

Interim Guidance:

Public Participation under the *Impact Assessment Act*

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¹ This is a draft document. Contents may change as a result of ongoing engagement and feedback received. [Please check back regularly for updates.](#)



Contents

- 1. Introduction 3
- 2. Purpose
- 3. Tools for Meaningful Public Participation in Impact Assessment 3
- 4. Guidance by Phase of Impact Assessment..... 5
 - 4.1 Public Participation in the Planning Phase 5
 - 4.2 Public Participation in the Impact Statement Phase and Impact Assessment Phase for Agency-led Assessments 8
 - 4.3 Public Participation in the Impact Statement Phase and Impact Assessment Phase for Impact Assessments by a Review Panel 11
 - 4.4 Public Participation in the Decision-Making Phase 15
- Annex 1: Provisions of the *Impact Assessment Act* that relate to Meaningful Public Participation 17

1. Introduction

Public participation is an essential part of an open, informed and meaningful impact assessment process. Participants' contributions can help inform project design, lead to better outcomes and assist with follow-up and monitoring. The purpose of this interim guidance document is to provide the public, practitioners and proponents with information about the Impact Assessment Agency of Canada's (the Agency), approach to implementing meaningful public participation under the *Impact Assessment Act*.

More information about public participation, including the overarching principles that guide the implementation of meaningful public participation under the *Impact Assessment Act* for impact assessments and regional and strategic assessment processes, is set out in the Agency's Public Participation Framework.

Indigenous participation and consultation are distinct from public engagement and separate policy and guidance documents are being developed outlining the approach to Indigenous participation and collaboration in impact assessments.

2. Purpose

The purpose of this document is to provide the public with information about Canadians will have opportunities to meaningfully participate in each phase of the impact assessment process.

3. Tools for Meaningful Public Participation in Impact Assessment

Public participation can take many forms. Therefore, when determining what public participation techniques and tools to use, the Agency will consider the purpose or objective of the engagement opportunity and the input of the public on how they want to be consulted. In the context of impact assessment, the common objectives for public participation are to inform, consult, involve or collaborate.

When seeking to inform, the objective of public participation opportunities is to provide the public with balanced and objective information that facilitates an understanding of the proposed designated project and the impact assessment process, including how input is to be considered and assessed.

When seeking to consult, the objective is to obtain and consider feedback on aspects of the designated project, such as the identification of issues of concern to the community during the Planning Phase, the impact assessment process, the scope of the impact assessment or potential mitigation measures.

Public participation activities when the objective is to involve, may include opportunities for dialogue with interested parties. These activities may be undertaken to ensure that the impact assessment analysis and Impact Assessment Report reflect public input, interests and issues of concern.

Collaborative participation opportunities include active interaction and partnership. For example, collaborative participation opportunities may be undertaken to develop Public Participation Plans issued at the end of the planning phase.

When determining what method of engagement is appropriate for public participation on a designated project, the Agency must consider several factors, including:

- How to ensure consultation is meaningful and within legislated timelines
- complexity of the designated project
- level of public interest in the designated project (i.e., if public interest is high, in addition to an opportunity to provide written comments, the Agency may undertake in-person engagement activities.)
- appropriate timing of the public participation opportunity (i.e., taking into consideration busy holiday periods when members of the public may not be as available)
- any limitations to public access to online information (e.g. limited access to computers or the internet)
- special needs of the participating parties (i.e., translation services for participant groups where the first language is neither English nor French)

In certain circumstances, where the volume of participation is high and the amount of time available for participation is limited, the Agency or Review Panel may apply various techniques or approaches to best manage participation, while ensuring members of the public have an opportunity to share their views. For example, measures may be taken to prioritize the allocation of time at an in-person event to those individuals or groups that, in the view of the Agency or Review Panel, are most likely to be impacted by the project, or to those most likely to have relevant expertise or information to provide. The time allocations would not preclude other members of the public from participating in the process through other engagement methods.

Approaches to implement meaningful public participation:

- **In-person sessions** can take many forms at various points in an impact assessment, depending on public interests. In order to be considered in the impact assessment, public comments in face-to-face events must be documented on the public record. In-person events could include information sessions, open houses, workshops, technical meetings, focus groups, and informal meetings held within affected communities.
- **Online and interactive tools** will be available to engage Canadians. This includes a modern, user-focused, public Registry serving as a one-stop shop for information related to designated projects undergoing impact assessment. The Registry would facilitate increased interactive dialogue by accepting direct public feedback on project-specific questions.
- **Social media platforms** to share information about impact assessments.
- **Plain-language documents** and accessible, publicly-available information, including scientific information.

