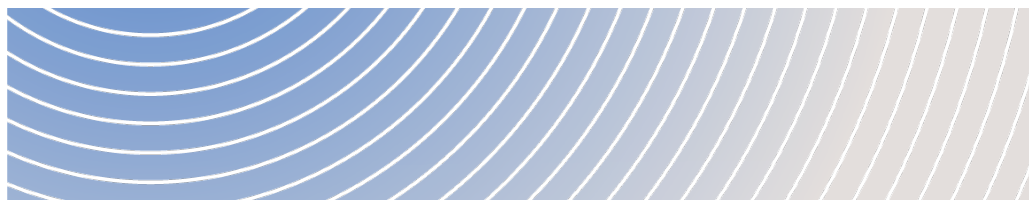




Memorandum of Understanding between the Impact Assessment Agency of Canada and the Canadian Nuclear Safety Commission



October 2019



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Memorandum of Understanding

on

Integrated Impact Assessments Under the *Impact Assessment Act*

Between

The Impact Assessment Agency of Canada

– and –

The Canadian Nuclear Safety Commission

(together, “the Participants”)

PREAMBLE

WHEREAS the *Impact Assessment Act* (the IA Act) provides for a process for assessing the environmental, health, social and economic effects of designated projects with a view to preventing certain adverse effects and fostering sustainability;

WHEREAS under section 43 of the IA Act, the Minister of the Environment (the Minister) must refer the impact assessment of a designated project to a review panel if the project includes physical activities that are regulated under the *Nuclear Safety and Control Act* (NSCA);

WHEREAS the Canadian Nuclear Safety Commission (the CNSC) has statutory responsibilities pursuant to the NSCA and is responsible for the regulation of nuclear facilities, activities, substances, prescribed equipment and prescribed information;

WHEREAS the Minister and the Impact Assessment Agency of Canada have statutory responsibilities pursuant to the IA Act;

WHEREAS the Government of Canada is committed to implementing an impact assessment and regulatory system that Canadians trust and that provides safeguards to protect the environment and the health and safety of Canadians;

WHEREAS the Government of Canada is committed to using transparent processes that are built on early engagement and inclusive participation and under which the best available scientific information and data and the Indigenous knowledge of the Indigenous peoples of Canada are taken into account in decision making; and,

WHEREAS a purpose of the IA Act is to promote cooperation and coordinated action with respect to impact assessments.

THEREFORE, the assessment of designated projects under the IA Act that are regulated by the CNSC under the NSCA will proceed by way of an integrated impact assessment;

THEREFORE, the Participants recognize that the objective of "one project, one assessment" can only be achieved without unnecessary delays or duplication of effort through efficient and effective cooperation, and agree to implement an integrated approach for the impact assessment of designated projects regulated by the CNSC;

THEREFORE, the Participants recognize the benefit of cooperating in the development of the processes and procedures that will be followed during integrated impact assessments; and,

THEREFORE, the Participants agree to consult and work collaboratively to implement integrated impact assessment processes under the IA Act, as outlined in this memorandum of understanding (MOU).

1. DEFINITIONS

In this MOU,

"Agency" means the Impact Assessment Agency of Canada.

"Canadian Nuclear Safety Commission" is referred to as the "CNSC" when referring to the organization and its staff in general, and the "Commission" when referring to the tribunal component.

"Integrated Impact Assessment" is an assessment process led by a review panel in which the Participants will cooperate, to the extent possible, with the common objective that the requirements of the IA Act and the NSCA are discharged as "one project, one assessment".

"Integrated Review Panel" is the review panel that has been appointed by the Agency to conduct the integrated IA for a designated project that includes physical activities regulated under the NSCA.

2. SCOPE

This MOU applies to the impact assessment of a designated project referred to a review panel that includes physical activities that are regulated under the NSCA.

3. INTERPRETATION

This MOU:

- creates an administrative framework within which the Participants can cooperatively allow for the exercise of the powers and duties established by the IA Act and the NSCA, as necessary and as reflected in those Acts;
- is to be read and interpreted in a manner consistent with the IA Act and the NSCA and all other applicable regulatory requirements; and

- does not create any new legal powers or duties, nor does it alter the powers and duties in the IA Act and the NSCA and is not legally binding on the Participants.

