

Federal Environmental Assessment and Review Process

**ANNUAL REPORT
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Review Office

Canada

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FEDERAL ENVIRONMENTAL ASSESSMENT REVIEW OFFICE

ANNUAL REPORT

Introduction

In June, 1984, an Environmental Assessment and Review Process Guidelines Order was issued under the authority of a 1979 amendment to the Government Organization Act of 197 1. The Guidelines Order outlined a number of changes to the federal Environmental Assessment and Review Process (EARP) including the requirement that the Federal Environmental Assessment Review Office (FEARO) inform the Minister of the Environment on a periodic basis about the implementation of the Process by initiating departments. To fulfill that requirement necessitates establishing interdepartmental reporting mechanisms and a clear definition of the information to be reported. This report outlines efforts made in this direction and provides a summary of EARP-related activities from April 1, 1984 to March 31, 1985. FEARO intends to produce these reports on an annual basis.

Changes to the Environmental Assessment and Review Process

EARP, which applies to all federal government activities, was established by Cabinet decision in December, 1973 and amended by Cabinet in February, 1977. The Guidelines Order reconfirms the fundamental principles of the Process and outlines more clearly the roles and responsibilities of various departments under the Process. It states that "the Process shall be a self assessment process under which the initiating department shall as early in the planning process as possible and before any irrevocable decisions are taken, ensure that the environmental implications of all proposals for which it is the decision making authority are fully considered and, where the implications are significant, refer the proposal to the Minister for public review by a Panel."

The scope of the Process is defined specifically to include directly related social impacts as well as environmental impacts; that is, effects on people resulting directly from changes in the natural environment. In addition, a public review can be broadened, with the approval of the Environment Minister and the Minister initiating the review, to include other factors of concern such as general socio-economic effects, the technological merit of the proposal and the need for it.

The Process applies to government regulatory agencies where there is no legal impediment or duplication of responsibilities. A legal impediment may occur where a regulatory authority is not allowed by law to reflect environmental factors in its decisions. Duplication may occur when a regulatory body such as the National Energy Board re-examines in a public hearing process matters already addressed in an EARP Panel report. The risk of such duplication is much reduced if EARP is applied early enough in the planning process to allow the proponent to reflect in its application to the Board the results of the EARP review. Crown Corporations are expected, though not required, to implement EARP as a matter of corporate policy. EARP must take account of transboundary impacts and is to be applied (without public reviews) to Canada's foreign aid projects.

The initial assessment phase conducted within departments responsible for activities covered by EARP is to be made more visible and consistent through better documentation and increased public access to information about decisions. Departments are required to provide access to information about this phase of the process in keeping with the spirit and principles of the Access to Information Act and to allow an opportunity to respond. FEARO is to provide departments with procedural guidelines for the screening of proposals and to provide general assistance for the development and installation of implementation procedures. In addition, FEARO is to publish a periodic summary of the information provided by departments on their screening decisions.

EARP public reviews are becoming increasingly flexible and better able to deal with concepts at an early planning stage or, as appropriate, by focusing essentially on environmental design.

The Guidelines Order reconfirms the principle that Panel members are appointed by the Minister and are to be unbiased, free of conflict of interest and political partisanship and to have relevant special knowledge or experience. Panel members are to be issued with specific terms of reference outlining the scope of their review. FEARO is to establish procedural guidelines upon which Panels will establish detailed operating

procedures for each review. Panels are to present a report of their findings, not just to the Minister of the Environment as before, but also to the Minister who initiates the review.

The initiating department, in co-operation with any other federal government organization to whom the Panel's recommendations are directed, decides the extent to which the recommendations become requirements before a proposal is undertaken and the manner in which these decisions are announced. The initiating department must also ensure that decisions stemming from recommendations are incorporated into the design, construction and operation of the proposal and that suitable implementation, inspection and environmental monitoring programs are established.

