

Designated Office Rules Review

SUMMARY GUIDE

November 2025



INTRODUCTION

In 2024 the Yukon Environmental and Socio-economic Assessment Board (YESAB or the Board) commenced a review of the current *Rules for Evaluations Conducted by Designated Offices* (“DO Rules Review”).

The majority of assessment work under the *Yukon Environmental and Socio-economic Assessment Act* (YESAA or the Act) is carried out at the Designated Office level. The objective of the DO Rules Review was to improve the timeliness, effectiveness, and efficiency of the evaluation process, as envisioned by the YESAA. The Board explored rule-based frameworks which would better enable evaluations to be completed in accordance with these objectives, while also enhancing opportunities for meaningful engagement by participants and the public in the assessment process.

Designated Office Rules Review

YESAA outlines the Board’s authority and responsibilities for making rules, including those governing evaluations conducted by the DOs. These rules establish the procedural framework for how DO evaluations are carried out. In particular, they provide the structure for the conduct of neutral assessments, define timelines, opportunities for participation, and the processes involved at each phase of the assessment.

The Rules for Evaluations Conducted by the Designated Offices were last updated in 2010 (“2010 DO Rules”). Since then, assessment practices have evolved, interest and participation in assessments have grown, and expectations of the assessment process have changed. Revisions to the rules will enhance the timeliness, effectiveness and efficiency of the evaluation process, as set out in YESAA.

YESAA requires the Board to seek written input on the proposed rules before they are finalized. The Board approved the proposed *Rules for Evaluations Conducted by the Designated Offices, 2026* (“Proposed Rules”), and published notice of the Proposed Rules in the *Canada Gazette* on December 6, 2025. The Proposed Rules can be found on YESAB’s website (www.yesab.ca) in English and in French. The 60-day input period is from December 6, 2025 to February 11, 2026.

Disclaimer: This document has been prepared by YESAB staff to assist the public in providing input on the Proposed Rules. It provides information only. It is not intended to provide legal advice and should not be used as a substitute for the Proposed Rules. In the event of a discrepancy between this document and the Proposed Rules, the Proposed Rules prevail.

PROPOSED RULES - HIGHLIGHTS

Project Proposal Compliance Check

The Proposed Rules introduce a “compliance check” of proposals submitted for evaluation. This process will support and require the submission of more complete proposals from the outset of the process. It is a quick administrative review, and it is expected that this will expedite the overall timeframe required to complete evaluations, thus benefiting proponents and participants alike. The form and requirements of proposals will be set out in a new *Project Proposal Requirements Directive*. Project proposals will be reviewed to ensure all the information requirements, as set out in the *Project Proposal Requirements Directive*, are included in the proposal. If the proposal is incomplete, it will be returned to the proponent, with direction as to what information is missing. The YESAB “clock” does not start until the proposal is in compliance with the requirements set out in the *Project Proposal Requirements Directive*.

Categories of Evaluations

The Board is authorized, under YESAA, to make rules establishing different types of evaluations for different categories of projects¹. A single approach to conducting evaluations is no longer viable. The Proposed Rules establish three categories of evaluation – simple, standard and complex. Projects are categorized based on a number of factors. Different timelines and processes support the completion of the evaluation as efficiently and effectively as possible, based on project specific circumstances:

- **Simple evaluations** have shorter timelines and more constrained process options;
- **Standard evaluations** have timelines similar to those in the 2010 DO Rules; and,
- **Complex evaluations** have longer timelines and a new early engagement phase with key participants to support meaningful involvement at the beginning of the process; specifically, the ability to comment on the project proposal. Additionally, this category of evaluation involves a draft recommendation and a comment period.

The Proposed Rules set out the circumstances in which the DO can recategorize the project during the evaluation process (e.g. from a standard evaluation to a complex evaluation).