This MOU confirms the commitment of the Participants to work collaboratively to ensure that integrated impact assessments (IAs) are conducted in an efficient manner.

4. OBJECTIVES

The objectives of this MOU and its Annexes are to provide procedures and guidance to the Participants in order to:

- implement an overarching framework to allow for a single, comprehensive process for integrated IAs that is fair, inclusive, transparent and efficient;
- clarify the roles and responsibilities for the Participants for the conduct of integrated IAs;
- facilitate coordinated public engagement and Indigenous consultation activities in the integrated IA process for designated projects to be regulated by the CNSC;
- ensure the statutory requirements of both the IA Act and the NSCA can be fulfilled; and,
- facilitate timely and consistent information sharing and coordination between the Participants.

5. DESIGNATION OF PROJECTS BY THE MINISTER

The Agency commits to consult with the CNSC prior to making recommendations to the Minister regarding any requests to designate projects that are received under the IA Act, not listed on the *Physical Activities Regulations*, which include physical activities regulated under the NSCA. The Agency will consult with the CNSC:

- regarding any project-specific information received from a project proponent or a third party in relation to a potential designation; and/or,
- prior to making any recommendations to the Minister regarding a potential designation; and/or,
- following any decision by the Minister to designate a project.

6. INFORMATION SHARING

6.1 Reciprocal Notification

The Agency and the CNSC agree to keep each other informed, in a timely manner, of emerging projects that may be subject to both the IA Act and the NSCA, following the protocol outlined in Annex 1. The Participants will each identify an official who will act as the principal point of contact for the sharing of information regarding emerging projects.

6.2 Public Registry

The Impact Assessment Registry Internet Site (the Public Registry) maintained by the Agency will be the official record of the integrated IA process. The Public Registry will include all information related to all integrated IA with the CNSC, until the issuance of a decision statement under the IA Act.

Following the issuance of a decision statement, the CNSC will ensure that all subsequent filings and records (e.g., condition compliance filings and other filings related to the lifecycle oversight of the project) are posted to the CNSC's website; the Public Registry for each designated project will also contain a link to the CNSC's website.

6.3 Scientific and Technical Expertise

The CNSC commits to making its specialist or expert information available to the Agency and review panel throughout all phases of the integrated IA process. Any such scientific and technical advice will be provided on the record of review.

The Agency will consult with the CNSC in determining whether an independent science review is warranted. During the IA phase, any decisions regarding whether an independent science review is warranted will be made by the integrated review panel.

7. PARTICIPANT FUNDING

Participant funding for all integrated IAs will be provided and administered by the Agency pursuant to its Participant Funding Program. The funding will cover participation in the IA, until the issuance of the Decision Statement. The Agency commits to keeping the CNSC informed of the allocation of participant funding throughout the integrated IA process.

8. PUBLIC ENGAGEMENT

The Agency will coordinate public engagement activities for integrated IAs in collaboration with the CNSC, following the protocol outlined in Annex 2. The CNSC will participate, to the extent possible, in all public engagement activities to encourage relationship building and seamless transition as the lifecycle regulator carries out responsibilities to monitor project compliance with conditions throughout the entire life of the project.

As an outcome of the Planning Phase, the Agency and the CNSC will develop the Public Participation Plan for each integrated IA to guide public engagement activities during the IA process.

9. INDIGENOUS CONSULTATION

The Agency will coordinate the whole-of-government consultation activities with potentially affected Indigenous groups for integrated IAs with the CNSC, following the protocol outlined in Annex 3.

The CNSC will participate, to the extent possible, in all Crown consultation activities in all stages of the integrated IA process to uphold the honour of the Crown, meet the Crown's Duty to Consult, and Accommodate obligations where appropriate. This involvement will encourage relationship building and seamless transition as the CNSC carries out its responsibilities to monitor project compliance with conditions throughout the entire life of the project.

