for this Division

39 In this Division:

"another enactment" and "other enactment" refer to an enactment that authorizes the issuance of an approval that is required under that enactment for any

- (a) activity that has or may have adverse effects, or
 - (b) construction, operation, modification, dismantling or abandonment of a physical work, whether or not the activity, or the construction, operation, modification, dismantling or abandonment, constitutes a reviewable project under this Act;
- "approval" includes a licence, permit or other authorization.

Guidelines for review under other enactments

40 (1) The minister and the minister charged with the administration of another enactment jointly may direct the executive director, in accordance with terms of reference specified by the ministers, to examine

(a) the methods in use under the other enactment for the prevention or reduction of adverse effects of projects that are the subjects of applications for approvals under the other enactment, and

(b) any other processes, practices and procedures in use under the other enactment that are pertinent to decisions under it in relation to applications for approvals and the renewal, amendment, cancellation and suspension of approvals.

(2) The executive director must report the results of an examination under subsection (1) to the minister and the minister charged with the administration of the other enactment, including in the report recommendations, consistent with the purposes of this Act, for improvements in

(a) the processes, practices and procedures examined by the executive director, and

(b) the methods in use under the other enactment for the prevention or mitigation of adverse effects.

(3) After receiving the report of the executive director under subsection (2), and after taking into account the recommendations contained in the report, the minister charged with the administration of the other enactment, acting with the concurrence of the minister, may issue guidelines, to be followed by the employees and agents of the ministry administering the other enactment, respecting

(a) the processes, practices and procedures under the other enactment in relation to applications for approvals and the renewal, amendment, cancellation and suspension of approvals, or

(b) the methods in use under the other enactment for the prevention or mitigation of adverse effects.

(4) The guidelines referred to in subsection (3) must be consistent, in the opinion of the minister and the minister charged with the administration of the other enactment, with this Act and with the other enactment to which the executive director's report under this section pertains.

Division 2 -- Category Assessment Specifications

Draft category assessment specifications

41 The minister and the responsible minister jointly may direct the executive director, for one or more categories of reviewable projects specified by the ministers,

(a) in accordance with terms of reference specified by the ministers, to identify, assemble and examine available information and research that is pertinent generally to the assessment under this Act of the effects of reviewable projects that are in the specified category or categories, and

(b) based on the examination, to prepare, in draft form, category assessment specifications that identify and describe information, analysis, plans and other records that are relevant to the

assessment under this Act of the effects of reviewable projects that are in the specified category or categories.

Public comment on draft specifications

42 (1) The executive director must give notice to the public inviting comments relevant to the assessment under this Act of the effects of reviewable projects that are in the category or categories specified under section 41 by the ministers.

(2) In a notice under subsection (1) the executive director must specify a period during which any comments must be received at the office of the executive director in order to be taken into account in preparation under section 44 of the revised category assessment specifications.

Circulating material internally and to others

43 The executive director must circulate, to the extent that it is practical and appropriate to do so, a notice inviting comments, relevant to the assessment under this Act of the effects of reviewable projects that are in the category or categories specified under section 41, from

- (a) within the government of British Columbia,
- (b) the government of Canada and its agencies,
- (c) municipalities and regional districts,
- (d) first nations, and
- (e) British Columbia's neighbouring jurisdictions.

Revised category assessment specifications

44 After expiry of the period specified under section 42 (2) for receiving comments, the executive director must

- (a) make any revisions to the category assessment specifications that the executive director considers necessary for an effective assessment of the potential effects of reviewable projects that are in the category or categories specified under section 41 by the ministers, and
- (b) refer the category assessment specifications to the ministers for approval by the Lieutenant Governor in Council.

Lieutenant Governor in Council approval

45 The Lieutenant Governor in Council may approve category assessment specifications, referred under section 44, for use in the review under Part 2, of reviewable projects that are in a category or categories specified under section 41 by the ministers.

Category assessment

46 If category assessment specifications have received the approval of the Lieutenant Governor in Council under section 45, the executive director may make them available to proponents and may accept them in fulfillment or partial fulfillment of the obligations of proponents to provide the types of information set out in sections 7 and 21 to 24, as those obligations pertain to the reviewable projects that are in the category or categories to which the category assessment specifications apply.

