

Review of the *Physical Activities Regulations* (the Project List)

DISCUSSION PAPER





Introduction

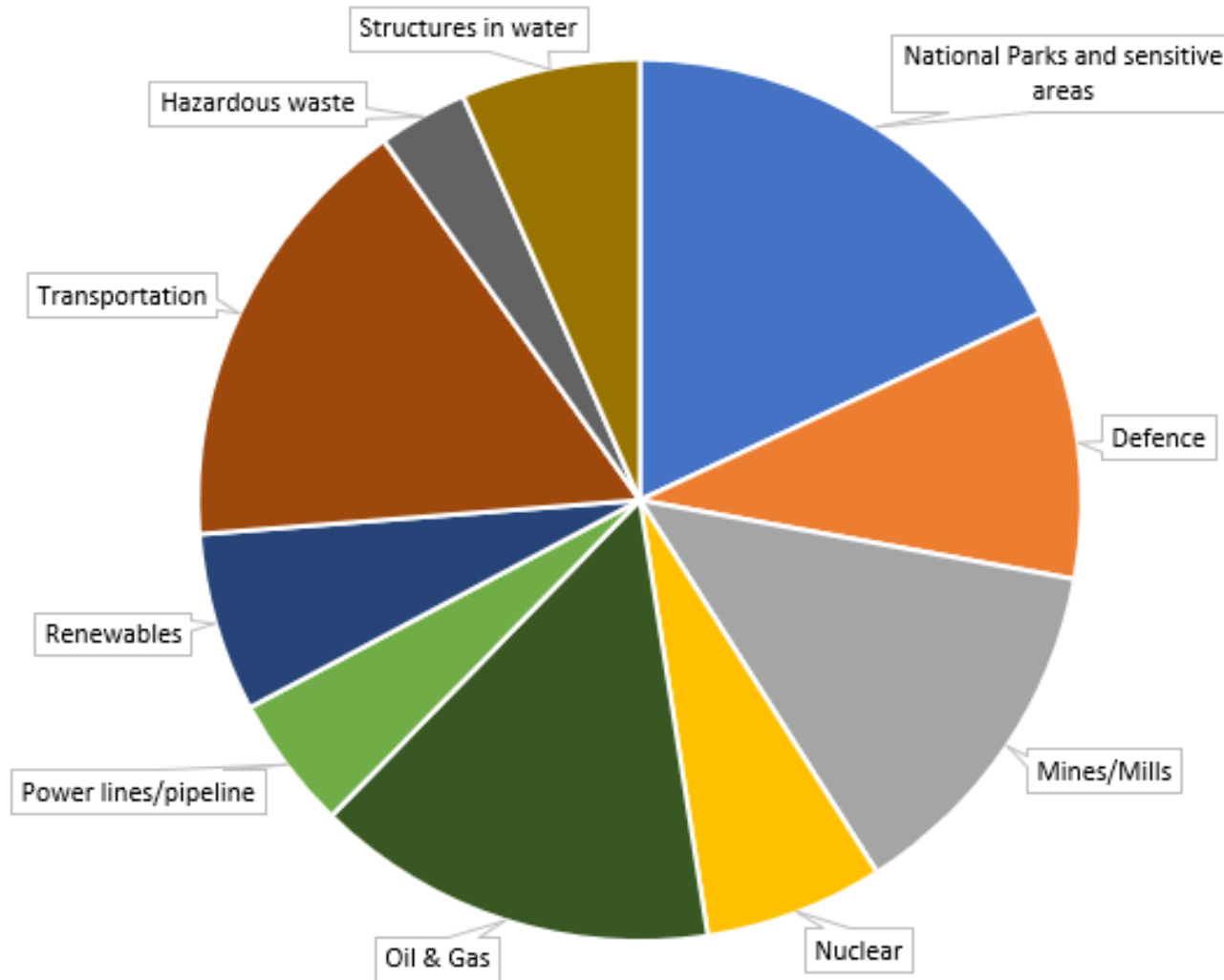
- IAAC is reviewing the *Physical Activities Regulations*, commonly known as the Project List, which initially came into force with the *Impact Assessment Act* (IAA) in August 2019.
- The Project List identifies the types of activities that are “designated projects” and therefore subject to the IAA.
- The purpose of the IAA is to prevent or mitigate significant adverse effects within federal jurisdiction that may be caused by the carrying out of designated projects.
- The Project List focuses on major projects with the greatest potential for adverse effects on areas of federal jurisdiction.
- The IAA requires that the Project List be reviewed five years after its introduction: by August 2024.