4. Guidance by Phase of Impact Assessment

4.1 Public Participation in the Planning Phase

HIGHLIGHTS:

Public participation in the Planning Phase will occur within the legislated timeline of 180 days. Engagement activities in the Planning Phase will focus on identifying public concerns and defining a Public Participation Plan for the impact assessment.

The objectives of public participation in the Planning Phase are to:

- Identify issues of concern to communities potentially affected by the designated project before the project design is finalized;
- Determine whether an impact assessment of the designated project is required;
- Identify opportunities for collaboration and cooperation, should an impact assessment be required;
- Develop a plan for meaningful public participation;
- Tailor the impact assessment guidelines to the particular project; and as a result; and
- Establish a clear impact assessment process for involved parties.

To achieve these objectives, the Planning Phase enables discussions and fosters greater collaboration between proponents, the public, other jurisdictions that have environmental assessment responsibilities in relation to the designated project and federal government departments.

The Act requires that the Agency provide the public with opportunities to participate meaningfully during the Planning Phase. Public participation opportunities and methods will be established in consideration of community needs, the complexity of the project, legislated timelines and consultation timelines set by the Agency.

In the Planning Phase, the Agency's engagement activities will offer the public with an opportunity to:

- Learn about the impact assessment process;
- Comment on the Initial Project Description and the need for an impact assessment;
- Identify issues of importance to the public to inform a Summary of Issues;
- Identify preferences for methods for participation in the impact assessment process; and
- Comment in cases where there is a request for a substituted process by another jurisdiction.

Public participation activities during the Planning Phase will also inform the development of a Public Participation Plan that outlines the public participation objectives and engagement opportunities anticipated to take place throughout the remaining phases of impact assessment. This plan will outline which methods for engagement align with the circumstances of a particular project, participant needs, legislated timelines and

consultation timelines set by Agency. The Public Participation Plan outlines how and when participants will be consulted throughout the impact assessment, including methods that could be applied to manage participation levels in the case of a high volume of participation anticipated at an engagement event. The Agency will identify any circumstances under which the plan could be amended. Details of public participation events, such as dates and locations, will be finalized and shared with the public during the corresponding phase of the process.

Although the Public Participation Plan will be finalized in planning, it can be augmented by the Agency as circumstances warrant throughout the process.

WHAT WILL BE INCLUDED IN A PUBLIC PARTICIPATION PLAN?

The Public Participation Plan will be designed to provide proponents, the public and other stakeholders with certainty on how and when public participation would occur and to what degree. The Public Participation Plan reflects feedback from the public on how they wish to engage.

A Public Participation Plan will be tailored to a project and could include:

- A summary of how the public's comments were considered in the development of the Public Participation Plan;
- Details about how the public can learn more about the project or sign up to receive notifications when new information is made available;
- Dates, times, locations, and methods for public participation planned for each phase of the impact assessment and how notifications will be publicized;
- Information about how public comments will be considered in the impact assessment;
- An overview of potential techniques that will be used to engage participants throughout the review, such as public hearings or online questionnaires; and
- Information on participant funding and the application process for financial support to facilitate public participation.

The Agency will post draft Tailored Impact Statement Guidelines and the Public Participation Plan to the Registry for public comment. Additional engagement methods may also be applied to gather input into the development of the Guidelines and Plan. The comments received will help finalize and strengthen the Tailored Impact Statement Guidelines and the Public Participation Plan. The comments received could also result in the identification of additional components or studies to be undertaken in the impact assessment and ensuring that appropriate public participation opportunities have been identified. The final documents will also be posted to the Registry with the Notice of Commencement, initiating the impact assessment process.

Comments received from the public about the proposed project and its potential impacts will also inform whether the designated project is recommended for referral to an impact assessment by Review Panel. As required by the *Impact Assessment Act*, a decision to refer to Review Panel may be made within 45 days after the Notice of Commencement is issued for the impact assessment.