Amendments

47 (1) This Division applies to the amendment of category assessment specifications that have been approved under section 45.

(2) Despite subsection (1), but subject to first receiving the approval of the Lieutenant Governor in Council, the minister and responsible minister jointly may direct the executive director to make minor amendments to category assessment specifications approved under section 45.

Environmental Assessment Board

48 (1) The Environmental Assessment Board is continued consisting of not more than 3 regular members, each appointed under subsection (2) for a term of at least 3 years, and the temporary members appointed under subsection (3).

(2) The Lieutenant Governor in Council must appoint, as regular members, individuals who, in the opinion of the Lieutenant Governor in Council, have expertise relevant to the assessment of the environmental, economic, social, cultural, heritage and health effects of projects.

(3) The Lieutenant Governor in Council may appoint as temporary members, for the purpose of a matter or matters referred to the board, individuals who, in the opinion of the Lieutenant Governor in Council have relevant expertise or special knowledge.

(4) The Lieutenant Governor in Council must designate one of the regular members as the chair of the board.

(5) The chair of the board supervises the board and directs its work and staff.

Organization into panels

49 (1) The chair of the board may organize the board into panels, each comprised of one or more members.

(2) The members of the board may sit as a board or as a panel of the board.

(3) If members of the board sit as a panel,

(a) one or more panels may sit at the same time,

(b) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the board, and

(c) an order, decision or action of the panel is an order, decision, or action of the board.

Remuneration, etc.

50 (1) The Lieutenant Governor in Council may set the remuneration of the members of the board and the terms of their appointments.

(2) The Lieutenant Governor in Council may order that the Pension (Public Service) Act applies to a regular member of the board who is named in the order.

Mandate of the board

51 (1) It is the duty of the board, and it is empowered,

(a) to conduct public hearings into, and review and make recommendations to the Lieutenant Governor in Council concerning, applications for project approval certificates that are referred to the board by the minister with the concurrence of the responsible minister under section 30,

(b) in accordance with terms of reference specified by order of the minister under section 88,

(i) to conduct a review of a matter referred by the minister under section 88, and

(ii) to report back to the minister, and

(c) in accordance with terms of reference specified by order of the Lieutenant Governor in Council acting under the authority of another Act,

(i) to conduct a review of the effects, as defined in this Act, of activities pertaining to the environment or to land use that are contemplated or proposed under that other Act, and

(ii) to report the results of the review to the Lieutenant Governor in Council.

(2) If directed to do so under the terms of reference referred to in subsection (1) (b) or (c), the board must conduct public hearings in respect of the matters referred.

Public hearings on applications referred to board

52 (1) The board must conduct, in accordance with the terms of reference specified under section 32, a public hearing into an application for a project approval certificate referred to the board under section 30 by the minister with the concurrence of the responsible minister.

(2) A public hearing under subsection (1) must not begin sooner than 15 days after the terms of reference specified under section 32 have been filed at the project registry.

Notice of public hearing

53 (1) The board must give notice, in accordance with this section, of a public hearing that is required under section 51 or 52.

(2) The notice must

(a) state the time, date and place of the public hearing and, in general terms, the subject matter of the public hearing, and

(b) be published and distributed in the prescribed form and manner.

(3) If the hearing relates to an application for a project approval certificate, the executive director must deliver a copy of the notice to the proponent in advance of the publication of the notice.

Conduct of hearings

54 (1) The board may determine the procedures to be followed for the purposes of public hearings required under section 52.

(2) Hearings are open to the public and may be conducted in an informal manner.

(3) The board may receive or accept evidence whether or not it would be admissible in a court of law.

(4) In a hearing before the board or a panel of the board, if a member is absent or unable to attend the hearing, the member is disqualified from continuing to participate in the hearing, and the member or members remaining present may exercise and perform all the jurisdiction, powers and duties of the board.

(5) The board may exclude the public from a hearing for the purpose of receiving evidence if the board considers that the desirability of avoiding disclosure of the evidence in order to protect the interest of any person, or to protect the public interest, outweighs the desirability of public disclosure.

