

Project Notification Policy

SECTION 10

VERSION 1.2

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ISSUED BY:



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Version #	Date (YYYY-MM-DD)	Modification	Approved by
Version 1.0	2020-03-26	Original Version	Kevin Jardine, Chief Executive Assessment Officer and Associate Deputy Minister
Version 1.1	2020-07-14	Clarity added to workforce threshold. Removal of requirement to provide .kmz spatial files.	Scott Bailey, Acting Chief Executive Assessment Officer and Acting Associate Deputy Minister
Version 1.2	2021-09-20	Edits for clarity and additional explanation provided, particularly in section 3.0 Project Notification Process. Updated graphic for consistency with other EAO policies. New information requirement on engagement undertaken by the proponent (subsection 4.3).	Elenore Arend, Chief Executive Assessment Officer and Associate Deputy Minister

Disclaimer:

This document provides guidance to help environmental assessment participants and the public better understand British Columbia's environmental assessment process. It is not advice and does not replace requirements of the *Environmental Assessment Act* (2018) or its regulations or bind any decision-maker.

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1.0 INTRODUCTION

This document provides guidance with respect to the application of [Section 10](#) of the [Environmental Assessment Act](#) (2018) (the Act) regarding Project Notification. The notification provided by proponents under Section 10 enables the Environmental Assessment Office (EAO) to track projects that could potentially require an environmental assessment (EA) before proceeding, despite being below the reviewability threshold in the [Reviewable Projects Regulation \(RPR\)](#). Where appropriate, the EAO will bring these projects to the attention of the Minister of Environment and Climate Change Strategy (Minister) so they can determine whether the project should undergo an EA.

The primary users of this document will be proponents and EAO staff. This document provides guidance on the typical process conducted by the EAO under Section 10 and the information required by the Chief Executive Assessment Officer (CEAO) under Section 10(2)(b) of the Act. However, other EA participants, including Indigenous nations, the public, local government, and provincial and federal agencies, may also use this policy to understand the project notification process.

The goal of the RPR is to have projects with the potential for significant adverse effects undergo an EA, while projects with a low likelihood of causing significant adverse effects are regulated through the appropriate regulatory and permitting processes. The review of Project Notifications is not intended to be a complex or onerous process, but a check on whether projects that do not meet the thresholds in the RPR should nonetheless go through the EA process due to their potential to cause significant adverse effects.

The decision on whether to refer a project to the Minister for a designation decision is **discretionary**, not every project will be so referred. Project Notification can be a useful mechanism for collecting data on projects that do not meet the thresholds in the RPR for the purpose of reviewing the appropriateness of those thresholds in the future.

2.0 LEGISLATIVE DISCRETION

Under [Section 10\(1\)](#) of the Act, notification is required for new¹ project proposals within the prescribed categories under section 5 of the [Reviewable Projects Regulation](#) that meet the following criteria ([Table 1](#)):

Notification Category RPR Section	Notification threshold for New Projects*
Federally Designated Physical Activity Section 5(1)(a)	Designated under the federal Impact Assessment Act and not wholly located on federal land or a reserve.
Design or effects thresholds Section 5(1)(b)	A project that would meet the project design or effects thresholds if those thresholds were reduced by 15% – For example, the threshold for a new mineral mine is a facility with a production capacity of greater than 75,000 tonnes/year of ore. A facility that proposes to produce greater than 63,750 tonnes/year but less than 75,000 would be required to notify the EAO.
Workforce Section 5(1)(c)	A project that would result, at the peak of construction or operations, in the employment by the proponent of 250 or more employees or contractors who work more than 30 hours per week on an annual basis at the project facilities. The bolded text refers to employees or contractors who work at least 30 hours per week and are employed on an annual basis or longer, or under contracts that are at least one year long.

¹ The notification thresholds in the RPR apply to new projects except for the Greenhouse Gas threshold which applies to modifications of existing projects.