Timelines

In the 2010 DO Rules, the same timelines were applied to all evaluations, regardless of sector, size or complexity. Evaluation timelines have been adjusted to fit the different categories of evaluations and are set out in Schedule A of the Proposed Rules.

¹ YESAA s.31(1)(b)

PROPOSED RULES

The Proposed Rules are broken into seven parts:

- Part 1 establishes definitions and general clauses regarding interpretation;
- Part 2 sets out general provisions;
- Part 3 establishes the processes for proposal submission and preliminary processes;
- Part 4 sets out the procedures to be following during the evaluation;
- Part 5 establishes the processes for designating and handling confidential information under s.121 of YESAA;
- Part 6 includes rules for considering scientific and traditional knowledge in the assessment; and
- Part 7 sets out the date when and how the Proposed Rules will come into effect.

Each section is discussed below, highlighting key provisions of each.

PART 1 – DEFINITIONS AND INTERPRETATION (Sections 1 to 5)

Sections 1-3 set out the **title, function of the headings, and application of definitions in YESAA**. For example, as any word or term that is defined in YESAA applies in the rules, the definition of ‘first nation’ in YESAA applies to the Proposed Rules.

Section 4 provides the **definitions** of specific terms used in the Proposed Rules. These include, for instance, categorize and recategorize, evaluation category, process modification, project proposal, and statutory participant. The latter definition reflects the entities that the DO is required to seek views from under s.55(4) of YESAA.

Section 5 outlines how **time is calculated** in the Proposed Rules. Provisions include the fact that calendar days are used, and Saturdays, Sundays or holidays are not included.

PART 2 – GENERAL (Sections 6 to 21)

Section 6 requires the Board to establish and maintain an **online registry** for assessments.

Section 7 outlines how **notice** is provided. Notices are provided in writing. Further, notices and reasons provided by the DO or Executive Committee (EC), under the Proposed Rules, must be posted on the YESAB Online Registry (YOR). The section also sets out the use of email to provide notice, and the circumstances in which entities may request to receive notice by postal mail instead. Finally, this section sets out the mechanism by which the DO can provide public notice

of a matter under the Proposed Rules. Specifically, the DO must post the notice on the YOR, and may also publicize the notice by any other reasonable and effective manner.

Section 8 sets out how **documents can be submitted** to a DO – by hand, delivery, mail, secure file transfer, email or the YOR.

Section 9 addresses third party **personal information**. The section provides that documents submitted to a DO must not include personal information about any individual other than the person making the submission, unless the submission includes that individual's consent.

Section 10 enables the Board to establish **Board Directives** to explain or operationalize specific provisions and requirements of the rules. In particular, it enables directives regarding the form and content of project proposals and other documents, and how project proposals and other documents are submitted to the DO and deemed to have been received.

Section 11 outlines basic requirements for **submitting documents** other than project proposals. The rule sets out the process to be followed if a document is unusable for its intended purpose and enables the DO to refuse to accept documents submitted frivolously, vexatiously or in bad faith.

Section 12 establishes a general provision that, unless a deadline postponement or other listed process applies, each stage of the assessment must be completed within the time limits set out in Schedule A. It further requires that DOs must not consider or give effect to documents submitted after the deadline for submission.

Section 13 establishes the **DO's ability to make a process modification** during an evaluation. It is important to note that this general power is limited by section 17, and that the process and considerations relevant to process modification decisions are set out in sections 14 through 16. The process modifications provided for under section 13 are:

- Deadline postponement;
- Additional comment period;
- For standard and complex evaluations: public meetings;
- For complex evaluations: other process modifications.

Section 13(2) sets out the factors that the DO must take into consideration when deciding to postpone a deadline or make any process modification. These are:

- any relevant comments received;
- whether the modification would improve its evaluation of the project;
- for deadline postponements: the length of the requested postponement, as compared to the length of the applicable comment period; and,
- any other relevant considerations.

The rule sets out what is not a process modification:

- a requirement for the proponent to provide supplemental information;
- a recategorization of a project proposal (and related process changes); or,
- process directions made following a decision to group projects.