Public hearing fees and charges to proponent

55 (1) For a public hearing under this Act, the minister may order the proponent of a reviewable project that is the subject of the hearing to pay prescribed fees or charges for the costs that are incurred by or on behalf of the board for or in relation to the hearing.

(2) If a public hearing under this Act relates to more than one reviewable project, the minister may apportion the fees or charges, as the minister thinks fit, between or among the proponents of the reviewable projects.

Powers of inquiry

56 (1) For the purposes of a public hearing required under section 30, the board has the powers, privileges and protection given under sections 12, 15 and 16 of the Inquiry Act to a commissioner appointed under Part 2 of that Act.

(2) For the purpose of a matter that the minister refers to the board under section 88, the minister by order may confer on the board the powers, privileges and protection given under sections 12, 15 and 16 of the Inquiry Act to a commissioner appointed under Part 2 of that Act.

(3) For the purpose of a review referred to in section 51 (1) (c), the Lieutenant Governor in Council by order may confer on the board the powers, privileges and protection given under sections 12, 15 and 16 of the Inquiry Act to a commissioner appointed under Part 2 of that Act.

Annual report

57 (1) As soon as practicable after the end of the fiscal year of the government, the board must submit to the minister an annual report that includes a list of projects for which public hearings were conducted and a summary of the results of those public hearings.

(2) The board may include in the report recommendations in regard to performing its functions under this Act.

(3) The minister must promptly lay the report before the Legislative Assembly if it is in session and, if it is not in session when the report is submitted, within 30 days after the beginning of the next session.

Part 5 -- Administration of the Process

Environmental Assessment Office

58 (1) The Environmental Assessment Office is continued as an office of the government under the direction of the minister.

(2) The purpose of the Environmental Assessment Office is to assist the minister in the administration of this Act.

Appointment of the executive director

59 (1) The Lieutenant Governor in Council must appoint an individual to be the Executive Director of the Environmental Assessment Office.

(2) The Lieutenant Governor in Council may establish the remuneration and other terms of the appointment of the executive director.

(3) The executive director is an employee as defined in the Public Service Act.

Delegation by executive director

60 (1) The executive director by conditional or unconditional written authority may delegate any of the powers and duties of the executive director under this Act or under the regulations to any person employed in the Environmental Assessment Office.

(2) A person to whom the executive director, by written authority under subsection (1), delegates powers and duties may exercise the powers and must perform the duties in accordance with the written authority.

Project registry continued

61 (1) For the purpose of facilitating public access to records relating to environmental assessments, the project registry is continued in the Environmental Assessment Office, to be administered and maintained by the executive director.

(2) For the convenience of the people of any region the executive director may specify offices in the region at which the public may inspect

(a) the list referred to in section 62 (1) (a),

(b) for selected reviewable projects in that region, the indexes that are kept under section 62 (1)

(b) for those reviewable projects, and

(c) for each of those selected reviewable projects, the pertinent records.

What must be filed and kept at project registry

62 (1) The executive director must keep and make available for public inspection at the project registry during normal office hours

(a) a list identifying every reviewable project for which an application for a project approval certificate has been accepted for further review under section 8 by the executive director,

(b) for each reviewable project listed, an index specifying the records filed at the project registry that pertain to that reviewable project, and

(c) for each reviewable project listed, the parts of the records received under this Act by the executive director that

(i) pertain to that reviewable project, and

(ii) under the Freedom of Information and Protection of Privacy Act, are available to the public.