In the case of a designated project regulated by a lifecycle regulator (the Canadian Energy Regulator, the Canadian Nuclear Safety Commission, the Canada–Nova Scotia Offshore Petroleum Board and the Canada–Newfoundland and Labrador Offshore Petroleum Board), the lifecycle regulator will collaborate with the Agency

to organize and participate in public participation activities during the Planning Phase. Lifecycle regulators will also assist the Agency by providing technical expertise and advice in the development of key documents and participate in the review and analysis of public input on issues related to their areas of expertise and regulatory responsibilities.

Roles and Responsibilities Related to Public Participation in the Planning Phase

THE AGENCY:

- Engages with the public to identify issues of concern and how they'd like to participate in the impact assessment
- Considers feedback and comments received
- Prepares the Summary of Issues, Tailored Impact Assessment Guidelines, and the Public Participation Plan
- Posts documents to the Registry

THE PROPONENT:

- Undertakes engagement activities, documents the results of the early public engagement activities, and continues to engage, where appropriate
- Prepares a Notice of how it intends to address the issues provided by the Agency in the Summary of Issues, and a Detailed Project Description
- Participates in Agency-led public participation

PUBLIC:

- Takes part in public participation opportunities
- Identifies issues of concern
- Indicates how they would like to be engaged in the impact assessment
- Provides input and comments on key documents, including on the Project Description, Summary of Issues, Public Participation Plan and Tailored Impact Statement Guidelines

FEDERAL AUTHORITIES:

- Provides expertise for the development of the Summary of Issues, Tailored Impact Assessment Guidelines, and Public Participation Plan
- Participates in public participation activities as needed

LIFECYCLE REGULATORS, WHERE APPLICABLE:

- Provide expertise for the development of the Summary of Issues, Tailored Impact Assessment Guidelines, and Public Participation Plan
- Participate in public participation activities along with the Agency
- Contribute to the analysis of feedback and comments received where appropriate

4.2 Public Participation in the Impact Statement Phase and Impact Assessment Phase for Agency-led Assessments

HIGHLIGHTS:

Public participation in the Impact Statement and Impact Assessment phases will occur within legislated timelines. In these phases, the Agency will implement the Public Participation Plan developed in the Planning Phase. A range of engagement methods will be used to ensure that the public has an opportunity to participate meaningfully. The improved funding program that supports public participation in the impact assessment will allow for streamlining funding applications. To establish eligibility, participants will be asked describe the value they will add to the impact assessment.

Impact Statement Phase

The focus of the Impact Statement Phase is the development of the proponent's Impact Statement. The amount of time the proponent spends preparing the Impact Statement varies and may depend on the size and complexity of the designated project and the proponent's business decisions. The proponent manages how long it needs to develop the document. The Agency must determine that the information and studies required by the Tailored Impact Statement Guidelines are received within legislated timelines.

During the Impact Statement Phase, the Agency may undertake public participation activities in accordance with the Public Participation Plan, which will likely be focused on increasing awareness of the impact assessment process. The public may have relevant knowledge to provide related to the factors to consider in section 22 of the proposed Act. Community knowledge is a factor that must be considered in an impact assessment and the Tailored Impact Statement Guidelines will require the proponent to include this information. Proponents may also engage with communities to gather community knowledge.

Roles and Responsibilities Related to Public Participation in the Impact Statement Phase

THE PROPONENT:

- Conducts public participation activities as appropriate

THE AGENCY:

- Leads public participation activities, likely focused on increasing process awareness, as outlined in the Public Participation Plan
- Administers the participant funding program

- Posts documents to the Registry

PUBLIC:

- Participates in public participation activities led by the Agency or by the Proponent

FEDERAL AUTHORITIES:

- Provide expert advice within their mandates to the Agency and proponents (e.g., to inform studies and analysis on issues of concern to the public)
- Take part in public participation activities

Impact Assessment Phase

The Agency must ensure that the public is provided with an opportunity to participate meaningfully in the Impact Assessment Phase. To meet this requirement, the Agency will continue to implement the Public Participation Plan developed in the Planning Phase. A range of engagement methods will be used to ensure that the public has an opportunity to participate meaningfully. The purpose of the public participation activities will be to gather public comments and perspectives on the Impact Statement and inform the Impact Assessment Report and proposed conditions.

