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Rules for Screenings Conducted by the Executive Committee

Introduction

Pursuant to its authority under the *Yukon Environmental and Socio-economic Assessment Act*, the Yukon Environmental and Socio-economic Assessment Board has made these Rules for the conduct of screenings of projects by the Executive Committee.

Part 1

Definitions and Interpretation

Citation

1 These Rules may be referred to as the “*Screening Rules*”.

Terms defined in the Act

2 Any word or term defined in the Act has the same meaning when used in these Rules.

Headings

3 The headings preceding each section of these Rules are included for convenience only and do not form part of the Rules.

Definitions

4 In these Rules,

“Act” means the *Yukon Environmental and Socio-economic Assessment Act*;

“day” means calendar day;

“document” has an extended meaning and includes a printed record and a record fixed in a magnetic or digital form;

“electronic transmission” means transmitting the contents of a document by email or an online connection;

“Executive Committee” means the executive committee of the Board established by section 8 of the Act, except that, for the purposes of confirming that a document is received under section 10 or 11, or for date stamping a document under section 13, the term “Executive Committee” includes the staff of the Executive Committee;

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“holiday” means New Year’s Day, Heritage Day, Good Friday, Easter Monday, Victoria Day, National Aboriginal Day (being June 21), Canada Day, Discovery Day (being the third Monday in August), Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, December 26, and whenever a holiday other than National Aboriginal Day or Remembrance Day falls on a Saturday or Sunday the expression “holiday” includes the next day that is not a Saturday or Sunday;

“notification list” means the list prepared by the Executive Committee under section 63;

“online registry” means the registry established and maintained by the Board under section 7;

“person” includes a body that is not a legal person;

“writing” means words, images, diagrams or other forms of information, printed, typewritten, represented or reproduced in a document.

Computing time

5 In these Rules,

- (a) if the time for doing an act falls or expires on a Saturday, Sunday or holiday, the time is extended to the next day that is not a Saturday, Sunday or holiday;
- (b) if a period of time is expressed as a number of “days”, the first day is excluded and the last day included; and
- (c) if the period for doing an act is less than 10 days, Saturdays, Sundays and holidays shall not be included in the computation of time.

Projects grouped under section 52 of the Act

6 Where the Executive Committee is screening two or more projects as a single project pursuant to section 52 of the Act,

- (a) the date for doing an act under these Rules in relation to the screening of any of those projects shall be determined based on the date which, under these Rules, applies to the last of the projects for which notice was provided under section 26; and
- (b) unless the context requires otherwise, these Rules shall be interpreted and applied to the projects as if they were a single project.

Part 2

General

Online registry

- 7 The Board shall establish and maintain an online registry accessible through the Internet that includes an area for information about screenings being conducted by the Executive Committee.

Methods for submitting documents

- 8 Subject to section 9 and directives of the Board issued under section 14, a document may be submitted to the Executive Committee by hand delivery, mail, fax, or electronic transmission.

Limits on fax transmissions

- 9 A document that exceeds 20 pages in length shall not be submitted by fax unless the Executive Committee authorizes its submission by fax.

Receiving a fax

- 10 A document submitted by fax to the Executive Committee shall be considered to have been received only if the sender confirms by telephone with the Executive Committee that the document was received, or the sender receives from the Executive Committee an email or fax confirming that the document was received.

Receiving an electronic transmission

- 11 A document submitted by electronic transmission to the Executive Committee shall be considered to have been received only if the sender confirms by telephone with the Executive Committee that the document was received, or the sender receives an electronic transmission from the Executive Committee confirming that the document was received.

Date fax or email documents received

- 12 A document submitted to the Executive Committee by fax or electronic transmission shall be deemed to have been received as of the date it is confirmed received under section 10 or 11.

Date mail or hand delivered documents received

- 13 A document submitted to the Executive Committee by hand delivery or mail shall be deemed to have been received as of the date it is stamped received by the Executive Committee.