- (2) Within the prescribed period after receiving each of the following records, the executive director must file a copy of it at the project registry:
- (a) any notice delivered under section 8 by the executive director and any application for a project approval certificate accepted under section 8 for review;
 - (b) any recommendations under section 11 of the public advisory committee;
 - (c) any request, under section 12, by an applicant for a project review certificate to amend the application;
 - (d) any notice delivered under section 13 or 18 to a proponent;
 - (e) any written assessment made under section 14 by the executive director;
 - (f) any notice inviting comments that is given by the executive director under section 16 or circulated by the executive director under section 17, any comments received by the executive director in response to such a notice and any response of a proponent to the comments;
 - (g) any referral, under section 19 or 29, of an application to the minister and responsible minister and any recommendations referred to in those sections together with any reasons given for those recommendations;
 - (h) any project approval certificate issued under section 20, 30 or 34, any decision or referral under section 20 or 30 and any written reasons for the decision;
 - (i) any draft project report specifications under section 21 and any final project report specifications prepared under section 24;
 - (j) any project report accepted under section 26 for review, and any notice delivered under that section to a proponent;
 - (k) any notice under section 27 with reference to concurrent process under other enactments;
 - (l) any draft terms of reference specified under section 31 (1) for the purpose of a public hearing and any terms of reference in final form prepared under section 32;
 - (m) any application under section 35 for extension of the deadline specified in a project approval certificate by which the project must be substantially started and any extension of the deadline granted by the minister, under that section;
 - (n) any direction given under section 40 by the minister and a minister charged with the administration of another enactment, to the executive director, and any terms of reference, report or guidelines under that section;
 - (o) any direction given under section 41 by the minister and responsible minister, to the executive director and any terms of reference or draft category assessment specifications under that section;
 - (p) any notice under section 42 or 43 with reference to draft category assessment specifications, any category assessment specifications approved by the Lieutenant Governor in Council under section 45 and any amendments referred to in section 47;
 - (q) any order of the Lieutenant Governor in Council referred to in the definition in section 1 of "responsible minister" or in section 51(1) (c) or made by the Lieutenant Governor in Council under section 34, 56 (3) or 91, or made by the minister under section 4, 20 (b) (iii), 55, 56 (2), 68, 71, 74, 88, 89, 90 (1) or 93 or made by the executive director under section 13 (1) or 19 (1) (b), and any reasons for any such order;
 - (r) the evidence received and submissions made in the course of any public hearing under section 51 or 52;
 - (s) any report and any recommendations of the Environmental Assessment Board under section 33 or 51;
 - (t) any notice of public hearing given under section 53;
 - (u) the annual report referred to in section 57;
 - (v) any invitation to participate in mediation, any referral to mediation and any mediator's report under section 66;
 - (w) any amendment under section 71 or 75 to a project approval certificate or any new conditions attached to one under section 71;
 - (x) any recommendations under section 93 and any reasons given for the recommendations;

(y) any compliance agreement made under section 70.

Discretion as to non-written comments

63 (1) The executive director is not obligated to accept for the purposes of this Act any comments received in response to a notice given under section 16 or circulated by the executive director under section 17 unless the comments are in written form.

(2) However, at the request of a person or body that wishes to submit comments in response to a notice under section 16 or 17, the executive director may accept non-written comments if they are recorded in a form approved by the executive director.

(3) If the executive director accepts non-written comments in accordance with subsection (2), a requirement of this Act that the executive director file, publish, deliver or otherwise give notice of the comments, as the case may be, is fulfilled by doing so

(a) in the form in which the comments were recorded, or

(b) in a written record that sets out or fairly summarizes the comments.

(4) An approval under subsection (2) may be in general terms or for a particular case.

Availability of existing information

64 If the executive director has information, analysis, plans and other records relating to one or more reviewable projects or types of reviewable projects previously reviewed under this Act and the information, analysis, plans and other records are relevant to the review of another project,

(a) the executive director may make the information, analysis and plans and records available to the proponent of that other project, and

(b) at the proponent's written request may specify any part of the information, analysis, plans and other records as acceptable in fulfillment or partial fulfillment of the obligation of the proponent to provide the types of information set out in sections 7 and 21 to 24, as those obligations pertain to that other project.

Discretion to assist participants

65 (1) In this section, "review" means

(a) the review of an application for a project approval certificate, of a matter referred to the board by the minister under section 88, or

(b) the process of the preparation under sections 41 to 44 of category assessment specifications.

(2) If the minister considers it to be necessary or desirable for the purpose of enabling or supporting the participation of one or more persons or organizations, in any stage of a review, the minister may

(a) pay all or part of the actual or anticipated costs of the participation in the review by those persons or organizations, and

(b) provide access to technical expertise.

