

Federal Environmental Assessment and Review Process

Environmental Assessment Panels

Procedures and Rules
for
Public Meetings

Federal Environmental Assessment
Review Office

Canada

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FEDERAL ENVIRONMENTAL ASSESSMENT AND REVIEW OFFICE

OPERATIONAL PROCEDURES AND RULES FOR THE CONDUCT OF PUBLIC MEETINGS BY ENVIRONMENTAL ASSESSMENT PANELS

Introduction

Under the federal Environmental Assessment and Review Process (EARP), federal departments and agencies are required to take environmental matters into account throughout the planning and implementation of projects, programs and activities that are

- (a) initiatives undertaken directly by the federal government;
- (b) proposals for which the federal government makes a financial commitment;
- (c) undertakings on federally administered land, including offshore; and
- (d) activities that may have an environmental effect on a matter of federal responsibility, such as national parks or international commitments.

This requirement is discharged by assessing the potential environmental effects of the proposal. If a preliminary assessment indicates that the proposal will have, or is likely to have, a significant effect on the environment and adequate mitigatory measures are not readily identifiable then the proposal must be referred, by the government agency concerned, to the Minister of the Environment (Minister) for a review by an independent Environmental Assessment Panel the members of which are appointed by that Minister. A referral to the Minister can also be made where public concern about a proposal is such that public review is desirable.

The Panel is composed of a group of persons knowledgeable in the subject matter likely to be raised before the Panel and are usually four to six in number. The persons may be federal, provincial or territorial public servants or people from the private sector. A practice has evolved that non-governmental outnumber governmental members. Prior to their appointment Panel members will be asked to make a declaration that they have no conflict of interest with their role as a Panel member and that they will not place themselves in a conflict of interest situation while serving as a Panel member. The Federal Environmental Assessment Review Office (FEARO) appoints an Executive Secretary and provides administrative

support for the Panel. A Panel is customarily chaired by the Executive Chairman of FEARO or his delegate. The Minister shall issue terms of reference for each Panel appointed.

After completing a review of the proposal, the Panel will produce a report that outlines its conclusions and makes recommendations in accordance with its terms of reference. The report is submitted directly to the Minister and the Minister initiating the referral.

Prior to producing a report, the Panel will convene public meetings to permit an opportunity for the public to participate in the review process. The meetings will allow an opportunity to the proponent of the proposal to explain or respond to questions concerning the proposal as well as allow the public a chance to express any views about the proposal. These meetings, while structured, are informal and co-operative in nature. Each Panel decides the number, type and location of any meetings that would be appropriate to the proposal being considered. The Panel can call a general session meeting to consider views about the proposal's technical and non-technical aspects, or a special session meeting to consider a number of specific or limited issues. Therefore, a special session meeting could be a community session to allow a particular community to voice its concerns, a technical session to consider a particular aspect of the proposal in greater detail or an information session to raise issues and allow the participants to prepare for a general session meeting.

The purpose of this publication is to set out the basic core operational procedures of a Panel and the rules to be applied during public meetings which a Panel may expand upon for the purpose of establishing its own operating procedures. These procedures and rules are for general application and, depending on the complexity and nature of a specific review, the Panel concerned retains the option, in consultation with the Executive Chairman of FEARO, of adopting other measures that are appropriate to the circumstances. It is recognized that FEARO may be obliged to alter for specific instances any of these procedures

and rules in order to secure agreement with a province on a joint federal/provincial review or as a result of special conditions identified in a Panel's terms of reference.

Where a government agency refers a proposal to the Minister, the Minister, as soon as practical, shall make a public announcement or announcements about the referral. The announcement or announcements shall

indicate that a referral has been received and shall identify:

- (a) the proposal;
- (b) the terms of reference for the review that the Panel will conduct; and
- (c) the composition of the Panel

CORE PROCEDURES AND RULES FOR PUBLIC MEETINGS CONDUCTED BY ENVIRONMENT ASSESSMENT PANELS

Short Title

1. These rules and procedures may be cited as the

Environment Assessment Panel Procedures and Rules.

Interpretation

2. In these procedures and rules,

“Chairman” means the chairman of the Panel;

“distribution” means distribution of material pertaining to a proposal to interested persons;

“EIS” means an environmental impact statement that is a documented assessment of the environmental consequences of any proposal expected to have significant environmental consequences that is prepared or procured by the proponent in accordance with information requirements established by a Panel;

“general session meeting” means a meeting held to consider views about the technical and non-technical aspects of a proposal,

“Guidelines” means the *Environmental Assessment and Review Process Guidelines Order* (P.C. 1984-2132);

“Minister” means the Minister of the Environment;

“Panel” means an Environmental Assessment Panel established by the Minister;

“proposal” includes an initiative undertaking or activity that has been referred to the Minister for public review in accordance with section 21 of the Guidelines;

“proponent” means the government agency involved or a private sector entrepreneur where such entrepreneur is making use of federal property or is receiving federal funding and includes any initiative, undertaking or activity for which the Government of Canada has a decision making responsibility;

“public meeting” includes hearing, as referred to in the Guidelines;

“recommendation” means a recommendation made by the Panel to the Minister;

“special session public meeting” means a public meeting held to consider any specific or limited issues or objectives pertaining to any project including a community session to allow a particular community to voice its concerns, a technical session to consider a particular aspect of the proposal in greater detail or an information session to raise issues and allow the participants to prepare for a general session meeting.

