
Operational Policy Statement Information Requests and Timelines

February 2016

Disclaimer

This Operational Policy Statement (OPS) is for information purposes only. It is not a substitute for the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) or its regulations. In the event of an inconsistency between this OPS and CEAA 2012 or its regulations, CEAA 2012 or its regulations would prevail.

Purpose

CEAA 2012 sets time limits for the conduct of environmental assessments (EA) of designated projects. The timeline for a specific assessment is paused when the proponent is required to provide information or conduct studies necessary for the environmental assessment.

This OPS explains the pausing of timelines by the Canadian Environmental Assessment Agency (the Agency) and is intended to provide transparency and certainty with respect to calculations regarding timelines.

Application

This OPS applies to environmental assessments conducted by the Agency and also to those periods when the Agency requests information from a proponent after an environmental assessment has been referred to a review panel, but before the establishment of the panel (the pre-panel phase).

This OPS does not apply to environmental assessments by the other responsible authorities – the Canadian Nuclear Safety Commission or the National Energy Board.

This OPS does not apply to the following time limits that do not have legislative provisions to pause the timeline:

- 10-day time limit for reviewing a project description;
- 45-day time limit for the Agency to conduct a screening to determine whether an environmental assessment of a designated project is required; and
- 60-day period from the start of an environmental assessment during which the Minister of the Environment (the Minister) may refer an environmental assessment to a review panel.

Relevant Provisions of CEAA 2012

EA by the Agency

Subsection 27(2): The Minister must decide no later than 365 days after the start of an environmental assessment by the Agency whether a designated project is likely to cause significant adverse environmental effects. The 365-day time limit starts the day after the posting of a notice of commencement.

Subsections 27(6): The 365-day time limit does not include the period taken by the proponent, in the Agency's opinion, to collect information or undertake studies necessary for the conduct of the environmental assessment.

EA by review panel

Subsection 38(3): The Minister must set time limits for each phase of an assessment by a review panel covering the period from:

- the Minister's decision to refer the project to a review panel to the establishment of the review panel (pre-panel phase);
- the establishment of the review panel to the submission of a panel report to the Minister (panel phase); and
- the receipt of the panel's report to the issuance of the Minister's decision statement (post-panel phase).

Subsection 54(2): The combined total of the three phases mentioned above is not to exceed 24 months. The 24-month time limit starts the day after the environmental assessment is referred to a review panel and ends with the issuance of a decision statement to the proponent.

Subsection 54(6): The 24-month time limit for an assessment by a review panel does not include the period taken by the proponent to collect information or undertake studies necessary for the conduct of the environmental assessment.

Depending on the stage of the environmental assessment by review panel, information requests to the proponent may come from the Agency (pre-panel phase), the review panel (panel phase) or the Minister (post-panel phase).

In each case, CEAA 2012 specifies that it is the requestor (Agency, review panel or Minister) that forms an opinion on whether the information provided or study undertaken by the proponent is satisfactory.

Approach

CEAA 2012 timelines do not include the period taken by a proponent to comply with the requirement to provide information necessary for the conduct of the environmental assessment.

The timeline for the environmental assessment is paused during periods when information is being collected by the proponent or studies are being undertaken. This includes the time taken by a proponent to prepare an Environmental Impact Statement in accordance with guidelines issued by the Agency.

The timeline remains paused, up to the maximum periods outlined below, during the period when the Agency, review panel or Minister reviews the information provided and forms an opinion on whether the proponent has complied with the request.

For example, the time taken by a proponent to prepare an **Environmental Impact Statement** in accordance with guidelines issued by the Agency is not counted against the timeline for an environmental assessment. In addition, under this OPS, the Agency has a maximum of 30 days to review an Environmental Impact Statement, without the timeline resuming, to determine whether the information sought through the guidelines has been provided. The 30-day period is not counted against the overall timeline for the environmental assessment. If the Agency has not come to a conclusion after 30 days, the timeline will resume the following day.

If the information provided in the Environmental Impact Statement is insufficient for the purpose of moving forward with the environmental assessment, the Agency will inform the proponent and identify any information required. The timeline continues to be paused while the proponent collects the information to respond to the information request. Upon submission of the proponent's response, the Agency has, under this OPS, a maximum of 15 days without the timeline resuming to form an opinion whether the information provided responds to the request. If the Agency has not come to a conclusion after 15 days, the timeline will resume the following day.

Where there is a major project-redesign or there are serious deficiencies in the Environmental Impact Statement, the Agency has, upon receipt of the information from the proponent, a maximum of 30 days without the timeline resuming to form an opinion on whether the requested information has been provided. If the Agency has not come to a conclusion after 30 days, the timeline will resume the following day.

For **supplemental information requests** that occur at different points in the environmental assessment process, the Agency has a maximum of 15 days to form an opinion on whether the requested information has been provided. If the Agency has not come to a conclusion after 15 days, the timeline will resume the next day.

In summary, there are two service standards for the Agency set by this OPS:

1. **A 30 day period to review a new or significantly revised Environmental Impact Statement** or to deal with a major redesign of the project and form an opinion on whether the guidelines have been met without the timeline resuming; and

- 2. A 15 day period to review a proponent's response to supplemental requests** and form an opinion on whether the information requested has been provided without the timeline resuming.

Other requestors during an assessment by review panel – the review panel (panel phase) or the Minister (post-panel phase) – may adopt these service standards related to the calculation and management of legislated timelines.

In the event of a minor information request where there is sufficient information to carry on with the environmental assessment, the timeline will not be paused. It is the prerogative of the requestor to determine whether an information request is minor in nature.

In this document, references to “days” are meant as calendar days.

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