EXAMPLES OF IN-PERSON ENGAGEMENT: KNOWLEDGE WORKSHOPS AND ACCESSIBLE ENGAGEMENT

- **Flexible Approach** – Under the impact assessment process, the Agency will have flexibility to design a range of approaches to facilitate public participation while allowing the process to handle high participation rates.
- **Knowledge Workshop** – Using a workshop model for public participation could be an effective way to build trust and share and gather reciprocal knowledge. A two-way dialogue potentially provides more opportunities for concerns to be addressed collaboratively and meaningfully by participating parties.
- **Accessible Engagement** – It is important to consider that creative and innovative methods and venues of participation will be required to engage more marginalized members of a community. Elderly people, for example, often hold valuable knowledge of the community over time; however, it may be inaccessible and intimidating for them to participate in large group or through online forums. Collaborating with existing programming or spaces for elderly people in a community could be an effective and accessible method of engagement and knowledge collection and sharing.

All the records related to the Impact Assessment would be posted to the Registry and public comments would be invited on the Impact Statement. The comments received would be used to assist the Agency in determining if the information in the Impact Statement allows the Agency to prepare the draft Impact Assessment Report. If deficiencies are found in the Impact Statement, the Agency will require the proponent or others to provide further information or revisions.

During Impact Assessments by the Agency, the Agency develops the draft Impact Assessment Report and proposed conditions. In preparing its analysis and conclusions, the Agency considers the information gathered during public participation activities. The Draft Impact Assessment Report also includes a summary of comments received from the public.

The Agency must post the draft Impact Assessment Report on the Registry and provide an opportunity for public comment. Depending on the circumstances surrounding the designated project and the Public Participation Plan, the Agency may conduct additional public participation activities such as a targeted public meeting in the project area to invite oral responses. The Agency will compile, document, and consider the comments received in order to finalize the Impact Assessment Report and proposed conditions, which will be included in the Impact Assessment Report.

Roles and Responsibilities Related to Public Participation in the Impact Assessment Phase

THE AGENCY:

- Leads public participation activities and implements the Public Participation Plan
- Administers the participant funding program
- Posts documents to the Registry

THE PROPONENT:

- Engages in public participation activities
- May contribute feedback or further information on comments received where appropriate

PUBLIC:

- Participates in public participation activities
- Provides input and comments, including community knowledge, on key documents including the Impact Statement, the Impact Assessment Report and the proposed conditions

FEDERAL AUTHORITIES:

- Provides expert advice within their respective mandates to the Agency regarding issues, concerns or community knowledge provided by the public
- Participates in engagement activities as appropriate

4.3 Public Participation in the Impact Statement Phase and Impact Assessment Phase for Impact Assessments by a Review Panel

HIGHLIGHTS:

An Impact Assessment can be referred to an independent Review Panel if the Minister feels that it is in the public interest to do so. Impact Assessments by Review Panel can be conducted jointly with another jurisdiction, as an integrated review with a lifecycle regulator or jointly with a jurisdiction and a lifecycle regulator.

If an impact assessment is referred to an independent Review Panel, opportunities for public participation would continue during the Impact Statement and Impact Assessment Phases. During the Impact Statement Phase, the Public Participation Plan developed in the Planning Phase would continue to be implemented. The lifecycle regulator would also participate in the implementation of the Public Participation Plan.

Following the appointment of the independent Review Panel, the panel would be responsible for engaging with the public during the Impact Assessment Phase. A range of methods would be used to ensure that the public has an opportunity to participate meaningfully. Of note, the *Impact Assessment Act* requires review panels to hold a public hearing in a manner that offers the public an opportunity to participate meaningfully, in a manner that the Review Panel considers appropriate.

The Review Panel will engage in public participation and fulfill the activities reflected in the review panel's Terms of Reference to ensure that the public has an opportunity to participate meaningfully. The Review Panel will consider all of the information received from participants during the impact assessment, including from the public, in developing its report with its conclusions and recommendations regarding the proposed project.

The improved funding program that supports public participation in the impact assessment will allow for streamlining of funding applications. To establish eligibility, participants must demonstrate the value they will add to the impact assessment.

The Minister may refer a designated project to an independent Review Panel no later than 45 days after the Agency issues the Notice of Commencement of an impact assessment. The Minister's decision to refer to a Review Panel must consider a number of factors including the extent to which the effects within federal jurisdiction or the direct or incidental effects are adverse, public concerns related to those effects, opportunities for cooperation and potential impacts on the rights of Indigenous Peoples.

