



Canadian Environmental  
Assessment Agency

Agence canadienne  
d'évaluation environnementale



# ***The Canadian Environmental Assessment Act, 2012***

## **Good Practice for Proponents and Practitioners**

Presentation to the  
NEIA February 6, 2014



# Outline

- Overview of the Act and Regulations
- Standard EA
- Recommendations and good practice
  - Early Dialogue
  - Project Description
  - EIS Phase
- Aboriginal Consultation
  - Recommendations and good practice
- Overarching good practice
- Questions and Discussion



# The Act

## ■ The *Canadian Environmental Assessment Act, 2012* (CEAA 2012)

- Came into force July 6, 2012
- 129 Sections (~68 pages)
- 3 Regulations:
  1. *Regulations Designating Physical Activities*
  2. *Prescribed Information for the Description of a Designated Project Regulations*
  3. *Cost Recovery Regulations*



CONSOLIDATION

CODIFICATION

Canadian Environmental Assessment Act, 2012

Loi canadienne sur l'évaluation environnementale (2012)

S.C. 2012, c. 19, s. 52

L.C. 2012, ch. 19, art. 52

NOTE

[Enacted by section 52 of chapter 19 of the Statutes of Canada, 2012, in force July 6, 2012, see SI/2012-56.]

NOTE

[Édictée par l'article 52 du chapitre 19 des Lois du Canada (2012), en vigueur le 6 juillet 2012, voir TR/2012-56.]



## Environmental Effects (s.5)

- Change that may be caused to fish and fish habitat, aquatic species or migratory birds
- Change to the environment that would occur on federal lands or in a province other than the site of the project or outside Canada
- With respect to aboriginal peoples, an effect of any change to the environment on
  - health and socio-economic conditions
  - physical and cultural heritage,
  - current use of lands and resources for traditional purposes
  - elements of historical, archaeological, paleontological or architectural significance.
- Changes to the environment directly linked or necessarily incidental to federal decisions