Implementation of the Environmental Assessment and Review Process

FEARO has established an interdepartmental task force to assist in the preparation of procedural guidelines for the initial assessment of proposals under the EARP. This Guide, which will be published in 1985-86, will offer policy interpretation and direction to departments on EARP implementation and procedural advice for the initial assessment of federal actions.

Parallel to this activity, individual departments are developing new written procedures for implementing the EARP requirements contained in the Guidelines Order. Those departments which are most active in EARP are expected to complete their procedures by the end of 1985-86. Some are also developing lists of exclusions from detailed assessment as required by the Guidelines Order. These would consist of proposals that are environmentally insignificant.

FEARO is developing a screening bulletin that will contain a summary of decisions taken by departments during initial assessment. It will be based on information supplied by departments and contain a very brief description of each proposal and the decision taken on its environmental significance. With this information it will be possible in future annual reports to describe the actual implementation of the Process within departments. The bulletin will begin publication in 1985-86.

In January, 1985 FEARO published "Environmental Assessment Panel Procedures and Rules for Public Meetings", outlining the basic operational procedures of a Panel and the rules to be applied during public meetings. A Panel may expand upon these to establish its own detailed operating procedures. Panel members

are largely from outside government, and include local citizens, natives and others with experience and knowledge relevant to the issues.

Environmental Assessment Panel Reviews

Proposals considered by initiating departments to have potentially significant adverse environmental effects are referred to the Minister for a public review by an Environmental Assessment Panel. The results of the various Panel reviews in 1984-85 are outlined below. It should be noted that several of these reviews were conducted jointly with provincial governments and that provincial or territorial governments also participated in the others,

Beaufort Sea Hydrocarbon Production and Transportation

The Panel report on a proposal to produce oil and gas from the Beaufort Sea and transport it to southern markets was made public in July by the Ministers of Environment and Indian Affairs and Northern Development. It concluded that energy production would be environmentally and socio-economically acceptable if started on a small scale and gradually phased in. More specifically, the Panel concluded that a single, small-diameter buried oil pipeline could be built through the Mackenzie Valley and that a gas pipeline could be built in the valley if the impacts on local communities would be no more than those associated with a small scale oil pipeline. The Panel concluded that tankers should not be allowed to carry oil through the Northwest Passage to east coast refineries until successful completion of an evaluation program entailing government research and preparation, and subsequent experimentation with two Class 10 Arctic oil-carrying tankers under specific conditions.

The Panel visited 22 communities and heard testimony from persons representing 31 northern communities. It also held hearings in major regional centres and in Calgary and Ottawa.

One of the procedural innovations introduced during the review was a pilot program of funding for participants. Money was provided by the Department of Indian Affairs and Northern Development and administered by a special committee reporting to the Executive Chairman of FEARO. It was allocated to help participants prepare briefs and travel to the Panel public meetings. An evaluation study is underway on the effectiveness of this program.

CN Rail Twin-Tracking Program, British Columbia

The Panel report to the Ministers of Environment and Transport on CN Rail's proposal to twin its main line in the Thompson and Fraser River valleys in British Columbia was released in March, 1985.

The Panel concluded that the proposal to construct about 700 km of second track between Valemount and Vancouver could proceed as planned if certain actions were to be taken. While the Panel considered that the program would have little effect on the overall fisheries resources of the Fraser and Thompson River systems, it was concerned that the existing design and approvals process was not adequate to deal with the protection of the Indian food fishery and heritage resources. It recommended that the environmental design and approval process be expanded to include Indian representation and so permit early consideration of these concerns during the planning and design of future construction.

The Panel has also, as part of its mandate, to review separately the long-term environmental implications of transportation-related activities in the Fraser and Thompson River corridors. A consultant's report identifying transportation uses and potential conflicts among users, as well as sensitive environmental resources, was discussed at a public workshop in July, 1984. A summary of the main issues identified by the Panel was distributed in December for discussion at workshops held in March in Kamloops, Lytton and Vancouver, to focus on solutions to problems identified at the earlier workshop.

