



Changes to YESAA Threaten

Our Land

Our Economy

Our Yukon

How Bill S-6 affects Yukon:
Background & Fact Sheet



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YESAA is...

- a federal law
- a “made-in-Yukon” law designed to meet the needs of Yukon First Nations and Yukoners
- a collaboration between CYFN, Canada and the Government of Yukon

BACKGROUND

What is YESAA?

The Yukon Environmental and Socio-economic Assessment Act (YESAA) is a federal law. It defines the environmental and socio-economic assessment process for all projects in Yukon. It was developed as a requirement under the Development Assessment chapter of the Umbrella Final Agreement (UFA) and each Yukon First Nation's Final Agreement.

The Council of Yukon First Nations (CYFN), Canada and the Government of Yukon (the Parties) crafted the legislation and regulations together. The CYFN relied heavily on input from all Yukon First Nations.

YESAA is a “made-in-Yukon” law, designed to meet the needs of Yukon First Nations and Yukoners. It is unlike other assessment legislation throughout Canada because it is guided by specific Treaty objectives. It came into legal force on November 28, 2005.

YESAA establishes the Yukon Environmental and Socio-Economic Assessment Board (YESAB) as an independent, arms-length body that is responsible for carrying out environmental and socio-economic assessments.

The YESAB assessment staff identify environmental and socio-economic effects of proposed developments before they are carried out and make recommendations to deal with any potential harmful effects before they occur.

It has operated successfully over the past years during a period of exceptional growth and investment throughout the Yukon.

BACKGROUND

The Five-Year Review

The UFA required that the CYFN, Canada and Yukon complete a Five-Year Review of the YESAA.

The purpose of the review was to evaluate how well the YESAA was achieving the objectives set out in the UFA.

An independent firm, SENES, conducted the first two phases of the review between November 2008 and October 2009.

The public, industry and special interest groups participated in the first stage of the review and commented on the law and the YESAA process.

From early 2010 to June 2011, the CYFN, Yukon First Nations, Canada and Yukon Government jointly prepared a draft report that considered the recommendations made by SENES. Some of the recommendations that were agreed by all Parties were addressed right away.

Some important First Nation issues were not addressed and remain unresolved.

Yukon First Nations made it clear that the review could not be finished without finding a solution to these unresolved issues. It was CYFN's understanding that these matters would be looked at again and discussions would continue until the issues were resolved.

In March 2012, Canada revised the draft report without the other two Parties' consent and created a Draft Interim Review Report and asked each Party to provide that report to their respective governments.

The CYFN then advised Canada and Yukon that Canada's Draft Interim Review Report was misleading and did not correctly portray the status of the



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Five-Year Review discussions. In some cases, it did not include CYFN and Yukon First Nations' concerns or state Yukon First Nations' positions.

Canada revised the Draft Interim Review Report but ignored First Nations' important comments. Canada said the report was final in October 2012 and considered the Five-Year Review complete.

Bill S-6 and proposed amendments to YESAA

In June 2014, Canada introduced Bill S-6 to amend the YESAA in line with its Action Plan to Improve Northern Regulatory Regimes and address certain recommendations of the Five-Year Review.



Canada's **Action Plan to Improve Northern Regulatory Regimes:**
<https://www.aadnc-aandc.gc.ca/eng/1318007587190/1318007801685>

Bill S-6 is an Act to amend the Yukon Environmental and Socio-Economic Assessment Act (YESAA) and the Nunavut Waters and Nunavut Surface Rights Tribunal Act.

It is the Yukon First Nation's position that certain amendments to the YESAA proposed by Bill S-6 undermine the spirit and intent of the YESAA.

Many proposed amendments link to matters that were never discussed during the Five-Year Review and in some cases, go against agreements reached by the CYFN, Canada and Yukon during that review.

The issues Yukon First Nations have with these amendments are explained further on pages 7-9.



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Timeline

2005

2005 November

YESAA legislation & regulations come into legal force.

2008

2008 – 2009

SENEC, an independent firm, conducts the first two phases of the Five-Year Review – includes participation and comments from public, industry & special interest groups.

2010

2010 – 2011

CYFN, Yukon First Nations, Canada and Yukon Government jointly prepare a draft report that considers the recommendations of SENEK. Some issues are addressed right away, others remain unsolved.