As an outcome of the Planning Phase, the Agency and the CNSC will collaboratively develop the Indigenous Engagement and Partnership Plan, in consultation with potentially affected Indigenous groups, for each integrated IA to guide consultation activities with Indigenous groups during the IA process.

10. TIMELINE FOR IMPACT ASSESSMENT PHASE

The Agency will consult with the CNSC regarding the establishment of the following time limits for the integrated IA:

- the time limit, after the day on which the notice referred to in subsection 19(4) of the IA Act is posted on the Public Registry, within which the review panel must submit a report to the Minister; and,
- the time limit, after the day on which the review panel submits the report, within which the Agency must post on the Public Registry its recommendations under subsection 55.1(2) of the IA Act.

Prior to the Agency posting a copy of the notice of commencement of an integrated IA on the Public Registry, as per paragraph 37.1(2) of the IA Act, the Participants will discuss the need for a time limit longer than 300 days and the reasons for any such recommendation.

Time limits that are longer than 300 days should only be sought where appropriate due to the nature of the designated project.

The Agency will also consult with the CNSC prior to requesting an extension by the Minister or Governor in Council, to the time limits for the assessment, as per subsections 37(3), 37(4) or 65(5) of the IA Act.

11. JOINT AGENCY-CNSC PROJECT TEAM AND SECRETARIAT

Upon submission of a proponent's initial project description under the IA Act, the Participants will jointly set up a project-specific Project Team and Secretariat. The Project Team will support the conduct of the integrated IA during all phases of the assessment. The Secretariat will support the review panel in conducting the integrated IA on behalf of their respective organizations.

The Project Team and Secretariat will be composed and function in accordance with the terms set out in the protocol established in Annex 4.

12. APPOINTMENT OF PANEL MEMBERS

The CNSC and the Agency will work collaboratively on the panel member appointment process to ensure it is carried out in a timely and efficient manner and that the integrated review panel can fulfill the requirements under the IA Act and the NSCA.

In order to facilitate the appointment of panel members, the Agency and the CNSC commit to consult each other regarding a list of candidates, for the appointment of the chairperson and members of the review panel, following the procedure outlined in Annex 5.

13. JOINT INTEGRATED IMPACT ASSESSMENTS

Where a jurisdiction wishes to enter into an agreement to jointly conduct the IA of a designated project that also includes physical activities regulated under the NSCA, the Agency will consult the CNSC on elements with respect to an agreement with a jurisdiction for a joint integrated IA, such as appointments of panel members and the development of the panel's Terms of Reference. This is in recognition that the Minister cannot enter into an agreement with the CNSC under section 39(2) of the IA Act, and in recognition of the objective to discharge regulatory requirements under the NSCA. The Agency will consult the CNSC on elements of a joint integrated IA, following the procedure outlined in Annex 8.

14. COST SHARING

Costs associated with integrated IAs will be apportioned between the Participants in accordance with the relevant regulations and a cost-sharing agreement to be finalized prior to the appointment of the review panel for each integrated IA.

15. TERMS OF THE MOU

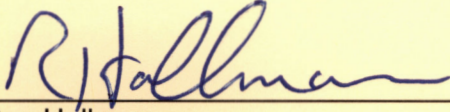
This MOU comes into effect upon the date of final signing by both Participants and remains in effect until withdrawn by either signatory upon 90 days' notice in writing. The MOU and its annexes may be amended with the mutual written agreement of both Participants.

16. ANNEXES

The Participants agree to implement a set of guidance documents and procedures – annexes to this MOU (attached) – that set out the principles and details necessary to facilitate the implementation of integrated IAs.

The Participants may develop further agreements as annexes to this MOU as deemed necessary to facilitate the implementation of the arrangements made herein as required or appropriate.

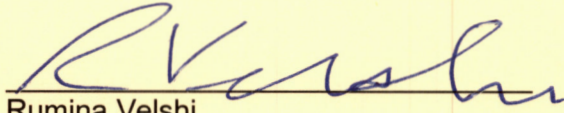
17. SIGNATURES



Ron Hallman
President
Impact Assessment Agency of Canada

AUG 20 2019

Date



Rumina Velshi
President
Canadian Nuclear Safety Commission

AUG 20 2019

Date