Mediation may be authorized

66 (1) The board or the executive director may make the services of a mediator available to parties interested in the outcome of an application for a project approval certificate.

(2) If satisfied that mediation will be conducive to the settlement of one or more issues related to the review of the application, the board or the executive director may

(a) invite the proponent, and any parties interested in the outcome of the application, to participate in mediation of an issue or issues,

(b) refer the issue or issues to a mediator for mediation, and

(c) require the mediator to report the results of the mediation to the board or the executive director by a time to be specified in the referral.

Part 6 -- Sanctions

Inspection power

67 (1) For any purpose related to the administration or enforcement of this Act or the regulations, a person authorized in writing by the minister may

- (a) enter at any reasonable time on property that is the site of a reviewable project, and
- (b) inspect any works or activity connected with the reviewable project.

(2) A person who enters on property under subsection (1) must on request provide proof of identity to a person present on the property.

Minister's order to cease or remedy

68 (1) If the minister considers that a reviewable project is not being constructed, operated, modified, dismantled or abandoned or, in the case of an activity that is a reviewable project, carried out, in accordance with a project approval certificate, the minister,

- (a) if a project approval certificate for the reviewable project has not been issued or has been issued but does not remain in effect, may order that construction, operation, modification, dismantling or abandonment of the project cease, or that the activity cease, either altogether or to the extent specified by the minister, until the proponent obtains a project approval certificate, or
- (b) if a project approval certificate for the reviewable project has been issued and remains in effect, may

- (i) order that construction, operation, modification, dismantling or abandonment of the project cease, or that the activity cease, either altogether or to the extent specified by the minister, until the holder of the project approval certificate complies with it, or

- (ii) order that the holder of the project approval certificate carry out, within the time to be specified in the order, measures specified by the minister in order to mitigate the effects of noncompliance.

(2) An order under this section may be made to apply generally or to one or more persons named in the order.

Order for compliance

69 (1) If the minister considers that a person is not complying, or has not complied, with an order made under this Act, the minister may apply to the Supreme Court for either or both of the following:

- (a) an order directing the person to comply with the order or restraining the person from violating the order;
- (b) an order directing the directors and officers of the person to cause the person to comply with or to cease violating the order.

(2) On application by the minister under this section, the Supreme Court may make an order it considers appropriate.

Compliance agreement

70 (1) If the minister considers it appropriate to do so, the minister may give the holder of a project approval certificate an opportunity to make a written compliance agreement with the minister, by which the holder undertakes to comply with the project approval certificate within the time and on the terms to be specified in the agreement.

(2) Despite a compliance agreement, the minister may make an order referred to in section 68 in respect of the holder of a project approval certificate or another person that is the subject of an order under section 68

- (a) on matters not covered by the agreement,
- (b) when the agreement is not complied with, on matters covered in the agreement, and
- (c) on matters provided for in the agreement if all the material facts related to those matters were not known by the minister at the time of the agreement.

(3) On the application of a holder of a project approval certificate that has a compliance agreement with the minister, the minister may approve the alteration of the agreement.

Suspension, cancellation and amendment of certificates

71 (1) For any of the reasons listed in subsection (2) the minister by order may

(a) suspend all or some of the rights of the proponent under a project approval certificate or cancel a project approval certificate, or

(b) amend or attach new conditions to a project approval certificate.

(2) The reasons referred to in subsection (1) are as follows:

(a) the holder of the project approval certificate does not substantially start the project by the deadline specified in the certificate;

(b) the minister has reasonable and probable grounds to believe that the holder of the certificate is in default of

(i) an order of the Supreme Court made under section 69 (2), 80 or 82,

(ii) an order of the minister made under section 68 or 70, or

(iii) one or more requirements of the certificate;

(c) the holder of the certificate has been convicted of an offence under this Act;

(d) the holder of the certificate is in default of an order made under section 55 that the proponent pay costs of the board.

(3) An amendment made or condition attached to a project approval certificate under this section is conclusively deemed to be part of the certificate, whether contained in, attached to it or contained in a separate document.

