

*"This book provides a great coverage of major environmental issues throughout Canada, introducing EIA within a historical socio-economic framework."*

—Nadir Erbilgin, University of Alberta

*"This book is extremely well suited for Canadian students who will very likely work in Canada.... It serves as both a text and a general reference for anyone who might be involved in EAs or the EA process."*

—Ian Spooner, Acadia University

Featuring insightful contributions from over thirty environmental assessment experts, *Environmental Impact Assessment* examines in detail how the landscape of EIA in Canada has changed over the years, its current status, and its future direction. Revised to reflect current concerns and legislation, the third edition offers students the foundation they need to be able to critically assess the potential impact of development projects on the natural environment in Canada.

### Highlights

- **A Canadian focus** ensures that students understand how EIA processes operate across Canadian jurisdictions.
- **New chapters** on assessment methods, public participation in EIA, social impact assessment, cumulative effects assessment, Aboriginal engagement and co-management, the Canadian federal EIA process, and other essential topics offer students a well-rounded, up-to-date overview of key developments and concerns.
- **New boxed case studies** expose students to the practical side of policy decisions in EIA.
- **A new glossary** helps students understand the meaning of more advanced terms and build their EIA-related vocabulary.

**KEVIN S. HANNA** is an associate professor of geography at the University of British Columbia and the director of the UBC Centre for Environmental Assessment Research.

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Environmental Impact Assessment

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# Environmental Impact Assessment

## Practice and Participation

Third Edition



Edited by **Kevin S. Hanna**

# 19 Environmental Assessment in Quebec

Darren R. Bardati

## Introduction

Environment assessment (EA) has been established in Quebec for 35 years. It is somewhat distinct from the EA in any other province because of the ongoing jurisdictional debates with the federal government, the role of the permanent Public Hearings Bureau (or BAPE) that oversees matters of public participation, the existence of enormous hydroelectric development projects in the northern region, as well as the provincial government's evolving relationship with the northern Aboriginal inhabitants.

This chapter examines environmental assessment in Quebec, its legal basis and evolution, the role of public participation, the range of activities covered, and the formal procedures to which these activities must be subjected. One section also discusses the special status of the province's vast northern region. Throughout, emphasis is placed on the strengths and weaknesses of environmental assessment in Quebec.

## Legal Basis

In Quebec, the legislative and regulatory framework for environmental assessment is comprised of the following five statutes:

1. Environment Quality Act (Loi sur la qualité de l'environnement, L.R.Q. 1978, c. Q-2)
2. Regulation Respecting Environmental Impact Assessment and Review (Règlement sur l'évaluation et l'examen des impacts sur l'environnement, R.R.Q., 1981, c. Q-2, r. 9)
3. Rules of Procedure Relating to the Conduct of Public Hearings (Règles de procédure relatives au déroulement des audiences publiques, R.R.Q., 1981, c. Q-2, r. 19)
4. Regulation Respecting Environmental Assessment and Review Applicable to a Part of Northeastern Quebec (Règlement sur l'évaluation et l'examen des impacts sur l'environnement dans une partie du Nord-Est québécois, R.R.Q., 1981, c. Q-2, r. 10)
5. Regulation Respecting Environmental and Social Impact Assessment and Review Applicable to the Territory of James Bay and Northern

Quebec (Règlement sur l'évaluation et l'examen des impacts sur l'environnement et le milieu social dans le territoire de la Baie-James et du Nord québécois, R.R.Q., 1981, c. Q-2, r. 11).

The Environment Quality Act (EQA) is the legal basis for all matters pertaining to environmental protection inside the territorial boundaries of the province of Quebec within the context of its jurisdiction defined in the British North America Act of 1867. Although originally adopted in 1972, the EQA was greatly modified in December 1978, following the events surrounding the James Bay Hydroelectric Project in northern Quebec. Chapter 1 of the EQA deals with all of Quebec in general, while Chapter 2 details the provisions applicable to the James Bay and Northern Quebec region, which itself, given its size and cultural factors, is divided along the fifty-fifth parallel. Consequently, the regulations and procedures for impact assessment and public hearings are considerably different in the north than in the south, as will be discussed later in the chapter.

Overall, the language of the EQA is very progressive. The starting point for environmental protection is captured in Article 19.1 (environmental rights): "Every person has a right to a healthy environment and to its protection, and to the protection of the living species inhabiting it, to the extent provided for by this Act and the regulations, orders, approvals and authorizations issued under any section of this Act." While the first part of the statement speaks broadly of our right to protect environmental quality for humans and non-humans, the second part narrows the extent of the right to those things specified in the Act.

Regarding impact assessment, accountability is achieved through Article 22 (certificate): "No one may . . . carry on activity . . . if it seems likely that this will result in . . . a change in the quality of the environment, unless he first obtains from the Minister a certificate of authorization." To obtain the certificate of authorization, applicants must undergo a formal Environmental Impact Assessment and Review Procedure (EIARP), which is formulated in the Regulation Respecting Environmental Impact Assessment and Review. The methods and obligations relating to public information and consultation contained in the EQA and regulations will be discussed first.

## A Role for Public Participation

The EQA acknowledges that public participation, particularly in the form of public hearings and formal public consultations, lies at the very heart of impact assessment and decision-making in Quebec. Impact assessment is conceived as an open and accountable process of protecting the environment and people's quality of life and in which the public has an important role to play.

The 1978 revision of the EQA created the Public Hearings Bureau (Bureau d'audiences publiques sur l'environnement or BAPE). The BAPE is a permanent, quasi-judiciary body within the Ministry of Environment that is officially mandated to "give the public the means by which it can inform itself, to collect opinions from the public and to incorporate the public's concerns relating to