

YESAB

Yukon Environmental and
Socio-economic Assessment Board

INFORMATION BULLETIN

THE SIGNIFICANCE OF CUMULATIVE EFFECTS AS A MATTER TO BE CONSIDERED IN YESAB ASSESSMENTS

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yesab.ca

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Introduction

This Information Bulletin (the Bulletin) provides Decision Bodies, First Nations, proponents, and other participants with information on how the [Yukon Environmental and Socio-economic Assessment Board \(YESAB\)](#) considers the significance of cumulative environmental and socio-economic effects in assessments conducted under the [Yukon Environmental and Socio-economic Assessment Act \(the Act\)](#), as required under s.42(1)(d). This Bulletin revises and replaces the information bulletin entitled “Consideration of Cumulative Effects in YESAB Assessments”, released in July 2019 and amended in January 2021. While this Bulletin contains some additional detail, and more fully paraphrases some sections of the Act, the overall approach to considering the significance of cumulative effects remains unchanged from that set out in the cumulative effects bulletin released in July 2019.

For the purposes of this Bulletin, [cumulative effects](#) are defined as changes to [valued environmental and socio-economic components \(VESECs\)](#) caused by an activity (related to a project being assessed) in combination with other past, present, and relevant future [projects](#) or [activities](#). Specifically, assessors consider the effects of future projects or activities if the future project or activity is likely, or a proposal for the project has been submitted to YESAB. See [Appendix 1](#) for an explanation of terms used in the Bulletin.

The approach described in the Bulletin helps meet the important purposes of environmental and socio-economic [assessment](#) while also remaining faithful to the scheme and language of the Act.

For more information on YESAB’s assessment methodology, refer to [YESAB’s Environmental and Socio-economic Assessment Methodology Information Bulletin](#).

Disclaimer

This Bulletin is not intended to provide legal advice or direction. It is for information purposes only, and should not be used as a substitute for the Act or its associated regulations and rules. In the event of a discrepancy, the Act, regulations, and rules prevail. Portions of the Act have been paraphrased in the Bulletin, and should not be relied upon for legal purposes. YESAB retains the discretion to deviate from the procedures described in this Bulletin where appropriate. YESAB disclaims liability in respect of anything done in reliance, in whole or in part, on the contents of this Bulletin.

Legislative Parameters

YESAB’s approach to considering the significance of cumulative effects as required under s.42(1)(d) must be situated within, and be consistent with, the Act and case law distinguishing between the duty to [consider](#) and the duty to [determine](#) under the Act. The Act sets out matters that must be considered when conducting an assessment of a project. Among these matters, the significance of any [project effects](#) and the significance of any cumulative effects are listed separately. The Act mandates YESAB to base recommendations made at the conclusion of the assessment on a determination as to whether or not the project is likely to cause significant adverse effects. Other than s.58(2), which requires the Executive Committee to require a review of a project if the project might contribute significantly to cumulative effects, there is no additional power in the Act to make distinct cumulative effects determinations. Rather, as stated, assessors are required to consider the significance of cumulative effects in their assessment of a project. In this context, YESAB interprets the phrase “the significance of” in s.42(1)(d) to mean the implications to, or consequences for, the assessment of project effects. Specifically, and as described in this bulletin, cumulative effects provide important [context](#) for the determination which assessors are ultimately required to make under s.56/58(1)/72 i.e. whether or not the project is likely to have significant adverse effects.

Assessing Project Effects, While Taking into Account the Significance of Cumulative Effects

The outcome of any assessment conducted under the Act is either a recommendation from YESAB on whether a proposed project should proceed or, in the case of a Designated Office evaluation or screening by the Executive Committee, a decision to refer the proposed project to another level of assessment. Other than the circumstances described in s.58(2), assessment outcomes are based on determining whether a proposed project will have or is likely to have significant adverse environmental or socio-economic effects.