2012

2012 March

Canada revises the draft report without the other two Parties' consent and creates the Draft Interim Review Report. CYFN advises Canada and Yukon that the report is misleading and does not include CYFN and Yukon First Nations' concerns.

2012

2012 October

Canada revises report but ignores First Nations' important comments. Deems report to be final and declares Five-Year Review complete.

2014

2014 June

Canada introduces Bill S-6

FACT SHEET

Bill S-6 Fact Sheet

Bill S-6 is a proposed federal Act to amend the Yukon Environmental and Socio-Economic Assessment Act (YESAA) and the Nunavut Waters and Nunavut Surface Rights Tribunal Act. It is currently being debated in the House of Commons and may be passed before the end of 2014.

Yukon First Nations oppose several of the amendments to YESAA because they undermine Aboriginal rights and breach our Agreements. The amendments undermine the effectiveness and efficiency of the YESAA process and permit political interference.

Canada has introduced the majority of these amendments without properly consulting Yukon First Nations or the Yukon public. They can be summarized as follows:

Binding Policy Direction

Section 34 of Bill S-6

The proposed amendments give Canada the power to give binding policy direction to the YESA Board. Canada can choose to delegate this power to the Yukon Government.

Providing Canada with the authority to issue policy direction undermines the independence of the Board and Designated Offices.

Independence is a fundamental element of the YESAA. During the development of the YESAA, Yukon First Nations, CYFN, Canada and Yukon discussed this at length.

Bill S-6 Fact Sheet (continued)

Providing a single party with the authority to direct the Board is contrary to the spirit and intent of the YESAA and the provisions of the Final Agreements.

Delegation of Authority from the Federal Minister to a Territorial Minister Part of Section 2 of Bill S-6

The amendments allow the Federal Minister to hand over their authority to a Territorial Minister without the consent of Yukon First Nations.

This handing over of authority would change the distribution of powers and responsibilities in the Yukon. This has never been agreed to by the Yukon First Nations. It is not part of any devolution agreement or arrangement amongst the parties.

To be consistent with the treaties, Yukon First Nations must be equal partners with Canada and Yukon in decisions concerning handing over authority.

Maximum Timelines for Assessments Sections 16, 17, 21, 23(2), and 27 of Bill S-6

The amendments will impose timelines, which will make it difficult for the Board to meet its duties and obligations as specified in the YESAA and as defined by the objectives of the Umbrella Final Agreement.

Rushing complex assessments will put the environment, our land and water, and our communities at unnecessary risk.

YESAA assessments already have timelines that have worked well since it came into effect in 2005.



Bill S-6 Fact Sheet (continued)

No Assessment Required for Renewal of Projects

Section 14 of Bill S-6

This amendment allows governments to approve the renewal or amendment of permits and licences for projects without any YESAA assessment. Renewals or amendments could have serious impacts on the environment, regional economies and local communities.

This amendment will make project assessments challenging. Impacts would need to be identified for the entire project life because renewals would likely not have to go through an assessment. For some projects, effects cannot be foreseen at the time of the initial review. This may result in negative impacts to the environment, our economy and communities.

Under the amendment, governments can avoid assessment for renewals and amendments if they decide that the project has not changed significantly. The proposed amendments do not provide a definition for significant change, but rely on the opinion of the regulators. This will create uncertainty, and the perception of political interference, resulting in conflict and could possibly end up before the courts.

This amendment fails to recognize the importance of changes that occur over time such as climate change, wildlife populations and changes in technology. Reviews are part of good assessment practices.



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Consequences to the Yukon

Consequences to the Yukon if the amendments are passed:

- **Rushing complex projects through the assessment process, could have negative impacts on the environment, our economy and our communities.**
- **The amendments will bring uncertainty, will harm Yukon's economy, scare off investment, put Yukoner's jobs at risk, and delay resource development.**
- **Canada's decision to impose amendments will likely end up before the courts.**
- **Yukon First Nations have followed their land claim Agreements and we expect the governments of Canada and Yukon to do the same.**

What can you do?

Contact your Member of Parliament, Ryan Leef
phone 867.668.6565 or email ryan.leef@parl.gc.ca

For more information visit our website
<http://cyfn.ca/services/yesaa>



CARCROSS/TAGISH
FIRST NATION



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CYFN



Selkirk First Nation



Teslin Tlingit Council