Board directives

- 14 The Board may issue directives prescribing:
- (a) the means by which certain types or sizes of documents shall be submitted, including applications under Part 6;
 - (b) the number of copies of a document that must be submitted;
 - (c) software and storage media requirements for documents submitted in a digital form;
 - (d) dimensions for particular types of documents;
 - (e) the form of an application for the purposes of Part 6; and
 - (f) the fees payable, if any, for printing or reproducing documents.

Ensuring documents are received

- 15 It is the responsibility of the person submitting a document to the Executive Committee to ensure that the document has been received in accordance with these Rules.

Part 3

Pre-Screening Adequacy Review of Proposal

Form of project proposal

- 16 A project proposal that is required to be submitted to the Executive Committee under paragraph 50(1)(a) or subsection 56(4) of the Act shall be completed in accordance with the requirements of “*Schedule A - Project Proposal Requirements*”.

Determine adequacy within 60 days

- 17 Subject to section 18, the Executive Committee shall, within 60 days of a proposal being submitted, determine in accordance with section 19 whether the proposal is adequate or whether supplementary information is required from the proponent.

Period may be extended

- 18 The Executive Committee may extend the period for making the determination referred to in section 17 for a further period of up to 30 days.

Adequacy review of proposal

- 19 The Executive Committee shall consider a proposal to be adequate if, in the opinion of the Executive Committee, the proponent
- (a) has consulted with first nations and the residents of communities in accordance with subsection 50(3) of the Act;
 - (b) has in its proposal taken into account the matters referred to in paragraphs 42(1)(b),(c) and (e) to (h) of the Act;
- and the proposal,
- (c) contains sufficient information to enable the Executive Committee to prepare a statement of the scope of the project under section 34;
 - (d) contains sufficient information to enable the Executive Committee to commence the screening; and
 - (e) complies with the applicable rules.

Proposal not adequate

- 20 If the Executive Committee determines under section 19 that the proposal is not adequate it shall, within the period referred to in section 17 or 18, as the case may be, notify the proponent accordingly in writing and specify in the notice what supplementary information is required.

Determining if supplementary information is adequate

- 21 Subject to section 22, the Executive Committee shall, within 30 days of receiving supplementary information in writing pursuant to a notice under section 20, determine in accordance with section 19 whether the proposal is adequate and notify the proponent in writing accordingly, and where the Executive Committee determines the proposal is not adequate the notice shall specify the deficiencies.

Period may be extended

- 22 The Executive Committee may extend the period for making the determination referred to in section 21 for a further period of up to 30 days, and shall notify the proponent in writing accordingly.

Additional supplementary information

- 23 Sections 21 to 22 apply, with the necessary changes, in respect of supplementary information submitted by the proponent to address the deficiencies specified by the Executive Committee under section 21.

Supplementary information part of proposal

24 Supplementary information provided by a proponent under this Part shall be appended to and form part of the proponent's proposal.

Technical review or advisory committees

25 The Executive Committee may establish technical review or advisory committees to seek views or information respecting the adequacy of the proposal and may determine the terms of reference and composition of such committees.

Notice to proponent

26 If the Executive Committee determines that a proposal is adequate, it shall notify the proponent and the decision bodies for the project in writing accordingly.

180 days to respond to notice

27 Subject to section 29, if the Executive Committee requires supplementary information under this Part, the proponent shall, within 180 days from the date of the notice requiring the supplementary information, submit the information to the Executive Committee or advise the Executive Committee in writing when it will be submitting the information.

Deemed withdrawal of incomplete proposals

28 If a proponent does not submit its supplementary information or advise the Executive Committee in writing within the 180-day period referred to in section 27, the proponent's proposal shall be deemed to have been withdrawn by the proponent and no further action in reviewing the proposal or conducting the screening is required to be undertaken by the Executive Committee.

Two years to provide supplementary information

29 Notwithstanding any other provision of this Part, unless otherwise agreed to in writing by the Executive Committee and the proponent, all supplementary information required from the proponent by the Executive Committee under this Part shall be provided to the satisfaction of the Executive Committee within two years from the date the proposal is first submitted to the Executive Committee.