An important part of any assessment is identifying VESECs that may be impacted by a proposed project and the condition or state of those VESECs before a proposed project (or different phases of a proposed project) is undertaken. Project effects rarely occur in isolation of other human activities and natural processes that are impacting or have impacted VESECs in a project area. It is important for YESAB to understand and describe the existing condition of a given VESEC in conducting an assessment.

The condition of a VESEC at the time of assessment will typically reflect the cumulative effects of all processes and activities affecting it. In some cases, the condition of a VESEC will have surpassed or be nearing a significance threshold, providing YESAB with important context for determining the significance of likely adverse project effects. When determining the significance of likely, adverse project effects, YESAB must not only consider such things as the magnitude, duration, timing, likelihood, reversibility and spatial extent of project effects themselves, but also the context in which those effects may occur. The cumulative effects of other activities and processes, as noted above, can affect the existing condition of VESECs and provide important context for making determinations about whether the likely, adverse effects of the project are significant or not.

For example, if a VESEC, such as a wildlife population is already impacted by other processes and activities, it may be less able to withstand the effects of a proposed new project. In other words, the condition of a VESEC relative to a threshold for significant adverse effects can be influenced by the cumulative nature of the effects of all activities and processes impacting that VESEC.

For more information on how YESAB determines whether or not the project under assessment is likely to cause significant adverse effects, refer to [YESAB's Framework for Determining the Significance of Adverse Effects of Projects Assessed Under YESAA](#).

Considering the Significance of Cumulative Effects that Might Result from Future Projects or Activities

To consider the significance of cumulative effects that might occur in connection with the project, assessors must first identify the relevant future projects or activities which could trigger these effects. Under the Act, future projects relevant to this analysis are those for which proposals have been submitted to YESAB under 50(1), or any activities or projects that are likely to be carried out in or outside of Yukon. When determining whether an activity is “likely to be carried out” for the purposes of s.42(1) (d), YESAB assessors will consider whether any of the following criteria have been met:

1. The intent to carry out the future activity is announced (e.g. on websites, in the media, or to YESAB) by a company, government, etc.;
2. Notice of a submission for an environmental and socio-economic assessment or regulatory review of an activity has been provided to YESAB or the regulatory review has commenced; or
3. The completion of the project being assessed could facilitate or enable future activities.

This list is not exhaustive, and other criteria may be used where appropriate.

If a proposal for a project has been submitted to YESAB, or the assessor determines that the activity is likely, then the effects of these future projects or activities are considered as described in this bulletin. Specifically, these potential effects will provide important additional context for determining whether the likely, adverse effects of the project are significant or not.

Summary

In conducting project assessments, the Act distinguishes between project effects and cumulative effects. It also directs assessors to determine whether the project is likely to cause significant, adverse effects while considering the significance of applicable cumulative effects. As a result, cumulative effects are important context for, and of consequence to, assessors’ determination as to whether the likely, adverse effects of a project are significant or not. This means that cumulative effects are considered early in the assessment process, helping to define the existing conditions of VESECs identified in the assessment and informing the determination which assessors are required to make at the end of the assessment; i.e. whether or not the project is likely to cause significant adverse effects.

While this approach may depart from YESAB’s practice, prior to July 2019, and approaches employed in other assessment jurisdictions where a distinct determination as to the significance of cumulative effects is made, in most instances the ultimate assessment outcome will be similar.

For further information regarding how YESAB considers cumulative effects please contact YESAB www.yesab.ca

APPENDIX: EXPLANATION OF TERMS

This appendix provides some definitions of key terms, as used in this Bulletin.

Activities

Anthropogenic actions that alter the human or biophysical environment (where those alterations are observable/measurable/detectable).

Assessment

An evaluation of a proposed project by a Designated Office, a screening by the Executive Committee or a review by a Panel of the Board.

Consider (as in “consider a factor”)

Means take into account, but does not require a resolution or a determination of this specific factor.