Notification Category RPR Section	Notification threshold for New Projects*
	Employees and contractors who work for 30 hours a week but are only employed seasonally, or less regularly, are not counted.
Greenhouse Gases Section 5(1)(d) Section 5(3) & 5(4)	A new project that emits 125,000 tonnes per year or more of one or more greenhouse gases directly from project facilities determined in accordance with Part 3 of the Greenhouse Gas Emission Reporting Regulation . *A modification to an existing project that emits 125,000 tonnes per-year or more is required to notify the EAO, <i>only for the first time an expansion of a given project exceeds this threshold</i> . Once a notification has been provided for a project modification in relation to greenhouse gas emissions, no further notifications are required for subsequent modifications.
Transmission Line Section 5(1)(e)	A transmission line greater than 230 kilovolts <u>and</u> greater than 40 kilometres in length.
Linear clearance Section 5(1)(f)(i) Section 5(2)	Projects that include the clearance of 40 kilometres or more of land that is to be developed for an electrical transmission line, transmission pipeline, railway, public highway or resource road, if the land is <u>not</u> alongside and contiguous to an area of land previously developed for one of <u>those purposes</u> . This threshold applies to project categories that are <u>not</u> primarily linear in nature (e.g. mines) but have linear elements <u>associated</u> with the project (e.g. a road required to access a proposed mine). This threshold does not apply to project categories that are primarily linear in nature, as their project design thresholds are already based on a measure of linear disturbance (e.g. electrical transmission lines, transmission pipelines, public highways, and railways).
Land clearance Section 5(1)(f)(ii) Section 5(2)	Projects that include the clearance of 450 hectares or more of land, unless the clearance has been authorized by the Minister, or delegate, under the Resort Timber Administration Act . This threshold does <u>not</u> apply to project categories that are primarily linear in nature, as their project design thresholds are already based on a measure of area disturbance (e.g. electrical transmission lines, transmission pipelines, public highways, and railways).

Table 1: Notification Thresholds in Section 5 of the Reviewable Project Regulation

The proponent of the project (i.e. the party proposing the project) that meets the notification thresholds must not undertake or carry out activities referred to in the notification until they receive a determination that no further review is required or any review of the project that is required has been completed ([Section 10\(3\)](#)).

Under section 5(6) of the RPR, the CEAO must notify the Minister on receiving a notification for a new project or modification to an existing project that has triggered the greenhouse gases notification threshold.

2.1. Prescribed Period

Section 5 of the RPR came into force on April 1, 2020. This section of the regulation sets the prescribed period for submitting a project notification. Under section 5(5)(a), proponents of applicable projects are obligated to notify the EAO no later than **15 days** after applying for an applicable approval listed in the table in the [Reviewable Project Transition Regulation](#). For example, if a proposed mine triggers the notification threshold (e.g. is within 15% of the design threshold), to be in compliance with the Act the latest the proponent could provide the notification to the EAO is 15 days after making an application for a permit issued under Section 10 or 11 of the *Mines Act* (according to line 19 in the *RPR Transition Regulation*).

For proponents that had made all applications for applicable approvals set out in the table of the transition regulation before April 1, 2020, but no approvals had been obtained by April 1, 2020, the prescribed period under section 5(5)(b) was 90 days after the date this section came into force (by June 29, 2020).

If the proponent of an applicable project fails to submit a project notification under Section 10(1) or carries out activities before a decision by the CEAO contrary to Section 10(3), the project will be out of compliance with the Act and may be subject to enforcement action.

Proponents are encouraged to submit a notification to the EAO as early as possible to provide certainty around whether the project will require an EA. The timing of notification relevant to other permitting requirements will be dependent on sector but should generally be after the proponent has done sufficient exploratory work and feasibility studies to know the project is proceeding.

2.2. Project Notification Information

A project notification must include the information required by the Chief Executive Assessment Officer (CEAO) under [Section 10\(2\)\(b\)](#) of the Act. The required information can be found in section [4.0 Information Requirements for Project Notification](#) of this policy.

Incomplete information may result in information requests from the EAO during the review of a project notification. Proponents are encouraged to discuss notifications with the appropriate EAO Sector Team and share drafts before submitting; early conversations can help ensure completeness of the information submitted for a timely review.

2.3. Decision Options

Once a proponent has submitted a Project Notification to the EAO, the CEAO has **60 days** to:

1. Refer the project notification to the Minister for consideration under [Section 11](#) (to designate the project as reviewable);
2. Require further review of the notification; or,
3. Determine that no further review of the Project notification is required. The project may then proceed to permitting with other agencies.