Section 14 identifies the **process to request a process modification** – who can request, parameters depending on the categorization of the evaluation (simple, standard or complex), and the process for making a request. The request for process modification must be made in writing, with reasons. Further, if the request is for a deadline postponement, the request must be made within the timeline specified in Schedule A and include the requested length of the postponement.

Section 15 sets out the steps to be taken by the DO when it **responds to a process modification request**. The proponent is notified, and the DO can make a process modification to enable it to consider, seek views on and respond to the request. If the DO denies the request, it must give notice of its decision including reasons.

Section 16 sets out the **notification requirements for process modification**. If the DO makes a process modification, they must provide notice, including reasons. If the process modification is a deadline extension, the notice must specify the date to which the deadline is postponed to.

Section 17 identifies the **limitations on process modifications for projects categorized as simple**. The DO must not postpone a deadline for any reason other than exceptional circumstances that make the postponement necessary. The DO must also not designate an additional comment period for any reason other than a material change to the project.

Section 18 establishes the process by which the DO can require the proponent to provide additional information. The DO notifies the proponent of the additional information which is required. Additional information provided in response to such a request is deemed to be included in the proposal. Section 18(3) sets out the circumstances in which the DO can require the proponent to submit a version of the project proposal which integrates the supplemental information.

Section 19 sets out what occurs if the **proponent does not satisfy the requirements of the information request**. The DO can suspend the evaluation if the proponent has not satisfied the requirement within six months of the request. If the DO suspends the evaluation in such circumstances, it is required to notify the entities listed. The proponent can submit the required information after the assessment has been suspended; however, they must provide the DO 30 days' notice prior to doing so. The maximum timeline for a proponent to satisfy the information request is two years. After that point, unless the Board provides an extension, the project is deemed withdrawn. The DO provides notice of this and discontinues the evaluation.

Section 20 sets out the factors relevant to a DO's decision to **group two or more projects as a single project** under s.52 of YESAA. Specifically, in determining whether to group projects on the basis that they are so closely related to be part of the same activity, the DO must consider:

- how close the projects' locations are to one another;
- how similar the projects' timing and duration are expected to be;
- the extent (if any) to which the projects have similar activities, are dependent on one another, or are expected to affect the same valued environmental and socio-economic components.

If the DO determines that two or more projects should be grouped, notification is required to specific parties and reasons must be provided.

Section 21 establishes the DO's ability to **adapt a procedure or requirement in respect of grouped projects**, including carrying out any event or process that would have taken place or has already taken place. The section also clarifies the interpretation of the rules, as applied to grouped projects.

PART 3 - PROJECT PROPOSAL SUBMISSION AND COMPLIANCE CHECK (Sections 22 to 29)

Section 22 and **Section 23** set out the **project proposal requirements and how to submit a proposal** to a DO. The project proposal must meet the form and information requirements set out in Schedule B and the *Project Proposal Requirements Directive* issued by the Board. Proposals must be filed in accordance with applicable directives. Section 23 sets out how proposals can be submitted, and when proposals are deemed to be received if they are submitted in paper form to a DO in an assessment district other than the district in which the project is to occur.

Section 24 establishes what occurs if a proponent **withdraws a project** during the evaluation. A proponent can withdraw the project from the evaluation at any time before the DO makes the recommendation or referral by notifying the DO. If, after withdrawing it, the proponent wishes to proceed with the proposed project, a new project proposal must be submitted.

Section 25 and Section 26 set out the process of **determining which DO has the authority** to assess a proposed project, including in cases where a proposed project is in two or more assessment districts.

Section 27 establishes that the responsible **DO reviews the project proposal** to determine whether it complies with the requirements of section 22 (*Project Proposal Requirements Directive*). Note: The YESAB "clock" does not start until the proposal is in compliance with the requirements set out in the Directive.