Context

The particular environmental and/or socio-economic context within which the project occurs, including: applicable legislation; asserted and established Aboriginal and treaty rights; the cumulative effects of other past, present, and likely future projects or activities standards, plans and policies; ecological or social limits and thresholds; vulnerability and resiliency of social and/or ecological systems and components; political and cultural setting.

Cumulative Effects

Changes to a Valued Environmental and Socio-economic Component (VESEC) caused by an activity (related to a project being assessed) in combination with other past, present, and likely future projects or activities.

Determine

As in "determine if there are significant adverse effects" - make a finding, decide or resolve.

Project

An activity or interrelated group of activities, for which one of the activities requires an assessment under the Act.

Project Effect

A change in the condition of a value or valued environmental and socio-economic component caused either directly or indirectly by a project.

Valued Environmental and Socio-economic Components (VESECs)

Components of the physical and socio-economic environment that are viewed as important in the setting of a given project (i.e. for environmental, scientific, social, traditional, or cultural reasons), and are predicted to be adversely affected by the proposed project and warrant consideration in an assessment.

Yukon Environmental and Socio-economic Assessment Act (the Act)

Chapter 12 of the Yukon First Nations Final Agreements called for the establishment by federal legislation of an assessment process that would apply to all lands within Yukon: federal, territorial, First Nation and private. The Yukon Environmental and Socio-economic Assessment Act (YESAA) was given Parliamentary Royal Assent on May 13, 2003. The federal legislation outlines the assessment process for Yukon.

Yukon Environmental and Socio-economic Assessment Board (YESAB)

YESAB is an independent arms-length body, responsible for the assessment responsibilities of the Yukon Environmental and Socio-economic Assessment Act (YESAA) legislation and regulations.

FREQUENTLY ASKED QUESTIONS

YESAB's Approach to Considering Cumulative Effects

1. What is YESAB's role in cumulative effects management in Yukon?

YESAB considers the cumulative effects of other projects or activities that have been carried out, are being carried out, or are likely to be carried out when determining the significance of effects associated with the project under assessment. Project assessment, alone, cannot fully account for cumulative effects, nor was it designed to do so. In addition to project assessment, planning, monitoring and adaptive management by responsible agencies (i.e. Federal, Territorial, Yukon First Nations, Municipal Governments, other Boards, Councils and Planning Commissions) are all important in assessing and managing cumulative effects.

2. What are YESAB's expectations of proponents for collecting baseline information?

YESAB has always required baseline information to conduct an assessment and YESAB has always considered cumulative effects. The requirements for baseline information are the same and unlikely to change

3. How does YESAB's approach to considering cumulative effects differ from other assessment jurisdictions?

YESAB's approach may differ somewhat from approaches employed elsewhere. For example, both the Canadian Environmental Assessment Act, 2012 and the Mackenzie Valley Resource Management Act, expressly state that the environmental effects of the project include cumulative effects. The Act, on the other hand, distinguishes between project and cumulative effects, and directs assessors to consider the significance of cumulative effects in their assessment of project effects. Consequently, YESAB needs to look at cumulative effects differently. The result, however, in most cases will be the same.

4. What happens to projects currently under assessment by YESAB?

All projects currently under assessment will be assessed using the approach set out in this Bulletin. In July 2019, YESAB notified proponents for projects under assessment, and participants in those assessments, of the change in YESAB's approach to cumulative effects, as set out in the 2019 bulletin entitled "Consideration of Cumulative Effects in YESAB Assessments." The approach set out in this Bulletin refines some of the language used in YESAB's 2019 bulletin. However, the approach and overall framework for considering the significance of cumulative effects remains the same.

5. How can YESAB participant's best support YESAB in identifying the cumulative effects of past, present and future projects?

Project proponents, First Nations, potentially affected parties, government agencies, and other experts can play an important role providing comments on the state of VESEC, identifying how the effects of other activities can interact with the effects of the project being assessed and any relevant information regarding the cumulative effects of past, present, and likely future projects or activities.