Context

- Impact assessment is
 - A project planning tool that helps identify potential harm and benefits before major projects are built, to ensure protection of the environment and Indigenous rights, and
 - A forum for public input and meaningful consultation, engagement and partnership with Indigenous Peoples.
- Federal impact assessment is a key element of a larger regulatory landscape, working alongside other federal and provincial regulatory processes.
- The IAA was amended in June 2024 to respond to a decision by the Supreme Court of Canada on its constitutionality.
- Legislative amendments in June 2024, in response to the Supreme Court of Canada, narrowed the definition of effects in federal jurisdiction and increased flexibility for cooperation with and reliance on provincial processes.
- Amendments were also part of broader Government of Canada initiatives to improve the efficiency of the impact assessment and permitting processes for major projects.



Current Project List



The Project List contains 61 entries, covering 10 sectors:

- *national parks/protected areas
- *power lines and pipelines
- *renewable energy
- *mines and mills
- *hazardous waste
- *transportation
- *defence
- *oil and gas
- *nuclear facilities
- *water projects

- Approx. 2/3 are project types on federal lands or federal works or undertakings - projects over which federal government has broad jurisdiction.
- Approx. 1/3 are project types that are primarily provincially regulated but have the potential for adverse effects on areas of federal jurisdiction - federal decisions focus only on those federal effects.

Approach to the Review

Using the 2019 List as a baseline, the review focuses on:

- alignment with the 2024 amendments to the IAA;
- IAAC experience in implementing the IAA including,
 - trends in designation request, and
 - projects where IAAC determined a full impact assessment was not required
- expert advice of federal departments;
- changes that may merit targeted adjustments to thresholds or project types (e.g., emerging sectors, changes in technology or regulatory environment);
- alignment of definitions or clarification of terminology (i.e. technical changes);
- stakeholder and Indigenous feedback;
- ensuring that the federal assessment process adds value above other applicable federal and provincial processes; and,
- alignment with Government's clean growth agenda.



Approach to the review continued....

Integrating expert advice from Indigenous Services Canada and Indigenous Advisory Committee

- Consider cumulative effects from smaller projects
- Conduct a review of designation requests

Opportunities for participation

- Early targeted engagement with National Indigenous Organizations;
- Early announcement of planned engagement and funding opportunities
- Current engagement on Discussion Paper to inform recommendations to Minister;
- Future opportunities for engagement and funding for regulatory amendment process

Capacity to participate

- Policy dialogue funding for National Indigenous Organizations
- Ongoing targeted funding to participate in current engagement period to 51 Indigenous groups

UNDRIP remains integral to the amended Impact Assessment Act and its regulations

- The amendments do not impact the provisions respecting meaningful engagement and participation of Indigenous Peoples in the assessment process, and respect for UNDRIP
- IAA commitment towards truth and reconciliation by, for example:
 - developing Indigenous impact assessment co-administration agreement regulations
 - establishing agreements with Indigenous jurisdictions to better harmonize processes;
 - maintaining an Indigenous Advisory Committee