Deemed withdrawal

30 If at the expiry of the two year period referred to in section 29, or any extension of time in an agreement made under that section, the proponent has not submitted the supplementary information requested by the Executive Committee, the proposal shall be deemed to have been withdrawn, and the Executive Committee shall notify the proponent in writing accordingly and discontinue its adequacy review of the proposal.

Notice prior to deemed withdrawal

- 31 The Executive Committee shall provide written notice to the proponent at least 45 days prior to a proposal being deemed withdrawn under section 28 or 30.

Submitting a new proposal

- 32 If a proponent decides to proceed with a project which has been deemed withdrawn under section 28 or 30 it shall do so by submitting a new proposal in accordance with the Act and the applicable Rules.

Part 4

Determining the Scope of a Project

Screening based on scope of the project

- 33 The Executive Committee shall conduct its screening of the project based on the scope of the project determined in accordance with the Act and this Part.

Preliminary statement of scope of project

- 34 At the outset of its screening the Executive Committee shall prepare a statement describing the scope of the project based on the information contained in the proposal and provide a copy of the statement to the proponent.

Scoping a project

- 35 In accordance with section 51 of the Act, the Executive Committee shall include within the scope of a project
- (a) any activity identified in the proposal, and
 - (b) any other activity that the Executive Committee considers likely to be undertaken in relation to an activity so identified and that it considers sufficiently related to it to be included in the project.

Considerations

- 36 In determining under paragraph 35(b) whether another activity is likely to be undertaken and is sufficiently related to an activity identified in the proposal, the Executive Committee shall take into consideration
- (a) whether it is reasonably likely that the activity identified in the proposal would proceed without the other activity being undertaken;
 - (b) whether the decision to undertake the activity identified in the proposal makes it inevitable that the other activity will be undertaken; and

- (c) the spatial and temporal proximity of the activity identified in the proposal to the other activity.

Modifying the scope of a project

- 37 The scope of a project described under section 34 may be modified by the Executive Committee in the course of conducting its screening as a result of supplementary information provided by the proponent, or other information available to or received by the Executive Committee relevant to the screening.

Notice of change to scope of the project

- 38 The Executive Committee shall provide the proponent, and any person on the notification list, with notice in writing of any material change to the scope of the project made by the Executive Committee under section 37.

Final scope of the project included with recommendations

- 39 At the conclusion of its screening the Executive Committee shall include in its written reasons made under section 58 of the Act, a statement setting out its final determination of the scope of the project considered for the purposes of the screening.

Part 5

Conduct of Screenings, including Participation of Interested Persons, the Public and Others

Publishing notice of the screening

- 40 Within six days of sending notice to the proponent under section 26, the Executive Committee shall publish on the online registry a notice that it is conducting a screening of the project.

Other methods of publicizing notice

- 41 In addition to the notice published under section 40, the Executive Committee shall publicize the matters referred to in section 42 by any other method that, in the opinion of the Executive Committee, is reasonable and effective.

Contents of notice

- 42 The notice under section 40 shall
 - (a) describe the manner in which copies of the proposal, and other documentation produced, collected or received by the Executive Committee in relation to the screening, may be viewed or obtained; and

- (b) invite interested persons and members of the public to submit their views about the project, and information relevant to the screening, to the Executive Committee in writing within 30 days, unless otherwise provided pursuant to section 43.

Extending time for submissions

- 43 The Executive Committee may, in the notice referred to in section 40, or at any time before the end of the 30-day period referred to in paragraph 42(b), extend the time for interested persons and members of the public to submit their views about the project, and information relevant to the screening, for a further period of up to 30 days, and shall notify the proponent in writing of any such extension.