The Act provides a maximum of three years for the proponent to complete its studies and research and submit its Impact Statement. The Agency must appoint the members of the Review Panel within 45 days of the Agency accepting the Impact Statement. The timelines for an impact assessment by review panel is from 300 - 600 days and starts once an Impact Statement is accepted by the Agency.

The Minister of Environment and Climate Change issues the Terms of Reference for the Review Panel, outlining its mandate with respect to the assessment. In the case of a Joint Review Panel, the partnering jurisdiction would also be involved in developing and finalizing the Terms of Reference. The public participation objectives outlined in the Public Participation Plan issued by the Agency at the end of the Planning Phase will be reflected in the Review Panel's Terms of Reference. This will ensure that the objectives of the Public Participation Plan are met while respecting the Review Panel's independence to determine the range of tools and methods it will use to achieve those goals. The public will have an opportunity to comment on the draft Terms of Reference.

Once appointed, the Review Panel will undertake the impact assessment of the project as an administrative tribunal independent from government. The Review Panel is supported by a secretariat consisting of staff from the Agency and in the case of a Joint Review Panel, with staff from the partnering jurisdiction. The secretariat operates at arm's-length from the Agency and provides procedural, logistical, technical and legal advice to the Review Panel. The Impact Statement will be posted to the Registry and public comments will be invited on the document. The comments received will support the Review Panel's assessment.

The Review Panel may also provide additional opportunities for public participation in relation to the assessment of the project. These opportunities may include technical or community meetings.

EXAMPLE OF REVIEW PANEL HEARING PROCEDURES

- Hearing sessions are public and Review Panels hold their hearings in a manner that offers review participants an opportunity to participate meaningfully in the impact assessment.
- Any person may participate in the hearing process and review participants are welcome to observe the oral hearing in person. Live-streamed webcasts or audio casts may also be offered by the Review Panel, allowing the public to observe the panel's proceedings remotely.
- Review participants typically include Indigenous groups, government representatives, environmental and industry groups, municipal representatives, the public and the proponent and all will be invited to provide their views on the potential impacts of a proposed project.
- To balance meaningful participation with the need for timely decision-making, a Review Panel may set deadlines in its hearing procedures.
- A Review Panel may refuse any review participant's request to present at the oral hearing when the Panel is of the view that the request falls outside the scope of the review, addresses matters that are repetitive, irrelevant, immaterial or have already been answered to the Panel's satisfaction.
- If a Review Panel receives multiple requests to participate in the oral hearing that involve similar issues or interests, a Review Panel may request that a single representative be identified to present the groups' views at the hearing.
- A Review Panel may allow written-only submissions to be provided without an oral presentation.
- Oral hearings typically end with closing statements to allow review participants to sum up their arguments/evidence. A Review Panel may provide an opportunity to submit written closing remarks.

The Review panel may also provide additional and informal opportunities for meaningful public participation in the assessment process to complement the oral hearing.

Once the Review Panel determines that it has sufficient information, then it must hold a hearing in a manner that offers the public an opportunity to meaningfully participate in the impact assessment process. The public hearing provides opportunities for:

- the proponent to explain its project and respond to concerns and questions raised by the public;
- public participants to provide their views and pose questions on the potential effects of the designated project; and
- the Review Panel to receive information that would help it complete its assessment of the potential effects of the designated project.

Review Panels establish hearing procedures to allow for fair participation. Although hearing sessions are normally open to anyone wishing to observe the proceedings, the Review Panel may require advance registration for those wishing to make a presentation during the hearing sessions. Advance registration allows the public hearing to be planned and conducted in a logical, organized manner.

In order to ensure a hearing is public, certified transcripts of the public hearing will be made available and presentations and submissions received in preparation for the hearings will be made public on the Registry.

Upon completion of the public hearing, the independent Review Panel considers the information that has been submitted for the impact assessment and, using its knowledge and experience, prepares an Impact Assessment Report that contains its rationales, conclusions and recommendations with respect to the designated project. The Impact Assessment Report must include a summary of the comments received from the public. This allows the public to see how their comments influenced the impact assessment process. The Impact Assessment Report by the Review Panel is submitted to the Minister of the Environment and Climate Change for consideration in decision-making under the *Impact Assessment Act*. It may include proposed conditions for inclusion in the Minister's Decision Statement.