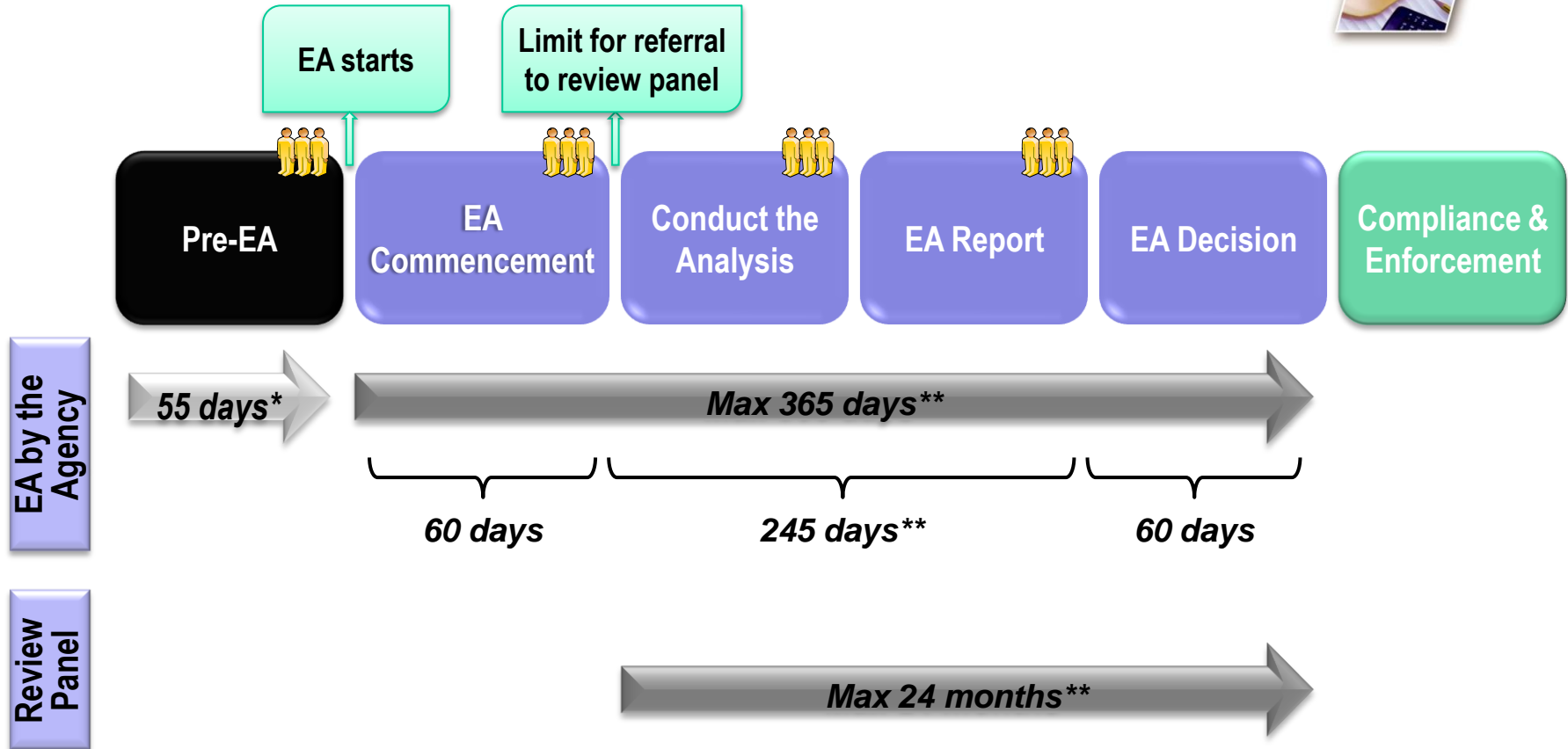
# Standard EA

- EAs by the Agency must be completed within 365 days of government time from notice of commencement (s.27)
  - Timelines can be extended under certain circumstances





# EA Processes & Timelines



\* Includes 10 days to review project description and 45 days to determine whether an EA is required  
 \*\* Does not include time used by proponent to gather information, prepare its EIS or respond to information requests





# Key Documents

- Project description and summary
- Environmental Impact Statement (EIS) Guidelines
- EIS
- EA Report
- EA Decision Statement



# Recommendations and Good Practice



## Early Dialogue

- Is the project a “designated project”?
- Better planning of the EA
- Time saving
- Maximise coordination opportunities
- Establishes communication and R&R
- Phasing vs. project splitting
- Expansion vs. new mine





# Recommendations and Good Practice



## Project Description & Summary

- Purpose is to determine the need for an EA
- Agency guidance and regulations
- Section 5 effects
- Draft documents
- Timing of submission
- Define project including “incidental” activities



# Recommendations and Good Practice



## EIS Phase

- Consider nature and purpose of federal decisions
- Pathways to Section 5 effects
- Collaboration with Agency and experts before and during EIS review
- Avoid “ping pong”
- Address issues head on!



# Recommendations and Good Practice



## EIS Phase

- Reasonable significance determinations
- Mitigation and follow-up
- Collecting baseline data is not follow-up
- Cumulative effects
  - Historic data vs. baseline
  - Overlapping effects vs. effects on the same VEC
  - VEC-centric analysis instead of project-centric
- Need and purpose