If further review is required under [Section 10\(4\)\(b\)](#), the CEAO may include directions for further procedures and consultations that must be carried out by the proponent and instructions for submitting a revised Project Notification after carrying out any required tasks.

2.4. Section 11 – Factors Considered by the Minister

If a Project Notification is referred by the CEAO to the Minister for consideration to designate the project as reviewable under [Section 11](#), the Minister must consider:

- Whether the applicant is an Indigenous nation;
- Whether the project could have effects on an Indigenous nation and the rights recognized and affirmed by Section 35 of the *Constitution Act, 1982*;
- Whether the potential effects of the eligible project will be equivalent to or greater than the potential effects of projects in the prescribed category that are reviewable projects; and,
- Whether an assessment of the project is consistent with the sustainability and reconciliation purposes of the EAO ([Section 2](#) of the Act).

If the Minister designates the project as reviewable under [Section 11](#), the proponent must not undertake or carry out the activity that is reviewable (construct, operate, modify, dismantle or abandon all or part of the facilities) unless the proponent first obtains an environmental assessment certificate under [Section 6](#) of the Act. For projects designated under Section 11, the option to exempt the project from requiring a certificate during the Readiness Decision is not available under [Section 16\(3\)](#) of the Act.

2.5. Agreements

[Section 41](#) of the Act authorizes the Minister of Environment and Climate Change Strategy to enter into agreements with Indigenous nations and other jurisdictions. Agreements with Indigenous nations under the Act support increased clarity for delivery of assessments to complement a broader governance framework of an Indigenous nation, including decision making criteria and processes. These agreements may establish legally enforceable procedures, including matters that differ from the requirements of the Act, to cooperatively complete an assessment of and regulate a reviewable project. Agreements may include provisions respecting procedures for Project Notifications (Section 10) and/or the Minister's power to designate a project as reviewable (Section 11). Find agreements on the EAO's [2018 Act, Regulations and Agreements webpage](#).

3.0 PROJECT NOTIFICATION PROCESS

Figure 1 below provides an overview of the process conducted by the EAO for Project Notifications and how Project Notifications (Section 10) relate to Minister's designations (Section 11) under the Act. The steps are explained in more detail below.

