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THE ENVIRONMENTAL ASSESSMENT PROCESS FOR POLICY AND PROGRAM PROPOSALS

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Canada



The Environmental Assessment Process for Policy and Program Proposals

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PURPOSE

The purpose of this document is to clearly indicate to all Departments and Agencies that a non-legislated environmental assessment process is required for all federal policy and program initiatives submitted for Cabinet consideration.

The document sets out the scope of coverage and identifies special cases where such an environmental assessment may not be expected. The document details the responsibilities of all Ministers; the Minister of the Environment; the Department of the Environment; the Federal Environmental Assessment Review Office (FEARO) and its successor Agency; and the responsibilities of Department officials in implementing the new policy. The document provides the requirements for documentation, public statements, and public consultations.

The Government of Canada, in June 1990, announced a package of reforms to the federal Environmental Assessment and Review Process (EARP). The reforms include the *Canadian Environmental Assessment Act (CEAA)* and a non-legislated environmental assessment process that applies to proposals for policy and program initiatives submitted to Cabinet for consideration.

The Government also decided that a public statement outlining the anticipated environmental effects of a policy or program initiative, which would be determined through an environmental assessment, would, as appropriate, accompany that announcement of the initiative. The statement is a means of demonstrating that the assessment has been undertaken.

The environmental assessment process of proposed policy and program initiatives can complement the environmental assessment process for projects, and demonstrates Canada's commitment to sustainable development. Moreover, this proposal makes good economic sense because it allows identifying and mitigating adverse environmental effects early in the decision-making process.

The objective is to systematically integrate environmental considerations into the planning and decision-making process. The environmental information derived from an examination of proposed policy or program initiatives is intended to support decision-making in the same way that other factors (economic, social, cultural) are now considered in evaluating proposals.

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SCOPE OF COVERAGE

The following is a listing of the various types of policy and program decisions made by Government, that sets out the general type of environmental assessment to be applied to them.

- a. **Proposals for policies or programs considered by Cabinet=** These proposals are to be assessed for their environmental implications, where these are relevant. It is estimated that over 75 per cent of Cabinet business is not environmentally relevant and would not generally require an environmental assessment.
- b. **Proposals considered by Cabinet for projects as defined in the Canadian Environmental Assessment Act (CEAA):** All "projects" are to be covered by the provisions of the CEAA, not by the process for policy assessments, including those projects requiring decisions by the Cabinet or a Cabinet committee. However, when Cabinet is considering an early approval-in-principle for a project before an environmental assessment has been done, such approval can be conditional upon completing a later statement.
- c. **Consideration by Cabinet, or by Ministers on their own authority, regarding the development of new regulatory instruments:** For many years, regulations have required the preparation of a Regulatory Impact Analysis Statement (RIAS), which routinely involves comprehensive public and other stakeholder consultation on a range of issues, including the environment. That process will continue unchanged, but the environmental analysis supporting the development of regulations will be enriched through the development of methods and through experience gained in other assessments at the policy level. Adherence to the procedures set out under the Regulatory Policy will be considered to satisfy the requirements of the process for policy and program environmental assessment.
- d. **Proposals for policies and programs considered by Ministers on their own authority:** Policy and program proposals for decision by a minister within his or her own portfolio without reference to Cabinet will be assessed for their environmental implications where, in the view of the responsible minister, they are considered to warrant an environmental assessment, and, as appropriate, a public statement will be issued.

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SPECIAL CASES

There may be exceptional cases where proposals will not be assessed under the process for policy and program assessments. These are:

- proposals prepared in response to a clear and immediate emergency where time is insufficient to undertake an environmental assessment. Ministers are individually responsible for determining the existence of an emergency. A disaster relief program might fall in this category, for example;
- where the Governor in Council is of the opinion that an environmental assessment would be inappropriate for reasons of national security;
- where the matter is of such urgency, for example, for the economy or a particular industrial sector, that the normal process of Cabinet consideration is shortened and even a simplified environmental assessment cannot be presented; and
- Treasury Board Submissions on matters already assessed under a previous proposal to Cabinet, under the EARP Guidelines Order or under the Canadian *Environmental Assessment Act*, and on corporate plans and budgets of Crown corporations, for their ongoing operations.

For the above noted special cases, a follow-up program may be desirable to provide lessons for similar cases in the future.

Policy proposals which are developed specifically for the purpose of environmental protection or improvement, such as the Green Plan, may intuitively appear to not require an environmental assessment and public statement under this process. However, such undertaking can promote and set an example of the government following through on its commitment to assess the environmental effects of all policy and program proposals. Also, an explanation of the manner in which the proposal contributes to the achievement of environmental objectives would be appropriately addressed in this process.