Notice requirements

72 (1) Except in a situation that the minister considers to be an emergency that warrants immediate action without notice to the holder or former holder of a project approval certificate, the minister must not make an order under section 71 without first giving the holder or former holder an opportunity to be heard.

(2) Immediately after the minister makes an order under section 71 the executive director must deliver a copy of the order to the holder of the project approval certificate or the former holder, as the case may be.

(3) Not later than 15 days after delivery, under subsection (2), of a copy of the order, the holder or former holder of the project approval certificate, by written notice delivered to the minister, may, if not given an opportunity to be heard before the making of the order, require an opportunity to be heard by the minister.

Opportunity to be heard

73 As soon as practicable after receiving written notice in accordance with section 72 (3), the minister must give the holder or former holder who delivered the notice an opportunity to be heard.

Reinstatement of certificate

74 The minister by order may

(a) cancel a condition, attached under section 71, of a project approval certificate, or

(b) subject to any conditions the minister considers appropriate, reinstate a project approval certificate that under section 71 has been suspended or cancelled.

Minor amendments to project approval certificate

75 Section 71 does not prevent amendments to a project approval certificate that, in the opinion of the minister are minor amendments and that are agreed to by the holder of the certificate and the minister.

Offences and penalties

76 (1) Section 5 of the Offence Act does not apply to this Act or to the regulations.

(2) A person commits an offence who

(a) contravenes section 5 (1) or (2),

(b) does not comply with

(i) a project approval certificate, or

(ii) an order referred to in section 68, or

(c) makes a statement in a record filed or provided under this Act that is false or misleading with respect to a material fact or that omits to state a material fact, the omission of which makes the statement false or misleading.

(3) A person does not commit an offence under subsection (2) (c) if at the time of the statement the person did not know that the statement was false or misleading and, exercising due diligence, could not have known that the statement was false or misleading.

(4) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the offence commits the same offence whether or not the corporation is convicted of the offence.

Effect of voluntary compliance agreement

77 A project approval certificate holder that

(a) enters into a voluntary compliance agreement approved, under section 70, by the minister, and

(b) complies fully with the agreement

does not commit an offence under section 76 (2) in respect of a contravention of this Act that the agreement is intended to rectify.

Penalties

78 A person who commits any offence under section 76 (2) is liable,

(a) in the case of a corporation on a first conviction, to a fine of not more than \$100 000 and, on each subsequent conviction, to a fine of not more than \$200 000, and

(b) in the case of an individual

(i) on a first conviction, to a fine of not more than \$100 000 or to imprisonment for not more than 6 months or to both, and

(ii) on each subsequent conviction, to a fine of not more than \$200 000 or to imprisonment for not more than 12 months or to both.

Remedies preserved

79 A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.

Court order to comply

80 If a person is convicted of an offence under this Act or the regulations, then, in addition to any punishment the court may impose, the court may order the person to comply with the provisions of this Act.

Limitation period

81 A proceeding for an offence under this Act or the regulations may not be commenced in any court more than 3 years after the facts on which the proceedings are based first come to the knowledge of the minister.

Restitution

82 If a person is convicted of an offence under this Act, then, in addition to any other penalty, the court may order the person convicted to pay compensation or make restitution.

Part 7 -- General Provisions

Division 1 -- General

Delegation

83 The minister may in writing delegate to any employee of the government or of a government agency any power or duty conferred or imposed on the minister under this Act, other than under section 4, 20, 30, 55, 71 or 74.

Consultants and mediators

84 The board, for its purposes, and the executive director, for the other purposes under this Act, may retain consultants and mediators and set their remuneration and the terms of their retainers.

Immunity for acts or omissions in good faith

85 (1) An action may not be brought against the minister, the responsible minister, the executive director, a member of the board or a person who is subject to the direction of the minister, the responsible minister or the executive director because of anything done or omitted in good faith

- (a) in the performance or purported performance of any duty under this Act or the regulations, or
- (b) in the exercise or purported exercise of any power under this Act or the regulations.

