

# ISSUE IN FOCUS



*Celebrating 100 Years*

SASKATCHEWAN  
CHAMBER of COMMERCE

## The Impact Assessment Act

### Background:

In February 2018, the Government of Canada introduced new legislation in the form of Bill C-69, The Impact Assessment Act. The Bill was drafted to restore public trust in the system, restore the confidence of prospective investors, advance Indigenous reconciliation, and protect the environment. The Bill seeks to overhaul the federal regulatory process by replacing both the Canadian Environmental Assessment Agency (CEAA) and the lifecycle regulator National Energy Board (NEB) with the proposed Impact Assessment Agency of Canada (IAAC) and the Canadian Energy Regulatory (CER). In addition, the Bill also seeks to make consequential amendments to other acts, most notably The Navigation Protection Act and The Fisheries Act.

### Issue:

The SCC believes that robust environmental protections and a thriving investment climate can go hand in hand. The SCC is seeking an assessment and permit approval process that is timely, predictable, robust, and promotes investor certainty. However, the Bill as it is written, contains significant deficiencies and offers no real improvement upon the current legislation, The Canadian Environmental Assessment Act, 2012 (CEAA 2012).

### Recommendations:

1. Canada's future assessment regime should be limited to significant adverse environmental effects within a factual, science-based process that is informed by accepted quantitative measures. Expanding the scope of a federal EA process to become a much broader Impact Assessment (IA) process is retrogressive and serves to dilute the importance of the environmental component.
2. An assessment agency should not be involved in operational permitting and project operation. Both the permit granting authority and the relevant lifecycle regulator should remain separate and distinct entities.
3. The SCC supports the creation of the proposed Canadian Energy Information

Agency that has a mandate to collect, analyze, and disseminate energy-related information independent of the lifecycle regulator.

4. The SCC endorses the Canadian Chamber of Commerce's recommendation of adding the Minister of Natural Resources and a Crown Minister with an economic portfolio (Finance, Trade Diversification, etc.) to a joint decision-making panel with the Minister of Environment and Climate Change on such matters throughout the Bill.
5. The SCC recommends the Government of Canada ensure greater predictability for project proponents by providing reasonable and concrete timeframes for decisions. Timelines need to be no longer than three years total from beginning to end.
6. The SCC recommends the Government of Canada carry over the Standing Test from the NEB to the new assessment regime. Proving a direct connection should be maintained. The SCC also recommends that an amended version of Bill C-69 more clearly define the nature and scope of public participation during the assessment process.
7. Section 22 of the Bill needs to be revised to more clearly define the relevant impact factors, including e.g. the use of GBA+ criteria, in future assessments. If socio-political concerns have to be factored in, the SCC believes the best way to accomplish this would be to put the socio-political issues and detail under guidelines separate from the assessment process.
8. The SCC recommends an amendment to the Bill seeking to compensate proponents and partnering Indigenous groups that adhere to and fully comply with Canada's regulatory process, but find their project cannot proceed because of errors and omissions made by the Government of Canada in attempting to meet its Duty to Consult. Such compensation should cover lost opportunities in terms of foregone direct investment and job creation.
9. The SCC supports the Government of Canada's ongoing commitment to the concept of one project-one review. The SCC welcomes the inclusion of recent amendments that provide greater transparency around ministerial decision-making.
10. The SCC strongly recommends that SSCEENR amend Section 43 of the proposed Impact Assessment Act and remove the mandatory referral to a review panel for designated uranium mining or milling projects. Specifically, amend section 43 of the IAA (with additional amendments to ss. 39(2)(a), 44(1), 46 and 67(1)) as indicated by the following underscored text would remove the mandatory referral to a review panel for designated uranium mining or milling projects and would achieve the goal described above:

39(2) However, the Minister is not authorized to enter into an agreement or arrangement referred to in subsection (1)...

(a) the Nuclear Safety Control Act other than for a uranium mine or mill.

43 The Minister must refer the impact assessment of designated project to

a review panel if the project includes physical activities that are at a nuclear facility regulated under any of the following Acts:

(a) the Nuclear Safety Control Act other than a uranium mine or mill.

44(1) When the Minister refers an impact assessment of a designated project that includes activities regulated under the Nuclear Safety Control Act, other than a uranium mine or mill, to a review panel...

46 For the purposes of conducting..., including preparing a report with respect to that impact assessment, a review panel referred to in s. 43 may exercise the powers...

67(1) The Minister...the Nuclear Safety and Control Act other than a uranium mine or mill, designate...

11. The SCC recommends that the assessment of mining projects should remain under provincial jurisdiction and the federal assessment process should only apply to jurisdictions in which an established environmental assessment process is absent or where a jurisdiction requests for the federal requirements to apply. The rationale for this recommendation is that mineral resource development falls under provincial jurisdiction. An exception would be made for uranium mines and mills given the Federal Government's jurisdiction over the regulation of nuclear-related activities.

## History:

Letter to Federal Minister of Environment 2017

Letter to Federal Minister of Environment 2018

Letter to Senate Standing Committee 2018

Letter to Federal Minister of Environment 2019

Letter & Brief to Senate Standing Committee 2019

Appearance to Senate Standing Committee 2019