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RESPONSIBILITIES

All Ministers: All Ministers are responsible for assessing environmentally relevant policy and program initiatives and where appropriate will issue at the time of the public announcement of the policy or program, a statement about the environmental consequences of such initiatives. Individual ministers are accountable for the environmental consequences of their policy or program initiatives, for the quality of the environmental assessment, and for the content of the public statement.

The Minister of the Environment is responsible for facilitating the process of policy and program assessments, for advising other ministers on the potential environmental effects of policy initiatives before Cabinet decisions are taken and for advising on environmentally appropriate courses of action. This does not constitute either a veto or an approval role.

Environment Canada in support of the responsibilities of the Minister of the Environment, will, in consultation with other departments, establish environmental and sustainable development goals, objectives and policies; will advise other ministers on the potential environmental effects of policy and program initiatives before Cabinet decisions are taken; will provide policy, technical and scientific advice on specific policy and program assessments and on how policy or program initiatives might contribute to environmental and sustainable development goals; and will advise on appropriate courses of action.

The Federal Environmental Assessment Review Office, and its successor Agency will, in support of the responsibilities of the Minister of the Environment, maintain an inventory of federal environmental reviews; provide procedural advice; and, in consultation with other government departments, propose and initiate refinements to the process.

Departmental officials initiating a policy or program proposal to be submitted for consideration by ministers must ensure that an assessment of the anticipated environmental effects is completed, where environmentally relevant.

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METHODOLOGY

Much of the methodology for conducting environmental assessments of policy and program initiatives is still evolving. However, the government is committed to the concept in order to ensure that the principles are applied consistently at this early stage of development. In recognition of this fact, FEAR0 and its successor Agency, in cooperation with federal departments will continue to develop materials which will help in the environmental assessment of policy and program initiatives. This includes suggested methods, manuals and further readings on the subject as required.

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DOCUMENTATION AND DISCLOSURE

For environmentally relevant initiatives being considered by Cabinet, including the Treasury Board:

- a statement on environmental implications should be included in Memoranda to Cabinet, and, where appropriate, in Treasury Board Submissions and other documents submitted for consideration by ministers; and
- where anticipated environmental effects are likely to be significant, a more detailed account of the environmental assessment and the rationale for the conclusions and recommendations should be included in the documents supporting the proposal.

Any disclosure of information will be subject to existing legislation, regulations and policies governing the release of information.

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PUBLIC STATEMENTS

Ministers will determine the content and extent of the public statement according to the public interest and the particular circumstances of each case, where a statement is required.

The purpose of the public statement is to demonstrate that environmental factors have been integrated into the decision-making process, not to necessarily provide a detailed account of the assessment work undertaken.

The public statement need not always take the form of a separate document but may be part of the announcement of the initiative or decision. However, to ensure consistency, the following are suggestions for the public statements on the environmental effects of policy or program initiatives:

- Where a proposal is to be considered in a Cabinet Committee, a draft of the public statement could be included in the supporting documentation.
- The Communications Plan's Strategic Considerations section of the of the Memoranda to Cabinet could address what impacts the environmental assessment of the policy or program initiative will have on the public interest and what communications approach is recommended.
- Where the initiative obviously has no direct impact (e.g. appointments, remuneration decisions), or when for other reasons no assessment will be completed (e.g. emergencies, national security) no statement is considered necessary.
- Where the intent of the initiative is not sufficiently defined to permit credible assessment and is likely to lead to a "project", the statement could affirm subsequent environmental assessment under the purview of the EARP Guidelines Order or the new Canadian Environmental *Assessment Act*, whichever applies at the time.
- Where screening indicates that environmental effects are extremely diffuse and cannot be very well identified, estimated or evaluated, (e.g. influx of immigrants) or where impacts have been covered under other assessments (e.g. Treasury Board Submissions for previously assessed projects), the announcement or the Questions and Answers and other communication material prepared in relation to the announcement may need little more than a brief reference to these circumstances.

For initiatives likely to have significant effects, it is suggested that the announcement contain:

- a summary of the anticipated beneficial and/or adverse environmental effects of the initiative and their expected significance; and
- where relevant, information on the measures adopted to mitigate adverse environmental effects, and on the follow-up program to monitor the initiative's effects over the longer term.

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PUBLIC CONSULTATION

Public consultation is normally an important component of effective environmental assessment. It is essential for major project assessments but, because of the need to protect Cabinet confidentiality, it is often very difficult for policy or program assessments. Those involved in the design and preparation of policy and program proposals are encouraged to seek opportunities for public or stakeholder consultation. The nature and extent of public consultation is of course a matter of ministerial discretion.

An opportunity for public scrutiny is provided by the House of Commons Standing Committee on the Environment, whereby any minister can be requested to appear before it to explain the environmental implications of any new policy or program.

For further information on the process: