



Reference Bulletin

The Ten-Day Pause Period for Preliminary Screenings

Bill C-88 and Amendments to the *Mackenzie
Valley Resource Management Act*

June 26th, 2019

Introduction

Bill C-88 received Royal Assent on June 21, 2019. Titled *An Act to amend the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act and to make consequential amendments to other Acts*, Bill C-88 removed historic (2014) amendments related to amalgamation of the regional land and water boards and reinstated other 2014 amendments, including a ten-day pause period after preliminary screening decisions.

This reference bulletin is about the ten-day pause period. Over time, practical guidance related to other aspects of Bill C-88 will be provided through notices, policies, or guidance materials.

If there is any conflict between this reference bulletin and the *Mackenzie Valley Resource Management Act* (the MVRMA), including the amendments in Bill C-88, the MVRMA prevails.

Preliminary screening and referral to environmental assessment under the MVRMA

Regulatory authorities (such as the land and water boards) must conduct preliminary screenings when they receive applications for permits, licences, or other authorizations listed in the *Preliminary Screening Requirement Regulations*.¹ If a preliminary screening concludes that a proposed development might cause significant adverse impacts on the environment or might cause public concern, an environmental assessment (EA) is needed.²

The Mackenzie Valley Environmental Impact Review Board (Review Board) and other referral bodies (government departments, and where applicable the Gwich'in or Sahtu First Nation, the Tłı̨chǫ Government, or a local government) may also decide to order an EA.³ If no EA is ordered by a referral body or through a preliminary screening, regulatory authorizations may be issued and the development can proceed.

Preliminary screening notices and decisions are sent to the Review Board⁴ and the Review Board maintains a public registry for preliminary screenings.⁵ For more information on preliminary screening, see the Review Board's [Environmental Impact Assessment Guidelines](http://www.reviewboard.ca) at [reviewboard.ca](http://www.reviewboard.ca).

¹ s.124 MVRMA.

² ss.125(1) MVRMA. The preliminary screening test for developments within municipal boundaries is slightly different and is set out under ss.125(2) MVRMA.

³ ss.126(2-4) MVRMA.

⁴ s.125 MVRMA.

⁵ Paragraph 142.1(b,c) MVRMA. Registry accessible through www.reviewboard.ca.

The ten-day pause period

After the enactment of Bill C-88, the amended MVRMA explicitly establishes a ten-day pause period following preliminary screening decisions that do not result in a referral to EA.⁶ During this period, no authorizations can be issued.⁷

The ten-day pause provides a short, formal period for the Review Board or other referral bodies to order an EA after a preliminary screening decision but before regulatory authorizations are issued and work begins.

How the ten-day pause period will work

The ten-day pause period will begin on **the day after** the Review Board receives a preliminary screening decision from a regulatory authority.⁸ The regulatory authority should also copy the proponent and the distribution list that was used for the preliminary screening review.

The Review Board will post the screening decision to its public registry⁹, along with the date it was received and the date on which authorizations can be issued. Anyone, including referral bodies, can subscribe to receive notification of screening decisions posted to the Review Board's registry.

If no referral to EA is made by the end of the ten-day pause period, regulatory authorizations can be issued on the following day.¹⁰ For example, a screening decision received by the Review Board on April 2nd would result in a ten-day pause from April 3-12, and authorizations could be issued on April 13th. **If an EA is ordered**, the referral body should notify the regulatory authority as soon as possible and must do so before the end of the ten-day pause period.¹¹ **No authorizations can be issued** until after the EA is completed.

If the same development undergoes more than one preliminary screening, the ten-day pause period starts on the day after the Review Board receives the last screening decision. The Review Board encourages regulatory authorities to coordinate their screenings to ensure all aspects of the project are appropriately considered and to support efficient screening processes.

Government departments, the Gwich'in or Sahtu First Nation, and the Tłı̨chǫ Government conduct preliminary screenings of their own development proposals even if no licence, permit, or other authorization is required.¹² The ten-day pause period applies and such developments cannot proceed until it ends.¹³

⁶ ss.125(1.1) MVRMA.

⁷ Or, if issued, authorizations would only come into force after the ten-day period and if no referral to EA is made.

⁸ Typically by email to preliminaryscreening@reviewboard.ca

⁹ See reviewboard.ca/registry/preliminary-screenings

¹⁰ The days will be calculated as calendar days beginning and ending at midnight Mountain Daylight Time.

¹¹ Under ss.126(5) of the MVRMA, the Review Board is required to notify the proponent if an EA is ordered.

¹² 124(2) MVRMA.

¹³ 125(1.1)(b) MVRMA.