OVERVIEW OF THE PROJECT NOTIFICATION REVIEW PROCESS

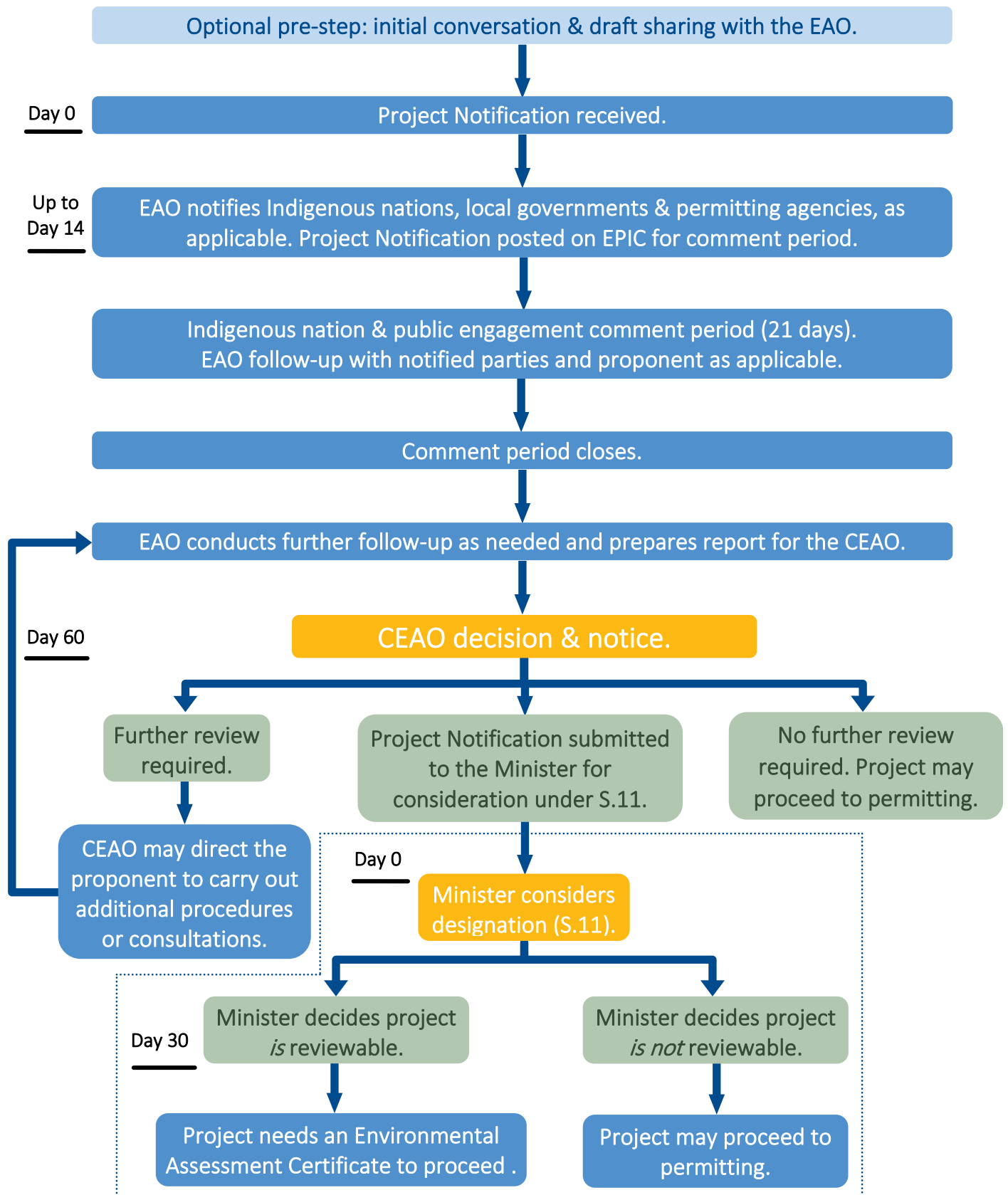


Figure 1: Process for Project Notifications Submitted under Section 10 of the Environmental Assessment Act (2018)

3.1. Optional pre-step

Before beginning the Project Notification process, the EAO strongly encourages proponents of a project that triggers a notification threshold to contact the appropriate [EAO Sector Team](#) for an initial discussion about the proposed project and notification. It is recommended that the proponent shares a draft of the Project Notification with the EAO. These conversations could help ensure the completeness of the information in the Project Notification and potentially avoid further information requests, thereby facilitating a timely review.

Find more information about submitting a project notification on the EAO's [Project Notification webpage](#).

3.2. Step 1: Submission

The most up-to-date submission instructions can be found on the [EAO's webpage](#). Proponents may direct inquiries about submitting to: EAO.Notifications@gov.bc.ca.

3.3. Step 2: Project Notification Received

Once a Project Notification is received, the EAO will undertake engagement with Indigenous nations and other parties as required, including the public, local governments², and provincial and federal permitting agencies. The EAO uses the information provided by the proponent to understand the new project or modification and identify the parties to notify and engage. The EAO will notify any Indigenous nations via email whose territories directly overlap with the proposed project footprint that a Project Notification has been received for a project in their territory.

The notification will be posted on the EAO Project Information Centre ([EPIC](#)) under Project Notifications within up to 14 days of receipt and the EAO will initiate a **21-day** Indigenous nation and public engagement and comment period.

3.4. Step 3: Engagement, Review & Follow-up

During the engagement period, the EAO will engage with Indigenous nations, and conduct information gathering and follow-up with local governments, permitting agencies, and the proponent, as needed. The intent of engagement is to understand any potential interests and concerns related to the notification and the potential for effects in order to prepare the Project Notification Report for the CEAO.

The EAO will respond to comments raised by an Indigenous nation, while comments from the public may be themed and responded to in the report. Comments may result in information requests or require a response by the proponent. Comments and responses are summarized in a report to inform the decision by the CEAO.