PART I

OPERATIONAL PROCEDURES

3. As soon as possible after its appointment, a Panel shall
 - (a) establish and publish procedures for its review in accordance with the terms of reference announced by the Minister; and
 - (b) identify and publish its information requirements necessary for the conduct of the review.
4. The EIS will be prepared by the proponent of the proposal in response to the information requirements.
5. On receipt of a sufficient number of copies of the EIS from a proponent, the Panel will ensure its distribution or availability and allow a reasonable period of time for public review and comment.
6. (1) Where a Panel determines that its information requirements are not met it may request additional information from the proponent or other sources and in so doing it may request supplementary information and delay the proceedings until the requested information is received.
 - (2) Where a proponent referred to in subsection (1) does not submit information that is satisfactory to the Panel within a reasonable period of time, the Panel may
 - (a) proceed with a review using such information as it can obtain and reflect any perceived information gaps in its recommendation; or

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- (b) make a recommendation that the review of the proposal not be proceeded with until the requested information is received and reviewed.
7. Where an EIS has been submitted, and supplemented in accordance with section 6, and where, in the opinion of the Panel, a reasonable period of time for public review and comment has been allowed, the Panel shall proceed with its review of the proposal based upon the EIS and all other available public documents.
8. (1) A Panel may retain technical specialists to assist in the review process and shall make reports of such specialists available to the public.
- (2) A Panel may, through the Executive Secretary, permit consultations between specialists retained by the Panel and participants in the review process.
9. (1) Representations concerning the review process shall be directed to the Executive Secretary.
- (2) A Panel member should not communicate in private to anyone except another Panel member and staff about the substantive issues under consideration by the Panel.
- (3) Submissions to the Panel should be in writing where possible.
10. (1) The Executive Secretary shall maintain a file containing all documents, correspondence and submissions respecting the proposal and the file shall be open for examination by the public at reasonable times and accordingly the Panel will not accept any confidential or restricted information.
- (2) The Executive Secretary shall make copies available to anyone of material in the file and may require the payment of reasonable costs in connection with the copying.
- (2) Where a discrete situation requires, the Chairman may vary these rules to suit that situation and shall provide a rationale for each variation.
- (3) The rules of procedures for conduct of the public meetings shall be published in advance by the Panel.
- (4) The Chairman may arrange in advance of any public meeting, a pre-session conference to explain the rules of procedure for the public meetings and to finalize agendas and schedules.
12. A notice of a special session public meeting shall outline the issues to be considered at the meeting and the Chairman shall also outline the issues at the start of the meeting.
13. All public meetings respecting a proposal will be non judicial and informal but structured in nature and must be conducted in a non-confrontational manner; participants are not required to have legal counsel present.
14. In exercising control of public meetings, the Chairman may exclude interventions or questions that in the opinion of the Panel are outside the terms of reference or are needlessly repetitive in nature.
15. (1) The Executive Secretary shall ensure that sessional notices, outlining the times and location of all public meetings, respecting the proposal are reasonably publicized in such places and in such publications as he considers necessary.
- (2) Anyone wishing to make a presentation to the Panel is requested to give to the Executive Secretary prior notice of that presentation.
- (3) To facilitate the expeditious conduct of a public meeting, a person wishing to submit written material to the Panel in that meeting is encouraged to do so within a reasonable time prior to the meeting.

PART II

RULES FOR PUBLIC MEETINGS

11. (1) Subject to subsection (2) the Chairman shall conduct all public meetings in accordance with these rules.
- (4) Where written material is to be submitted in accordance with subsection (3), it can be given to the Executive Secretary.
- (5) Where written material is submitted in accordance with this section, any oral presentation in

relation to that material should be limited to highlighting essential features of the material and responding to questions on it.

16. At the conclusion of a public meeting the Executive Secretary shall arrange for the preparation of a transcript or minutes of the proceedings and make them available to the public within a reasonable period of time and at a reasonable cost.
17. The Executive Secretary shall, where possible, accommodate requests for translation at a public meeting where reasonable notice is given and where translation is required for the proper conduct of the meeting.
18. The Chairman may permit questioning of intervenors making presentations to the Panel.
19. (1) Any person making a presentation to the Panel is encouraged to limit that presentation to a duration of fifteen minutes.

(2) Any person who wishes to use more than fifteen minutes for his presentation is requested to give prior notice of this intention to the Executive Secretary, who will forward it to the Panel for consideration.

(3) The Chairman may limit the duration of a presentation at a public meeting.
20. The Chairman may limit questioning where participants have substantially similar interests in the project.
21. The Chairman may limit the questions asked and may limit participants in presenting arguments or making submissions.
22. All questions shall be directed to the Chairman who may invite the appropriate participant to respond to the questions.
23. (1) Participants in a public review are encouraged to formulate written questions in advance of the public meetings and to submit them either through the Executive Secretary or direct to respondents with a copy to the Executive Secretary for addition to the public file maintained in accordance with section 10

(2) Where questions are submitted in accordance with subsection (1), written responses will be provided if the questions have been submitted sufficiently early to permit time for a written response.

(3) Any written question and response given in accordance with this section shall become part of the record of the proceedings.