Request for supplementary information

- 44 No later than 21 days after the expiry of the period referred to in paragraph 42(b) or section 43, as the case may be, the Executive Committee shall determine that it has sufficient information to prepare the draft screening report referred to in section 49, or that it requires supplementary information from the proponent before preparing the draft screening report, and the Executive Committee shall notify the proponent in writing accordingly.

Notice to specify the supplementary information required

- 45 If the Executive Committee requires supplementary information under section 44, the notice under that section shall specify the information required.

Determining if supplementary information is adequate

- 46 Subject to section 47, the Executive Committee shall, within 21 days of receiving supplementary information pursuant to a notice under section 44, determine whether, in its opinion, the information satisfies the requirements of the notice under section 44, and notify the proponent in writing accordingly, and where the Executive Committee determines that the information is not satisfactory the notice shall specify the deficiencies.

Period may be extended

- 47 The Executive Committee may extend the period for making the determination referred to in section 46 for a further period of up to 21 days, and shall notify the proponent in writing of any such extension.

Additional supplementary information

- 48 Sections 46 and 47 apply, with the necessary changes, in respect of further supplementary information submitted by the proponent to address deficiencies specified by the Executive Committee under section 46.

Complete draft screening report

- 49 Subject to section 50, the Executive Committee shall complete a draft screening report and publish notice of its completion on the online registry within 120 days of
- (a) notifying the proponent under section 44 that it has sufficient information from the proponent to prepare the draft screening report, or
 - (b) notifying the proponent under section 46 that the supplementary information requirements have been satisfied.

Extend time to complete draft screening report

- 50 The Executive Committee may extend the 120-day period under section 49 for a further period of up to 270 days, and shall, in writing, advise the proponent and any person on the notification list accordingly.

Contents of notice

- 51 The notice published under section 49 shall
- (a) describe the manner in which copies of the draft screening report may be viewed or obtained, and
 - (b) invite interested persons and members of the public to submit their views or comments about the draft screening report in writing to the Executive Committee within 30 days, unless otherwise provided pursuant to section 52.

Extending period for public comment

- 52 The Executive Committee may extend the 30-day period referred to in paragraph 51(b) for a further period of up to 30 days, and shall advise the proponent, and any person on the notification list, in writing of any such extension.

Other methods of publicizing notice

- 53 In addition to the notice published under section 49, the Executive Committee shall publicize the matters referred to in section 51 by any other method that, in the opinion of the Executive Committee, is reasonable and effective.

Sufficient information to proceed

- 54 The Executive Committee shall, within 21 days after the period referred to in paragraph 51(b) or section 52, as the case may be, determine that it has sufficient information from the proponent to conclude its screening, or that it requires supplementary information from the proponent before concluding its screening, and shall notify the proponent in writing accordingly.

Specifying additional information required

55 If the Executive Committee determines under section 54 that it requires supplementary information from the proponent, the notice under that section shall specify the information required.

Determining if supplementary information is adequate

56 The Executive Committee shall, within 21 days of receiving supplementary information pursuant to a notice under section 54, determine whether, in its opinion, the information satisfies the requirements of the notice under section 54, and shall notify the proponent in writing accordingly, and where the Executive Committee determines that the information is not satisfactory the notice shall specify the deficiencies.

Additional supplementary information

57 Section 56 applies, with the necessary changes, in respect of further supplementary information submitted by the proponent to address deficiencies specified by the Executive Committee under that section.

Recommendation within 60 days

58 Subject to section 59, the Executive Committee shall make its recommendation under section 58 of the Act, or require a review of the project under that section, within 60 days of notifying the proponent under

- (a) section 54 that it has sufficient information to conclude its screening, or
- (b) section 56 that the supplementary information requirements have been satisfied.

Extending time for recommendation

59 The Executive Committee may extend the 60-day period under section 58 for a further period of up to 30 days, and shall advise the proponent and any person on the notification list in writing of any such extension.

Public meetings

60 The Executive Committee may hold public meetings in the course of screening a project to seek views about the project and information relevant to the screening, provided that such meetings shall be held prior to the start of the 60-day period referred to in section 58.