(2) Subsection (1) does not absolve the government from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

Division 2 -- Agreements with Other Canadian Jurisdictions

Agreements

86 (1) For one or more of the purposes set out in subsection (2), the minister, with respect to a reviewable project that is governed by the laws of British Columbia and the laws

- (a) of Canada,
- (b) of one or more other provinces or territories of Canada, or
- (c) of Canada and one or more other provinces or territories,

as the case may be, may contract with the other jurisdiction or jurisdictions under a contract that provides for an assessment of the reviewable project that, in the minister's opinion, is at least equivalent to the assessment that would otherwise be required under this Act.

(2) The purposes referred to in subsection (1) are as follows:

- (a) to determine what aspects of the reviewable project are governed by the laws of each jurisdiction that is a party to the agreement;
- (b) to provide for the carrying out jointly by the jurisdictions that are parties to the agreement of
 - (i) all or any part of the process of the review, for the purposes of this Act, of the potential effects of the reviewable project, and
 - (ii) the provisions in any enactment of the other jurisdiction or jurisdictions that operate for substantially the same purposes as the relevant provisions of this Act;
- (c) to provide for the adoption by one or more of the jurisdictions that are parties to the agreement, for the purposes of their environmental assessment requirements, of
 - (i) all or part of the environmental assessment process of the other jurisdiction or jurisdictions, and
 - (ii) reports and similar documents prepared by or under the authority of the laws of the other jurisdiction as part of the environmental assessment process of the other jurisdiction or jurisdictions.

(3) The minister may contract on behalf of British Columbia with Canada or any other province or a territory for the purpose of the coordination of the administration of the environmental assessment processes under this Act and the relevant laws of the other contracting jurisdiction or jurisdictions.

Variations to accommodate agreements with other jurisdictions

87 Effective on the date of an agreement made in accordance with section 86, and for as long as the agreement remains in effect, both this Act and the regulations are by this section deemed to be varied, in their application to or in respect of the reviewable project that is the subject of the agreement, to the extent necessary to accommodate that agreement.

Division 3 -- Special Administrative Powers

Review of a matter that is not the subject of an application

88 The minister by order may

- (a) refer to the board any matter that is not the subject of an application for a project approval certificate and that the minister considers relevant to the process of assessing reviewable projects under this Act, and
- (b) specify terms of reference for the purpose of the referral.

Suspension of review pending other inquiries

89 At any time after acceptance under section 8 of an application for a project approval certificate but before a decision under section 30 about the application, the minister by order may suspend the review of the application until the outcome of an inquiry that

- (a) is authorized under the Inquiry Act or another Act, and
- (b) in the opinion of the minister, is material to the review, under this Act, of the application.

Extensions of time

90 (1) The minister may extend by order, with or without conditions, the time limit for doing anything under this Act or the regulations, and may order an extension even if the time limit has expired.

(2) The minister must give written reasons for an order under this section.

Emergency variations to review process

91 (1) If the Lieutenant Governor in Council considers that there is or will be an emergency that warrants or will warrant the variation and that the variation is in the public interest, the Lieutenant Governor in Council by order may vary, as the Lieutenant Governor in Council considers necessary to respond to the emergency, one or more provisions of this Act or the regulations, as the provisions apply to or in respect of a specified reviewable project or a specified category of reviewable projects.

(2) The Lieutenant Governor in Council

- (a) may attach conditions to an order made under this section,
- (b) may categorize reviewable projects for the purpose of an order made under this section, including into categories that may differ from the categories of reviewable projects prescribed under section 92, and
- (c) may provide differently in an order under this section for different reviewable projects or for different categories of reviewable projects.

(3) An order under this section is final and binding.

(4) In an order under this section, the Lieutenant Governor in Council must identify the nature of the emergency and give reasons for the order.