3.5. Step 4: Report

Following the close of the comment period and any follow-up activities with the notified parties, the EAO prepares a Project Notification Report for the CEAO. The report documents the process, summarizes all relevant information, including information from and responses by the proponent and comments from Indigenous nations, other notified parties, and the

² Local governments include both municipalities and regional districts.

public, and includes the EAO's recommendation. The Project Notification Report and any decision materials will be published on EPIC following the decision.

When considering whether to refer for designation consideration or not, the CEAO may consider the factors the Minister must consider when making a designation decision under [Section 11\(4\)](#):

- Whether the project could have effects on an Indigenous nation and the rights recognized and affirmed by Section 35 of the *Constitution Act, 1982*;
- Whether the potential effects of the eligible project will be equivalent to or greater than the potential effects of projects in the prescribed category that are reviewable projects; and,
- Whether an assessment of the project is consistent with the sustainability and reconciliation purposes of the EAO ([Section 2](#) of the Act).

Other considerations, such as the issues and concerns raised during engagement or the ability of other permitting processes to address these concerns, may also be considered.

3.6. Step 5: Decision

Within **60 days** of receiving the notification, the CEAO must do one of the following and provide notice to the proponent:

- Submit the project notification to the Minister for consideration under Section 11 for designation as a reviewable project;
- Determine that further review under Section 10 is required; or,
- Determine that no further review is required.

3.7. Step 6: Post-decision Notification

The EAO's Project Notification Report, including the decision, will be communicated in writing to:

- the proponent,
- any Indigenous nations notified as part of the review,
- notified local governments, and
- any relevant permitting agencies.

The report and any decision material will be posted to [EPIC](#) under Project Notifications.

If the CEAO requires further review under Section 10(4)(b), an interim report will be posted and the CEAO may provide directions for further procedures and consultations that must be carried out by the proponent and instructions for submitting a revised project notification after carrying out any required tasks.

3.8. Step 7: Minister's Decision (if applicable)

If the CEAO submits the Project Notification to the Minister for Section 11 consideration, the Minister has **30 days** to make a decision on designation. Information collected during the project notification process under Section 10 may also be used to inform a decision under Section 11, if referred by the CEAO or if an application is made independently for the project under Section 11(2).

If the Minister designates the project as reviewable under [Section 11](#), the proponent must not undertake or carry out the activity that is reviewable (construct, operate, modify, dismantle or abandon all or part of the facilities) unless the proponent

first obtains an environmental assessment certificate under [Section 6](#) of the Act. If designated, the project may proceed to the Early Engagement phase of the EA process (see [Early Engagement Policy](#)). For projects designated under Section 11, the option to exempt the project from requiring a certificate during the Readiness Decision is not available under [Section 16\(3\)](#) of the Act.

4.0 INFORMATION REQUIREMENTS FOR PROJECT NOTIFICATION

4.1. Proponent Information and Contacts

- Proponent name;
- Mailing address, phone number, email, and website URL; and,
- Primary contact for the Project Notification including name, phone number, and email.

Find more information about submitting a Project Notification on the EAO's [Project Notification webpage](#), including the Project Notification Template.

The template conveniently lays out the information requirements in a Microsoft Word template.

4.2. Project Information

- Project name;
- Project type and sub-type as defined in the RPR (e.g. type = Energy Project; sub-type = Natural Gas Processing Plant);
- State if it is a new project or a modification to an existing project;
- Project location within the province and region;
 - Provide a one-sentence description of the location of project being proposed.
 - Latitude and longitude.
- A description of the proposed project's location in a local and regional context, including proximity to communities or locations of interest to the public, government, or Indigenous nations, and designated or protected areas such as parks or wildlife habitat areas;
- Proposed on- and off-site facilities;
- A brief description of proposed associated activities including those activities related to processing, transportation and/or shipping of materials to/from the site;
- A description of any other project(s) that are needed for the proposed project to proceed and be feasible (e.g. a pipeline would be needed for an oil and gas facility to proceed);
- A description of the work that has been conducted to arrive at the proposed project or modification to an existing project (modification applies to GHG trigger only); and,
- Duration of project – length of each phase and expected timelines (e.g. construction, operation, decommissioning and closure).

4.3. Engagement

- A brief description of engagement that has occurred with Indigenous nations and the public in the development of the new project or modification to an existing project (GHG trigger only) and how any feedback received was considered and addressed.