What we heard from First Nations in 2019

- List should consider projects with impacts on Indigenous Peoples
 - **2024 Review Context:** Considers all effects in federal jurisdiction including impacts on Indigenous People
- Thresholds should be based on effects rather than production capacity
 - **2024 Review Context:** Thresholds are proxies for the types of projects that have the greatest potential for adverse effects in areas of federal jurisdiction.
 - The list provides clarity and predictability to proponents, investors, the public and Indigenous groups as to which projects are subject to the IAA
- Concerns with cumulative effects from projects under thresholds
 - **2024 Review Context:** Smaller projects still subject to assessment by other federal regulators or assessed provincially. Regional assessments may be a better tool under the IAA to provide a big picture overview of regional concerns including cumulative effects.
 - Minister of Environment and Climate Change continues to have authority to designate projects should circumstances warrant.
- Main sectors of interest: Nuclear, *In situ* oil sands, mines, pipelines, hydro dams, projects with GHGs, hazardous waste, water diversion projects
 - **2024 Review Context** – Considers amended definition of federal effects and to avoid duplication of existing processes to manage these effects.
 - **Options are being considered for some of these sectors and we want your feedback to inform these options.**



Discussion Paper: Options for Consultation

Summary of Options for Consultation

Consider removing	<ul style="list-style-type: none">• In situ oil sands• Fossil fuel power generation
Consider adding	<ul style="list-style-type: none">• Projects with high potential for effects on sensitive federal lands• Wave energy
Consider adjusting to capture more	<ul style="list-style-type: none">• Coal mines
Consider adjusting to capture less	<ul style="list-style-type: none">• Railway yards• SMRs and large-scale nuclear reactors using known technologies on licensed sites• Uranium mines on licensed sites
Technical amendments	<ul style="list-style-type: none">• Minor changes to clarify policy intent
No change	<ul style="list-style-type: none">• No change to existing project classes where thresholds/terminology working as intended

Discussion paper reflects expert advice, feedback received during early engagement and early analysis.



Periodic Reviews of Project List

- Timeframe for current review of the Project List is prescribed in the Project List as 5 years after coming into force.
- Subsequent periodic reviews would provide opportunities to consider evolving experience implementing the IAA, and changing environmental context, and technological and regulatory environment.
- IAAC recommending a subsequent review timeframe for 5 years following any regulatory changes.



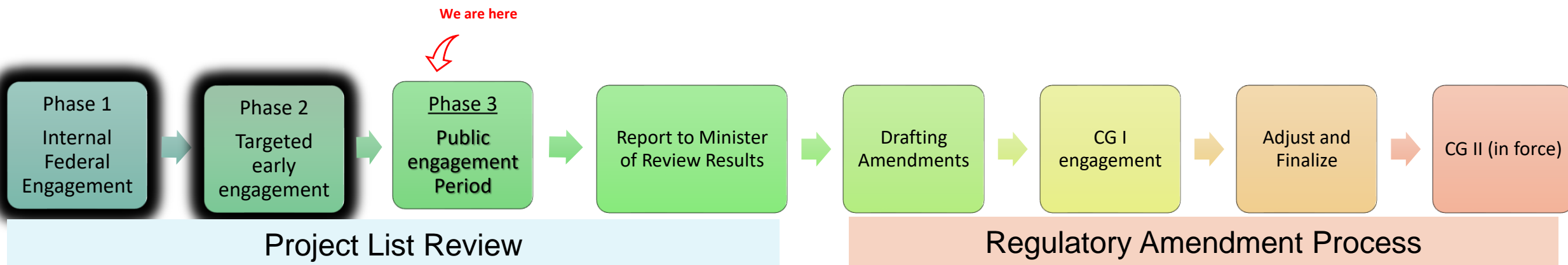
Next Steps



We are inviting feedback on this Discussion Paper from July 30, 2024, to Sep 27, 2024.

Comments and submissions can be provided at the following link: [Discussion paper on the review of the Physical Activities Regulations | Impact Assessment Agency of Canada- Canada.ca \(letstalkimpactassessment.ca\)](https://www.letstalkimpactassessment.ca) by **September 27, 2024**.

- Results will inform the recommendations and conclusions that will be set out in a report to the Minister of Environment and Climate Change. The report will consider feedback received from stakeholders, Indigenous partners, and the public during all phases of this review.
- Proposed regulatory changes resulting from the Project List Review will follow the regular regulatory development and approval process for Governor in Council Regulations, including publishing draft regulatory text through *Canada Gazette, Part I* for further engagement opportunities.





Contact us

Feel free to contact our team at the email address below:

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