The Review Panel report could include recommendations to be used in the development of proposed conditions. The engagement and finalization of conditions is led by the Agency. Proposed conditions are posted on the Registry and the public is invited to provide their comments.

Roles and Responsibilities Related to Public Participation in the Impact Assessment Phase for Impact Assessments by a Review Panel

THE REVIEW PANEL OR JOINT REVIEW PANEL WITH ANOTHER JURISDICTION:

- Analyses and poses questions on information provided by the proponent and other parties
- Undertakes public participation (including holding a public hearing)
- Holds hearings to test the information on the record and understand potential impacts of the designated project

THE PANEL SECRETARIAT:

- Provides administrative, procedural and technical support to the Review Panel
- Takes direction from the Review Panel

THE AGENCY:

- Administers the Participant Funding Program
- Posts documents to the Registry including the Report and potential conditions
- Leads public participation activities and implements the Public Participation Plan prior to the appointment of the Review Panel

THE PROPONENT:

- Considers Indigenous Knowledge, scientific information, community knowledge and other evidence
- Participates in public participation sessions including hearings

PUBLIC:

- Participates in public participation activities including hearings
- Provides input and comments on key documents including the Impact Statement, the Review Panel's Terms of Reference, Joint Review Panel Agreement where applicable and potential conditions

FEDERAL AUTHORITIES:

- Provide expert advice related to their expertise and mandate to the Review Panel and on the development of conditions that relate to impacts identified by the public
- Participate in engagement activities and in hearing process

Integrated Review Panels

All designated projects that are regulated by the Canadian Energy Regulator, the Canadian Nuclear Safety Commission or the Canada-Nova Scotia or Canada-Newfoundland and Labrador Offshore Boards are, if an impact assessment is required, automatically referred to a Review Panel.

The lifecycle regulator will work alongside the Agency starting in the Planning Phase to review documents submitted by the proponent, consult other jurisdictions and engage in public participation activities. Lifecycle regulators will also provide expertise in relation to the development and finalization of documents issued by the Agency at the end of the Planning Phase such as the Tailored Impact Statement Guidelines and the Public Participation Plan.

The Minister must establish the panel's Terms of Reference and the Agency must appoint the chairperson and at least two other members within 45 days of the posting of the notice under subsection 19(4) that the proponent has provided all of the information and studies. As is the case for Review Panel assessments that are not integrated with a lifecycle regulator, the Terms of Reference will include the objectives outlined in the Public Participation Plan issued by the Agency at the end of the Planning Phase and the public will have an opportunity to comment on the draft Terms of Reference.

The Act provides a maximum of three years within which the proponent must submit its Impact Statement. The timelines for an impact assessment by an Integrated Review Panel is 300 days from the notice that a proponent has provided all of the information and studies required through the Tailored Impact Statement Guidelines.

Once appointed, the Integrated Review Panel will undertake the impact assessment of the project. The Impact Statement will be posted to the Registry and public comments will be invited on the document. The comments received will support decision-making by the Integrated Review Panel.

The Integrated Review Panel will hold public hearings and may also provide additional opportunities for public participation in relation to the assessment of the project. These opportunities may, for example, include technical or community meetings.

The Integrated Review Panel will prepare its Report, including proposed conditions and recommendations for consideration by the Minister in issuing the Decision Statement for the project, should it be allowed to proceed.

Roles and Responsibilities Related to Public Participation

THE INTEGRATED REVIEW PANEL WITH LIFECYCLE REGULATOR:

- Analyses and poses questions on information provided by the proponent and other parties
- Undertakes public participation (including holding a public hearing)
- Holds hearings to test the information on the record and understand potential impacts of the designated project

PANEL SECRETARIAT:

- Provides administrative, procedural, and technical support to the Review Panel
- Takes direction from the Integrated Review Panel
- Includes staff from the Agency and the lifecycle regulator

THE AGENCY:

- Leads public participation activities and implements the Public Participation Plan during the Impact Statement Phase prior to the appointment of the Review Panel
- Administers the Participant Funding Program
- Posts documents to the Registry including the Report and potential conditions

LIFECYCLE REGULATOR:

- Participates in public participation activities prior to the appointment of the Review Panel and in some cases, after the appointment of the Review Panel

4.4 Public Participation in the Decision-Making Phase

As previously noted, public participation throughout the assessment process helps improve or adapt project design and leads to better outcomes. The Minister's or Governor in Council's decision on whether the project is in the public interest includes the public contributions that inform the Impact Assessment Report. The decision also takes into account comments received on the report and the proposed conditions.