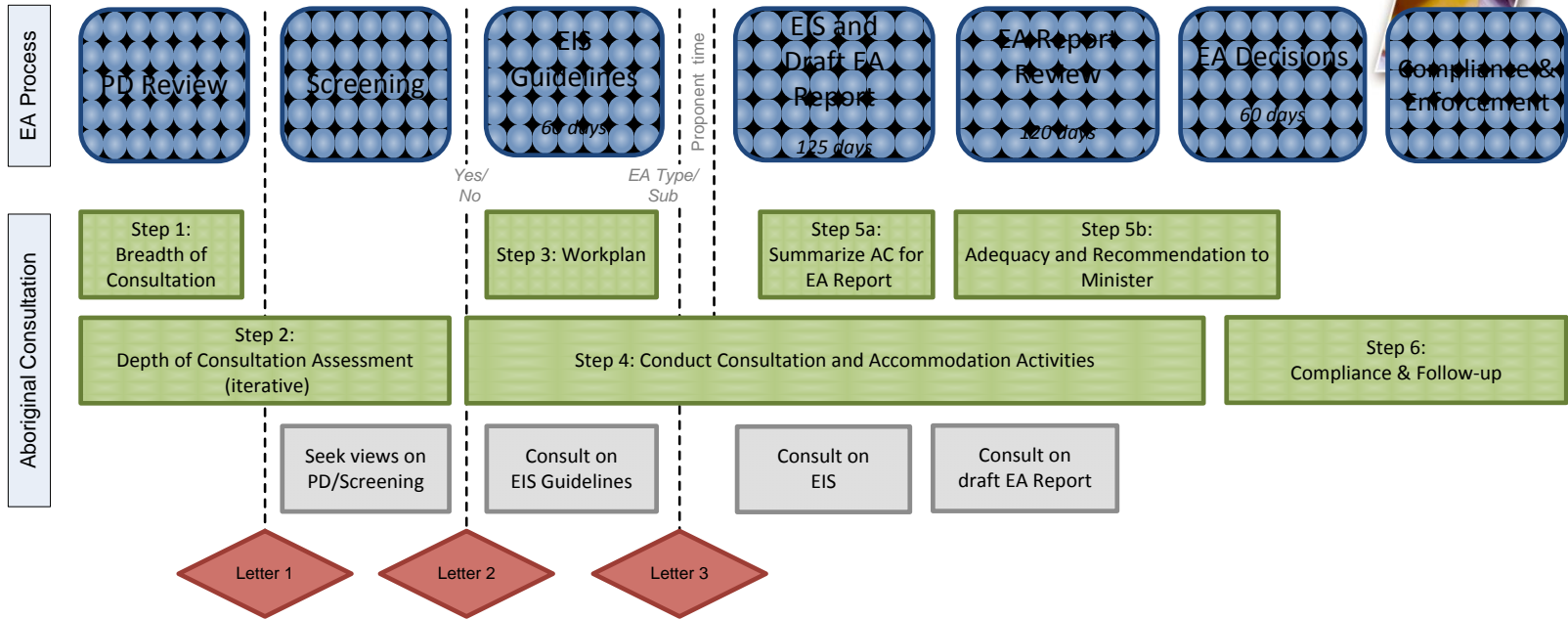


# Aboriginal Consultation

- Crown has a legal duty to consult Aboriginal peoples about the potential impact of decisions associated with projects on their rights
- Agency integrates consultation into the environmental assessment process to the greatest extent possible
- Participant funding program provides capacity funding to aid Aboriginal groups to engage in consultations and participate in the EA



### INTEGRATION OF ABORIGINAL CONSULTATION INTO THE EA PROCESS CONDUCTED BY THE AGENCY



The following formal letters should be sent to all identified groups:



Letter 1 Screening Notification Letter: immediately following the PD acceptance notify Aboriginal groups of the project and screening, provide information about the EA process, and provide a copy of the PD for comment



Letter 2 EA Notification Letter: at the end of the Screening Phase inform Aboriginal groups of the Yes/No decision and provide a copy of the EISg with next steps for consultation on the EISg. Inform that there may be a substitution/equivalency/panel decision in 60 days, at the end of the EISg review.



Letter 3 EA Type Letter: At the end of the EIS Guidelines (Phase 2) share the outcome of the depth of consultation assessment and next steps. The Aboriginal consultation workplan and funding information will be sent to moderate and high groups. There is an alternative process for equivalent and substituted EA.

Communications after Letter 3 are based on the consultation workplan.



# Recommendations and Good Practice



## Aboriginal consultation

- Section 5 (1) (c) of CEAA 2012
- Crown role vs. Proponent
- Environmental effects vs. asserted rights and title
- Build relationships
- Long-term perspective
- Responsiveness
- Understand wider context



# Recommendations and Good Practice



## Aboriginal consultation

- When to contact Aboriginal groups?
- Which Aboriginal groups to consult?
- Who determines which Aboriginal groups?
- How much consultation?
- Capacity
- Timelines





# Recommendations and Good Practice

## Overarching EA and Consultation

- Collaboration/Attitude/Interest based
- Control of timelines
- Stakeholder relationships/Social licence
- Litigation
- *Access to Information and Privacy Act*



# The End

- Questions?