Format of public meeting

61 The Executive Committee may determine the format of a public meeting held under section 60, as well as the procedures to be followed at the meeting.

Record of public meeting

62 Where the Executive Committee holds a public meeting under section 60, it shall

- (a) provide reasonable notice of the meeting to the public and the proponent;
- (b) invite the proponent to participate in the meeting; and
- (c) prepare, or cause to be prepared, minutes or other reasonable record of the meeting.

Notification list

63 The Executive Committee shall prepare a notification list for each screening it is conducting that includes:

- (a) any first nation consulted under subsection 50(3) of the Act;
- (b) any government agency, independent regulatory agency or first nation that has notified the Executive Committee under subsection 57(4) of the Act; and
- (c) any person having an interest in the outcome of the screening who has requested the Executive Committee in writing to be added to the notification list.

May establish advisory committees

64 The Executive Committee may, at any time in the course of conducting its screening, establish technical review or advisory committees to seek views or information relevant to the screening of a project and may determine the terms of reference and composition of such committees.

Seeking views and information

65 Before making its recommendation under section 58 of the Act, or requiring a review of the project under that section, the Executive Committee shall seek views about the project and information relevant to the screening from any person on the notification list.

Supplementary information part of proposal

66 Supplementary information provided by a proponent under this Part to the Executive Committee shall be appended to and form part of the proponent's proposal.

Project requires a review

- 67 Notwithstanding any other provision of these Rules, the Executive Committee may conclude its screening and require a review of a project at any time after the expiry of the 30-day period referred to in paragraph 42(b) if,
- (a) after taking into account any mitigative measures included in the project proposal,
 - (i) it determines that the project might contribute significantly to cumulative adverse environmental or socio-economic effects in Yukon, or that the project is causing or is likely to cause significant public concern in Yukon; or
 - (ii) it cannot determine whether the project will have significant adverse environmental or socio-economic effects; or
 - (b) it determines that the project involves technology that is controversial in Yukon or the effects of which are unknown.

Two years to provide supplementary information

- 68 Unless otherwise agreed to in writing by the Executive Committee and the proponent, all supplementary information required from the proponent by the Executive Committee under this Part shall be provided to the satisfaction of the Executive Committee within two years from the date of the request.

Deemed withdrawal

- 69 If at the expiry of the two year period referred to in section 68, or any extension of time in an agreement made under that section, the proponent has not submitted the supplementary information requested by the Executive Committee, the proposal shall be deemed to have been withdrawn, and the Executive Committee shall notify the proponent in writing accordingly and discontinue its screening of the project.

Notice prior to deemed withdrawal

- 70 The Executive Committee shall provide at least 45 days notice in writing to the proponent prior to a project being deemed withdrawn under section 69.

Submitting a new proposal

- 71 If a proponent decides to proceed with a project which has been deemed withdrawn under section 69 it shall do so by submitting a new proposal in accordance with the Act and the applicable Rules.

Referral back to Executive Committee

72 Where a recommendation of the Executive Committee is referred back to it under paragraph 76(1)(b) of the Act, the Executive Committee shall, within six days of the referral, publish notice of the referral on its area of the online registry.

Other methods of publicizing notice

73 In addition to the notice published under section 72, the Executive Committee shall publicize the matters referred to in section 74 by any other method that, in the opinion of the Executive Committee, is reasonable and effective.

Contents of notice

74 The notice under section 72 shall

- (a) describe how to view or obtain copies of the Executive Committee's recommendation, the reasons of the decision body, if any, for making the referral back, and other documentation produced, collected or received by the Executive Committee in relation to the screening; and
- (b) invite interested persons and members of the public to submit their views about the recommendation of the Executive Committee or the referral back, to the Executive Committee in writing within 21 days of the notice given under section 72, unless otherwise provided pursuant to section 75.