Port of Quebec Expansion

The Panel report on plans to expand the Port of Quebec was released in October by the Minister of Environment and the Minister of State for Transport. The proposal involves a 42.5 hectare expansion and includes recreation facilities and a greenbelt, serving as a buffer zone. Originally, the Panel was asked to examine a Port Administration proposal for an expansion of 440 hectares, but this was reduced in scale twice, largely in response to concerns identified during the review.

The Panel concluded that plans for the expansion were acceptable under certain conditions. These included limiting the expansion to a maximum of 42.5 hectares, establishing a precise period of construction outside the spring and fall bird migration, introducing measures to reduce noise and air quality deterioration during construction, establishing a monitoring program

and monitoring committee, and conducting separate environmental assessments and public consultation on future activities on the expanded port facility.

Second Nuclear Reactor, Point Lepreau, New Brunswick

Construction of a second 630 megawatt reactor at Point Lepreau was proposed by Maritime Nuclear, a consortium of Atomic Energy of Canada Limited and the New Brunswick Electric Power Commission. Plans for the first reactor at this site were examined by an EARP Panel in 1975.

The Panel appointed jointly by the federal and provincial Environment Ministers reviewed the proponent's environmental impact statement, issued a statement of deficiencies, conducted the final public meetings, and began to write its report.

A number of innovations were introduced in this review. In an attempt to focus research and analysis on what was important, the Panel held scoping workshops to learn the nature and importance of the issues and concerns about the proposal, before it issued guidelines for the preparation of an environmental impact statement. In addition, an advisory group of experts was established to assist in the scientific design of the environmental impact statement.

Shoal Lake Cottage Lot Development, Manitoba

The Panel reviewed the environmental impact statement submitted in May by Shoal Lake Indian Band no. 40 on its proposal to develop approximately 350 cottage lots on the north-west corner of Shoal Lake near the Ontario-Manitoba border. Shoal Lake is the source of water for Winnipeg.

Following the review of the environmental impact statement the Panel requested the Band to submit additional information. The Band's response was reviewed by the Panel which, in March, advised the Band that there was sufficient information to proceed to the public meeting stage of the review Process.

Slave River Hydro Project, Alberta

During the past year there were discussions between FEARO and Alberta about the Panel review of the proposed Slave River hydro project near the Alberta-Northwest Territory border. If built, the project could affect water levels in Wood Buffalo National Park. These discussions resulted in an understanding on sharing responsibilities between the federal and

Alberta governments for co-operation between the Panel and Alberta's Energy Resources Conservation Board.

West Coast Offshore Exploration, British Columbia

A Panel was appointed jointly by the federal and provincial Environment Ministers in June, 1984 to review a proposal by Chevron Canada and Petro-Canada to resume exploration for hydrocarbons offshore B.C., between the northern end of Vancouver Island and the B.C.-Alaska border. Subsequently, Petro-Canada withdrew from the review process, citing its commitment to other areas of interest as its main reason for withdrawal.

The Panel reviewed initial environmental evaluations that had been prepared by the proponents and issued a draft document outlining additional information requirements. The document was discussed at a series of 17 community meetings along the B.C. coast in November, 1984 and subsequently finalized. Responses to the information requirements were received from Chevron and various federal and provincial government agencies in February. Public hearings and the Panel's report are planned for later in 1985.

Hibernia Development Project, Newfoundland

With the signing of the Atlantic Accord by the federal and Newfoundland Governments the way was cleared for a joint federal-provincial review of Mobil Oil's plans for development of the Hibernia oilfield on the Grand Banks. The existing federal Panel was expanded with the addition of two new Panel members appointed by Newfoundland and one serving Panel member, from Newfoundland, was named as Newfoundland's co-chairman. Public hearings are planned in the autumn of 1985 and the Panel report is expected by the end of the year.