4.4. Authorizations

- List any existing permits or tenure in place and permit or tenure number; and,
- List required permits, licenses, tenures or other authorizations and their status. Status descriptions must include when submission is anticipated and engagement associated with the authorizations including with the regulator, Indigenous nations, and the public.

4.5. Notification Threshold Information

Proponents are only required to provide the threshold information for the applicable notification threshold(s) that the project has triggered (Table 2). Responses are not required for thresholds that are not applicable.

Notification Threshold (Section of RPR)	Information Requirements
Federally Designated Physical Activity Section 5(1)(a)	<ul style="list-style-type: none"> • Federal category of physical activity under the Physical Activities Regulation. • Federal threshold of physical activity under the Physical Activities Regulation. • Description of the extent to which the project activities and components are off federal lands and/or reserve land.
Design Thresholds Section 5(1)(b)	<ul style="list-style-type: none"> • Input a design value, in the applicable units of measurement, relevant to the design threshold that triggered notification (e.g. for a mine project listed in Part 3 of the RPR, input the production capacity in tonnes per year; for energy projects in Part 4 of the RPR, use rated nameplate capacity, length, design capacity, input capacity or sulphur thresholds depending on project sub-type; etc.).
Workforce Section 5(1)(c)	<ul style="list-style-type: none"> • Number of employees or contractors who would work more than 30 hours/week on an annual basis. • Description of where the workforce will be drawn from. • Description of where the workforce accommodations would be located and proximity to nearest communities. • Description of the form of accommodations proposed to house the workforce (e.g. construction camp).
Greenhouse Gases Section 5(1)(d) or 5(3)	<ul style="list-style-type: none"> • Estimated total amount of GHG emissions determined in accordance with Part 3 of the Greenhouse Gas Emission Reporting Regulation (tonnes per year measured in carbon dioxide equivalents). For modifications for an existing project, include the estimated incremental change from the modification in addition to the total. • Brief description of the primary source(s) of GHG emissions.
Transmission Line Section 5(1)(e)	<ul style="list-style-type: none"> • Transmission line kilovoltage (kV). • Transmission line length (kilometers).
Linear Clearance Section 5(1)(f)(i)	<ul style="list-style-type: none"> • Length of clearance (kilometers). • Usage of the cleared land.
Land Clearance Section 5(1)(f)(ii)	<ul style="list-style-type: none"> • Total land clearance (hectares). • Usage of the cleared land.

Table 1: Notification Threshold Information

4.6. Maps and Shapefiles³

- The following information must be included on maps:
 - On- and off-site project components;
 - Indigenous traditional territories and/or consultation areas, Treaty and/or Title lands, and Reserve lands;
 - Local and Indigenous communities;
 - International, provincial, and territorial boundaries, where applicable;
 - Parks and protected areas; and,
 - Legally protected wildlife habitat.
- The following shapefiles for the project must be provided:
 - Project footprint;
 - Known or proposed project components; and,
 - Project access route.

The scale selected for each map should allow the information to be presented clearly and legibly when printed on 8.5x11 or 11x17-inch paper.

Map must include NTS Map number, latitude and longitude references, titles, a north arrow, and relevant legends.

Shapefiles must meet the following specifications:

- ☒ ESRI format and include four file types: .shp, .shx, .dbf, and .prj;
- ☒ BC Albers North American Datum of 1983 (NAD83) projection;
- ☒ Shapefile polygons and their corresponding polygons on all maps must be identical in shape, extent, and location;
- ☒ All spatial features (.shp and .shx) must be represented as polygons, not as points or line features;
- ☒ File names must be named in a way that clearly describes the contents;
- ☒ To avoid having ArcGIS generate random errors, follow these best practices:
 - avoid starting names by number;
 - add an underscore instead of a space or dash; and,
 - do not include a symbol outside of the underscore.

4.7. Optional Supporting Materials

- Project Description; and/or,
- Other supporting documents (e.g. cover letter, technical appendices, etc.)

³ Information that has been identified as confidential by Indigenous nations or the public should not be shown on maps or described in text in such a way that compromises its confidentiality. Refer to the Indigenous Knowledge Guide for information on Indigenous knowledge consent, policies, and protocols