Extension of time for submissions

75 The Executive Committee may, in the notice referred to in section 72, or at any time before the end of the 21-day period referred to in paragraph 74(b), extend the time for views and information to be submitted for a further period of up to 14 days, and shall notify the proponent in writing of any such extension.

Seeking views

76 Before making a new recommendation pursuant to subsection 77(2) of the Act, the Executive Committee shall seek views about the project and information relevant to the screening, including the recommendation made by the Executive Committee and the decision body's referral back, from any person on the notification list.

Period for new recommendation

77 The Executive Committee shall make any new recommendation under subsection 77(2) of the Act within 21 days of the expiry of the period referred to in paragraph 74(b) or section 75, as the case may be.

Part 6

Designating and Handling Confidential Information

Application to designate information confidential

- 78 If a person intending to provide information to the Executive Committee in a proposal, or in relation to a screening of a project, wishes some or all of the information to be kept confidential, the person shall
- (a) separate the information to be kept confidential from any other information the person is providing to the Executive Committee; and
 - (b) make an application in accordance with this Part to the Executive Committee to have the information designated confidential information.

Must be traditional knowledge or paragraph 121(b) information

- 79 An application under paragraph 78(b) may only be made in respect of
- (a) traditional knowledge the person believes should be treated as confidential; or
 - (b) information referred to in paragraph 121(b) of the Act.

Form and content of application

- 80 An application under paragraph 78(b) shall
- (a) be in the prescribed form and the top of each page shall be marked with the word “Confidential”;
 - (b) indicate whether the application is in respect of information referred to in paragraph 79(a) or (b), and where a person wishes to submit information referred to in paragraph 79(a) and paragraph 79(b), the person shall make a separate application in respect of each category of information;
 - (c) set out a complete statement of the information the person is requesting to be designated as confidential;
 - (d) set out the justification for having the information designated confidential; and
 - (e) include a non-confidential summary of the information the person is requesting to be designated as confidential with sufficient detail to convey a reasonable understanding of the substance of the information.

Justification

81 Where an application is in respect of traditional knowledge, the justification required by paragraph 80(d) shall address the matters referred to in paragraph 83(b), and specify the applicability of paragraph 83(c)(i) or (ii), as the case may be.

Specify *Access to Information Act* provisions

82 Where an application is in respect of information referred to in paragraph 79(b), the justification required by paragraph 80(d) shall specify the provisions of the *Access to Information Act* (Canada) that, in the view of the applicant, limit or prohibit disclosure of the information under that Act.

Designating traditional knowledge confidential

83 On an application respecting traditional knowledge, the Executive Committee may designate the information confidential where, in its opinion,

- (a) the information is relevant to the proposal or the screening of the project under consideration,
- (b) the information is not generally available from a source which is not confidential,
- (c) disclosure of the information would
 - (i) result in a reasonable expectation of probable harm to a person, place or thing, or
 - (ii) constitute a violation of the cultural value system of the affected first nation, and
- (d) the non-confidential summary referred to in paragraph 80(e) meets the requirements of that paragraph.

Meaning of “generally available”

84 For greater certainty, information is not “generally available” under paragraph 83(b) solely because it has been made available collectively or communally to persons within the affected first nation, provided that the Executive Committee is satisfied that such information has consistently been held in confidence within the first nation.

Section 121(b) information

- 85 On an application respecting information referred to in paragraph 79(b), the Executive Committee may designate the information confidential where, in its opinion,
- (a) the information is relevant to the proposal or the screening of the project under consideration,
 - (b) it is a type of information referred to in paragraph 121(b) of the Act, and disclosing the information to any other person is prohibited except in accordance with subparagraphs 121(b)(i) and (ii) of the Act, and
 - (c) the non-confidential summary referred to in paragraph 80(e) meets the requirements of that paragraph.

Seeking additional views

- 86 The Executive Committee may seek additional information or views from any person before making its decision whether to designate information confidential under section 83 or 85, provided that, when seeking such information or views, it shall not disclose to any person the information the applicant is requesting to be designated confidential.