The *Impact Assessment Act* makes important changes to this phase to increase transparency for the public and allow them to see how the important contributions that they have made have helped to shape the final project design and inform the decision. The Act requires the Minister to demonstrate how the public interest decision took into consideration the Impact Assessment Report, and the other factors that must be considered in decision-making. The reasons for the decision must be posted on the Registry.

Roles and Responsibilities for the Decision-Making Phase

MINISTER OR GOVERNOR IN COUNCIL:

- Makes public-interest determination and sets out reasons for decisions
- Establishes conditions

PROPONENT:

- Provides comments on potential amendments to Decision Statements
- Complies with conditions in the Minister's Decision Statement

THE PUBLIC:

- Provides comments on potential amendments to Decision Statements

THE AGENCY:

- Posts Decision Statements and rationale for decisions on the Registry
- Posts notice inviting public comment on potential change to Decision Statements
- Posts notice of Minister's decision to amend Decision Statement and reasons

New authority is provided to amend conditions in a Decision Statement to ensure they remain current with the design of a designated project or to provide for adaptive management. If the Minister proposes to amend a Decision Statement, the draft amendment will be posted on the Registry and the public will be provided with an opportunity to comment on the proposed changes. These comments must be considered in the Minister's decision to amend the Decision Statement and must include the rationale.

Annex 1: Provisions of the *Impact Assessment Act* that relate to Meaningful Public Participation

PREAMBLE

“Whereas the Government of Canada recognizes the importance of public participation in the impact assessment process, including the planning phase, and is committed to providing Canadians with the opportunity to participate in that process and with the information they need in order to be able to participate in a meaningful way.”

PURPOSES OF THE ACT

Section 6(1)(h):

“The purposes of this Act are:

- (h) to ensure that opportunities are provided for meaningful public participation during an impact assessment, a regional assessment or a strategic assessment”

FACTORS TO BE CONSIDERED

Section 22(1):

“The impact assessment of a designated project, whether it is conducted by the Agency or a review panel, must take into account the following factors:

- (m) community knowledge provided with respect to the designated project
- (n) comments received from the public”

PLANNING PHASE

Section 11:

“The Agency must ensure that the public is provided with an opportunity to participate meaningfully, in a manner the Agency considers appropriate, in its preparations for a possible impact assessment of a designated project, including by inviting the public to provide comments within the period that it specifies.”

Section 14(1):

“The Agency must provide the proponent of a designated project with a summary of issues with respect to that project that it considers relevant, including issues that are raised by the public or by any jurisdiction or Indigenous group that is consulted under section 12, and with any information or knowledge made available to it by a federal authority that the Agency considers appropriate.”

Section 15(1):

“The proponent must provide the Agency with a notice that sets out, in accordance with the regulations, how it intends to address the issues referred to in section 14 and a detailed description of the designated project that includes the information prescribed by regulations made under paragraph 112(1)(a).”

Section 16(2):

“In making its decision, the Agency must take into account the following factors:

- (d) any comments received within the time period specified by the Agency from the public and from any jurisdiction or Indigenous group that is consulted under section 12;”

Section 18:

“If the Agency decides that an impact assessment of a designated project is required – and the Minister does not approve the substitution of a process under section 31 in respect of the designated project – the Agency must, within 180 days after the day on which it posts a copy of the description of the designated project under subsection 10(2), provide the proponent of that project with:

- (a) a notice of the commencement of the impact assessment of the project that sets out the information or studies that the Agency requires from the proponent and considers necessary for the conduct of the impact assessment; and
- (b) any documents that are prescribed by regulations made under paragraph 112(1)(a), including tailored guidelines regarding the information or studies referred to in paragraph (a) and plans for cooperation with other jurisdictions, for engagement and partnership with the Indigenous peoples of Canada, for public participation and for the issuance of permits.”

