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Industry Resource: Impact Assessment Act and Airport Development Projects

On August 28, 2019, the *Canadian Environmental Assessment Act, 2012* (CEAA) was repealed, and the *Impact Assessment Act* (IAA) subsequently came into force. Impact Assessments (IAs) and, historically, Environmental Assessments (EAs) are intended to contribute to informed decision making with respect to the sustainability of major projects. This includes the consideration of positive and negative environmental, economic, social, and health impacts.

Airports are complex systems with a wide range of environmental and social externalities that occur as a result of aircraft operations, including aircraft noise and emissions. Environmental implications are also associated with capital infrastructure improvement projects at airports, including the clearing and grading of land for new and extended runways.

Eligible Airport Projects

Projects may be flagged for an IA (and formerly an EA) in one of three ways. First, both the CEAA and IAA have a list of designated projects; the former through the *Regulations Designating Physical Activities (SOR/2012-147)*, and the latter through the *Physical Activities Regulations (SOR/2019-285)*. Under the CEAA, the following airport projects were identified:

1. The construction, operation, decommissioning and abandonment, in a wildlife area or migratory bird sanctuary, of a new:
 - i) aerodrome or runway;
26. The construction, operation, decommissioning and abandonment of a new
 - a) aerodrome located within the built-up area of a city or town;
 - b) airport, as defined in subsection 3(1) of the *Aeronautics Act*; or
 - c) all-season runway with a length of 1 500 m or more.
27. The extension of an existing all-season runway by 1 500 m or more.

In contrast, the IAA now considers:

1. The construction, operation, decommissioning and abandonment in a wildlife area, a migratory bird sanctuary, or a protected marine area of:
 - j) a new aerodrome or runway;
46. The construction, operation, decommissioning and abandonment of one of the following:
 - a) a new aerodrome with a runway length of 1 000 m or more;
 - b) a new aerodrome that is capable of serving aircraft of Aircraft Group Number [AGN] IIIA or higher;
 - c) a new runway at an existing aerodrome with a length of 1 000 m or more.
47. The operation of an existing runway
 - a) that was not capable of serving aircraft of [AGN] IIIA and becomes capable of serving aircraft of [AGN] IIIA or higher; or
 - b) that was capable of serving aircraft of [AGN] IIIA or higher and becomes capable of serving aircraft of any higher [AGN].

Second, the Minister of the Environment and Climate Change may designate a project not described by the Regulations based on their discretion or advice from experts. Finally, projects not described in the Regulations that are located on federal lands may be subject to an IA if requested by the applicable federal authorities. With respect to airports, this may include facilities located on lands owned by Transport Canada and operated through Ground Lease Agreements.

CEAA vs. IAA Changes

The primary changes between the CEAA and IAA with respect to airport projects include:

1. **New Aerodromes:** The IAA no longer considers the development of new aerodromes based on their location or certification. Instead, all aerodromes capable of serving AGN IIIA aircraft or with a runway length exceeding 1,000 m (3,280 ft.) are considered. New aerodromes in protected marine areas are also included.
2. **New Runways:** The IAA removes the term “all-season” from its runway provisions. The trigger for assessing new runways has been reduced to 1,000 m from 1,500 m (4,920 ft.), increasing the number of eligible projects. New runways in protected marine areas are also included under the new Regulations.
3. **Existing Runways:** The CEAA considered runway extensions exceeding 1,500 m; a 1,000 m runway that is extended to 1,750 m, for example, would not be an eligible project. The IAA takes a wider approach by considering all projects that increase the runway’s AGN and is not limited to extensions. For example, the planned widening of a runway that is already sufficiently long to accommodate AGN IV aircraft from 30 m to 45 m may trigger an assessment per Sec. 47(b), as the limiting AGN factor (width) would now fully permit AGN IV operations.

Implications

Where an airport plans to complete a designated project, the first step is the submission of an Initial Project Description that will allow the Impact Assessment Agency of Canada to verify whether the proposed works require an IA. The Agency’s decision would consider matters that include, but are not limited to: potential adverse effects, public input, and expert advice. The Agency has 180 days after it posts the Initial Project Description to determine whether to commence the IA, and 300 days from the proponent providing all information and studies to submit its IA report to the Minister.

It is recommended that airport project proponents consult with the Agency, Transport Canada, and other relevant stakeholders early in the planning process to confirm the requirements of the IAA and to gain a more detailed understanding of the assessment process. The triggering of an IA, while a valuable exercise to gain a comprehensive understanding of the externalities of a project, introduces a new layer of complexity in the execution of on-airport works and may extend the timelines to receive all necessary regulatory approvals.

Closing

The foregoing is HM Aero’s interpretation of the Impact Assessment Act’s implications for Canadian airports and is intended for information purposes only.

For questions about the Impact Assessment Act or how HM Aero can assist your airport, please contact our team at admin@hmaero.ca or **613-620-6269**.