For greater certainty

- 87 For greater certainty, when seeking additional information or views under section 86, the Executive Committee may disclose some or all of the information contained in the application except for the information referred to in paragraph 80(c).

Executive Committee decision

- 88 The Executive Committee shall decide whether to designate information confidential under section 83 or 85 as soon as practical after the application is submitted, and its decision shall be made in writing with reasons and a copy provided to the applicant.

If non-confidential summary inadequate

- 89 If the Executive Committee determines under paragraph 83(d) or 85(c) that the non-confidential summary does not meet the requirements of paragraph of 80(e), it shall notify the applicant accordingly in writing and, having regard to the time periods within which the Executive Committee is required to complete its screening, specify the date by which the applicant must provide a satisfactory summary in writing.

Shall proceed with designation

- 90 If the applicant provides a satisfactory summary as required under section 89, the Executive Committee shall proceed with its designation under section 83 or 85, as the case may be.

Shall not proceed with designation

- 91 If the applicant does not provide a satisfactory summary as required under section 89, the Executive Committee shall not designate the information confidential, and sections 95 to 97 shall apply in respect of the application and the information contained therein.

Information taken into account

- 92 If the Executive Committee designates information confidential under section 83 or 85 it shall take that information into account in conducting its screening.

No disclosure of traditional knowledge

- 93 If information is designated confidential under section 83 it shall not be disclosed by the Executive Committee to any other person, and shall be kept or stored by the Executive Committee accordingly.

Disclosure of certain information subject to consent, etc.

- 94 If information is designated confidential under section 85 it shall not be disclosed by the Executive Committee to any person except in the circumstances described in subparagraphs 121(b)(i) and (ii) of the Act, and shall be kept or stored by the Executive Committee accordingly.

Sealing the application

- 95 If the Executive Committee decides under section 83 or 85 that the information does not qualify to be designated confidential it shall seal the application and the information will not be taken into account by the Executive Committee in its screening, unless the applicant resubmits the information to the Executive Committee as non-confidential or it receives the information from a source other than the applicant.

Storing application respecting traditional knowledge

- 96 When an application respecting traditional knowledge is sealed by the Executive Committee under section 95, the information in that application set out pursuant to paragraph 80(c) shall be deemed to be confidential for the purposes of paragraph 121(a) of the Act and subsection 24(1) of the *Access to Information Act* (Canada), and shall not be disclosed to any person and shall be kept or stored by the Executive Committee accordingly.

Storing application respecting paragraph 79(b)

97 When an application respecting information described in paragraph 79(b) is sealed by the Executive Committee under section 92, the information in that application set out pursuant to paragraph 80(c) shall not be disclosed to any person unless disclosure is required pursuant to the *Access to Information Act* (Canada), and it shall be kept or stored by the Executive Committee accordingly.

Non-confidential summary included on register

98 Where information is designated confidential pursuant to section 83 or 85, the non-confidential summary of that information referred to paragraph 80(e) shall be included by the Board in the register it maintains under paragraph 118(a) of the Act.

Burden of proof

99 On an application under this Part the burden of proof lies on the applicant to establish that information should be designated confidential.

Part 7

**Integrating Scientific Information,
Traditional Knowledge and other Information**

Strict rules of evidence do not apply

100 In conducting a screening of a project the Executive Committee may take into account information, including traditional knowledge, which may not be admissible as evidence in a court of law.

Full and fair consideration of scientific information and traditional knowledge

101 The Executive Committee shall, in accordance with section 39 of the Act, give full and fair consideration to scientific information, traditional knowledge and other information provided to it or obtained by it in the course of conducting a screening of a project.

Relevance and weight of information

102 The Executive Committee shall determine the relevance and weight to be given to any information provided to it or obtained by it in the course of conducting a screening of a project, and there shall be no presumption that scientific information or traditional knowledge, as the case may be, should be accorded greater weight based solely on the fact that the information is, respectively, scientific information or traditional knowledge.

Schedule A (section 16)

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