IMPACT ASSESSMENT BY AGENCY

Section 27:

“The Agency must ensure that the public is provided with an opportunity to participate meaningfully, within the time period specified by the Agency, in the impact assessment of a designated project.”

Section 28(1):

“The Agency must ensure that a draft report with respect to the impact assessment of a designated project is prepared, and must ensure that the following are posted on the Internet site:

- (a) a copy of the draft report or an indication of how a copy may be obtained; and
- (b) a notice that invites the public to provide comments on the draft report within the period specified.”

Section 28(3.2):

“The report must also set out a summary of any comments received from the public, as well as the Agency’s recommendations with respect to any mitigation measures and follow-up program and the Agency’s rationale and conclusions.”

IMPACT ASSESSMENT BY A REVIEW PANEL

Section 51:

"A review panel must, in accordance with its terms of reference:

- (b) ensure that the information that it uses when conducting the impact assessment is made available to the public
- (c) hold hearings in a manner that offers the public an opportunity to participate meaningfully, in the manner that the review panel considers appropriate and within the time period that is specified in the impact assessment.
- (c) prepare a report with respect to the impact assessment that:
 - iii. sets out a summary of any comments received from the public"

SUBSTITUTION

Section 31(2):

"When the Minister receives a request for substitution, the Agency must post the request on the Internet site as well as a notice that invites the public to provide comments respecting the substitution within 30 days after the day on which the notice is posted."

Section 31(3):

"The Minister must consider any comments received from the public in deciding whether to approve the substitution."

Section 33(1):

"The Minister may only approve a substitution if he or she is satisfied that:

- (e) the public will be given an opportunity to participate meaningfully in the assessment and provide comments on a draft report
- (f) the public will have access to records in relation to the assessment to enable its meaningful participation."

PARTICIPANT FUNDING PROGRAM

Section 75(1):

"The Agency must establish a participant funding program to facilitate the participation of the public in:

- (a) the Agency's preparations for a possible impact assessment of – or the impact assessment of and the design or implementation of follow-up programs in relation to – designated projects that include physical activities that are designated by regulations made under paragraph 112(1)(e) or that are part of a class of activities designated by those regulations;
- (b) the impact assessment of, and the design or implementation of follow-up programs in relation to, designated projects that are referred to a review panel and that do not include physical activities that are designated by regulations made under paragraph 112(1)(e) or that are not part of a class of activities designated by those regulations; and

- (c) regional assessments and strategic assessments.”

REGIONAL ASSESSMENTS AND STRATEGIC ASSESSMENTS

Section 99:

“The Agency, or the committee, must ensure that the public is provided with an opportunity to participate meaningfully, in a manner the Agency or committee, as the case may be, considers appropriate in any assessment referred to in section 92, 93 or 95 that it conducts.”

INTERNET SITE

Section 105(1):

“The Agency must establish and maintain an Internet site that is available to the public.”

Section 105(2):

“The Agency must ensure that the following records and information relating to the impact assessment of the designated project that it conducts are posted and, subject to paragraph (4)(c), maintained on the Internet site:

- (a) any public notice that is issued by the Agency to request the participation of the public in the impact assessment;
- (b) a description of the factors to be taken into account in the impact assessment and of the scope of those factors;
- (c) the report with respect to the impact assessment that is taken into account by the Minister under subsection 60(1), or a summary of the report and an indication of how a copy of the report may be obtained;
- (d) any scientific information that the Agency receives from a proponent or federal authority, or a summary of the scientific information and an indication of how that information may be obtained;
- (e) a description of the results of the follow-up program that is implemented with respect to that designated project or a summary of the results and an indication of how such a description may be obtained;
- (f) notice of the Agency’s decision to terminate the impact assessment under section 73;
- (g) any other information that the Agency considers appropriate, including information in the form of a list of relevant records and an indication of how a copy of them may be obtained;
- (g.1) any public comments received during the impact assessment;
- (h) any other record or information prescribed by regulations made under paragraph 112(1)(f).”

ADMINISTRATION

Section 114(3):

“The Minister must provide reasonable public notice of and a reasonable opportunity for anyone to comment on draft guidelines, codes of practice, agreements, arrangements or criteria under this section.”

Section 114(4):

“Any guidelines, codes of practice, agreements, arrangements or criteria must be made available to the public.”