The Canadian Environmental Assessment Research Council

The Canadian Environmental Assessment Research Council (CEARC) was formed in January, 1984 to advise governments, industry and universities on ways to improve the scientific, technical and procedural basis for environmental impact assessment. The 12-member Council is drawn from federal and provincial governments, industry, private consultants, environmental non-government organizations, and the university community. Funding of its activities is administered

by FEARO. Both FEARO and Environment Canada provide staff to serve as a secretariat to the Council.

In the last year CEARC initiated a number of programs aimed at promoting research. In February, workshops were held on cumulative impact assessment in co-operation with the U.S. National Academy of Science and on social impact assessment. Proceedings of both workshops will be published in 1985/86.

CEARC also began to examine the application of modelling and simulation techniques in environmental impact assessment and the use of risk assessment in Canadian environmental impact assessment processes. In addition, it has assisted, and will be a participant in, an international symposium to be held at the Banff Centre, sponsored by Environment Canada on follow-up/audit of environmental assessment results.

To promote research and aid graduate students in environmental impact assessment, CEARC initiated a student research contracting program to begin in 1985-86.

FEARO Participation in International Activities

FEARO participated in the activities of a Group of Experts on Environmental Impact Assessment, established by the United Nations Economic Commission for Europe. The main focus of the Group has been the exchange of information among the member countries. In addition, a task force has been examining case studies from some of the member countries including two Canadian projects: the Banff Highway Project and the Lower Churchill Hydro Project.

A member of FEARO's staff has been participating in an ad hoc group of the Organization for Economic Co-operation and Development (OECD) on the application of environmental impact assessment to development assistance. The group has identified those proposals most in need of environmental impact assessment and will be recommending procedures for its use to the Development Assistance and Environment Committees of the OECD.

A FEARO staff member also participated in the first session of the United Nations Environment Program (UNEP), Working Group of Experts on Environmental Law, dealing with environmental impact assessment. UNEP has requested this Working Group to develop principles and guidelines on environmental impact assessment.

During the year, FEAR0 was involved with a project to provide learning and other assistance in environmental assessment to the Government of Indonesia. This project, the Canada-Indonesia Environmental Manpower Development Project, is managed by the Institute for Resource and Environmental Studies at Dalhousie University for the Canadian International Development Agency.

In October, a FEAR0 staff member presented a paper on environmental assessment associated with the Beaufort Sea hydrocarbon production and transportation proposal to an international seminar on environmental management.

FEAR0's Executive Chairman led a federal-provincial-private sector delegation to an Australia-Canada-New-Zealand Workshop on Environmental Impact Assessment Procedures held in Wellington in March. Among other things, the participants discussed the relationship of environmental impact assessment to the planning and political processes, with particular attention to the impact of development on native peoples. The Canadian delegation included professionals in the field from various governments and industry

and four native people, (Indian and Inuit) whose contribution was central to the success of the sessions on indigenous people's interests.

Expenditures

In fiscal year 1984-85 FEAR0 expenditures were \$3,027,000. Of this \$1,322,000 was expended on salaries and benefits for 28 person-years and \$1,705,000 on operations. Some 56 per cent of the operations expenditure (i.e. \$963,662) was contracted out for professional services from the private sector. Operational expenditures by program are as follows:

Program	Expenditure	Percentage of Total
1. Panel Reviews	999,000	58.5
2. CEARC and other research support	280,000	17.0
3. EARP implementation	147,000	8.5
4. Administration	<u>279,000</u>	16.0
Total	\$1,705,000	100%

Annex I – Publications Issued in 1984-85

1. Beaufort Sea Hydrocarbon Production and Transportation - report of the Environmental Assessment Panel, July 1984.
2. CN Rail Twin Tracking Program, British Columbia - report of the Environmental Assessment Panel, March 1985.
3. Port of Quebec Expansion Project – report of the Environmental Assessment Panel, September 1984.
4. Environmental Assessment Panels – Procedures and Rules for Public Meetings, March 1985.
5. Register of Panel Projects, January 1985.
6. Environmental Assessment in Canada, Directory of University Teaching and Research, 1983/84.