Part 8 -- Regulations and Transition

Power to make regulations

92 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) for each provision of this Act that refers to a "prescribed period", prescribing the period or prescribing periods that may differ for differing events or circumstances;
 - (b) prescribing the fees for applications for project approval certificates, the fees to be paid in respect of other matters connected with the administration of this Act and the charges referred to in section 55;
 - (c) prescribing information for the purposes of section 7 (2);
 - (d) respecting the form and content of applications for project approval certificates and project reports;
 - (e) respecting the procedures and the conduct of meetings of project committees;
 - (f) prescribing additional powers and duties of the executive director or of the board;
 - (g) prescribing the circumstances and defining "costs" for the purposes of section 55;
 - (h) prescribing the circumstances and defining "costs" for the purposes of section 65 (1);
 - (i) prescribing the limits for the purposes of section 65 (2);
 - (j) for the purpose of section 93 (2), designating particular persons, prescribing classes of persons, designating particular projects and prescribing classes of projects;
 - (k) defining a word or expression used but not defined in this Act;
 - (l) providing that a provision of this Act, or of the regulations, does not apply to or in respect of reviewable projects and prescribing circumstances in which or conditions on which the provision is made inapplicable under this paragraph.
- (3) A regulation made under subsection (2) (a), (b), (c), (d) or (l) may
- (a) be made applicable generally or to a specific category of reviewable project,
 - (b) categorize reviewable projects for the purpose of the regulation, and
 - (c) provide differently for different categories of reviewable projects.

Transitional provisions

93 (1) This Act does not apply to any activity that, or any construction, operation, modification, dismantling or abandonment that, immediately before June 30, 1995,

- (a) is a type of project for which one or more approvals under other enactments are required,
- (b) is the subject of a proposal being made by a person who has all of the required approvals under other enactments, and

(c) is neither a regulated project under the Utilities Commission Act, a reviewable mine development under the Mine Development Assessment Act, S.B.C. 1990, c. 55, nor a project reviewable under procedures generally known as the major project review process.

(2) This Act does not apply to any activity that, or any construction, operation, modification, dismantling or abandonment that, on June 30, 1995,

- (a) is the subject of a proposal that is being made by a person who is designated by regulation or is within a prescribed class of persons, or
- (b) is the subject of an existing proposal and is a project that is designated by regulation or is within a prescribed class of projects.

(3) An application or matter must be continued and disposed of under this Act as an application for a project approval certificate if, immediately before June 30, 1995, the application or matter is undergoing review as

- (a) a regulated project under the Utilities Commission Act,

- (b) a reviewable mine development under the Mine Development Assessment Act, S.B.C. 1990, c. 55, or
- (c) a project reviewable under procedures generally known as the major project review process.
- (4) An application or matter must be continued and disposed of under this Act as an application for a project approval certificate if
 - (a) immediately before June 30, 1995, the application or matter pertains to a project that
 - (i) is a type of project for which one or more approvals under other enactments are required, and
 - (ii) is the subject of an existing proposal made by a person who does not have all of the required approvals under other enactments, and
 - (b) on June 30, 1995, the project is a reviewable project.
- (5) The minister with the concurrence of the responsible minister, after first receiving the recommendations of the executive director, may make an order
 - (a) specifying the step in the review process under this Act to which an application or matter described in subsection (3) or (4) must proceed, or
 - (b) varying the review process to the extent necessary to accommodate the review under this Act of that application or matter.
- (6) The minister with the concurrence of the responsible minister must give reasons for an order made under subsection (5) and may attach conditions to the order.
- (7) Records that before June 30, 1995 were filed or submitted
 - (a) under the Utilities Commission Act, the Mine Development Assessment Act, S.B.C. 1990, c. 55, or the major project review process, or
 - (b) in support of an application or matter referred to in subsection (4),may be accepted by the executive director in full or partial fulfillment of the requirements of this Act.
- (8) A certificate, order, approval or decision that, immediately before June 30, 1995 is in effect under the Utilities Commission Act, the Mine Development Assessment Act, S.B.C. 1990, c. 55, or the major project review process
 - (a) must be deemed to have been issued under this Act, and
 - (b) subject to subsection (9), continues in force until it expires or, under this Act, is suspended or cancelled.
- (9) An energy operation certificate or energy project certificate under the Utilities Commission Act, a mine development certificate or mine operation certificate under the Mine Development Assessment Act, S.B.C. 1990, c. 55, or an approval given as part of the major project review process, if the certificate or approval is in effect immediately before June 30, 1995, remains in effect, despite its term or expiry date, for the life of the project in respect of which it was issued, unless it is suspended or canceled under this Act.