Section 28 requires the **categorization of the proposed project**. Within the number of days specified in Schedule A, after determining that a project proposal is in compliance, the DO must determine whether the project requires

- a) a simple evaluation;
- b) a standard evaluation; or
- c) a complex evaluation.

The matters that a DO must have regard to when categorizing are set out:

- the scale and nature of the project's potential adverse environmental or socio-economic effects;
- the project's duration and physical scope;
- other considerations deemed relevant by the DO.

After categorization, the DO must notify the proponent of its decision and provide reasons.

Section 29 gives the DO the ability to **recategorize a project**. For instance, a project could be recategorized from a simple to a standard evaluation or from a standard to a complex evaluation (or other combinations). The section also sets out the circumstances in which the DO may recategorize the project. Specifically, it is limited to instances where the DO acquires information that:

- is relevant to the considerations in section 28; and
- was not available to the DO when it categorized the project.

Further, in view of that information, the DO considers that recategorizing would improve its evaluation of the project.

The DO must provide notice, with reasons, if a project has been recategorized. Finally, the section establishes the potential procedural implications of recategorization. Following recategorization, the DO may direct that any event or process that has already taken place or would have taken place had the project originally been categorized in the category to which it was recategorized, be carried out again in accordance with the recategorization.

PART 4 – EVALUATION (Sections 30-37)

Section 30 establishes an **early engagement process for complex evaluations**. A comment period is provided to invite specific participants to comment on the project proposal prior to the proposal review stage. After considering the comments, the proponent may submit a revised project proposal to the DO. The proponent must advise the DO, within the timeframe specified in Schedule A, as to whether they intend to do so or not.

Section 31 sets out the **proposal review stage**. Within the timeframe specified in Schedule A, the DO is required to determine whether:

- the proposal demonstrates that the proponent has taken into account the matters required to be considered, under subsection 50(2) of YESAA; and
- the proposal contains sufficient information for:
 - the DO to determine the scope of the project; and
 - to enable the public and interested persons to meaningfully participate in the assessment.

If the proposal meets the requirements, the DO proceeds to scoping the project. If the proposal does not meet the requirements, additional information will be sought from the proponent.

Section 32 requires the DO to **determine the scope of the project**.

Section 33 sets out what occurs if the DO needs to **modify the scope of the project** during the evaluation due to additional information from the proponent or other relevant information.

Section 34 establishes **the comment period** based on the timeline set out in Schedule A and the evaluation category. The DO must provide notice to the general public, as well as direct notice to the entities listed in section 34(b). The notice of the comment period includes information on how to view the proposal and submit views and information during the comment period.

Section 35 specifies the steps which the DO must take after the comment period. The DO must, within the time period set out in Schedule A, **determine if it has sufficient information to conclude the evaluation** and make a recommendation or referral under section 56 of the Act.

If the DO determines that it does have sufficient information to conclude the evaluation, notice requirements apply.

Alternatively, if the DO concludes that does not have sufficient information to conclude the evaluation, and either that it requires additional information from the proponent, or that a public meeting or additional comment period is required, the DO initiates that process. If information is required from the proponent, the information request processes set out in sections 18 and 19 apply. If the DO requires additional information from the public, the DO can initiate a process modification to obtain additional information via an additional comment period or a public meeting.

Section 36 requires that, for simple or standard evaluations, the DO must **issue its recommendation or referral**, as per s.56 of the Act, within the timelines specified in Schedule A. The recommendation or referral, including reasons, is posted on the YOR.

Section 37 sets out the **processes for making the s.56 recommendation or referral for complex evaluations**. The DO must prepare a draft of the recommendation or referral, establish a comment period, and notify and invite views within the timelines specified in Schedule A. The DO then prepares the final recommendation or referral, within the timeline set out in Schedule A.

PART 5 – DESIGNATING AND HANDLING CONFIDENTIAL INFORMATION (Sections 38 to 54)

Section 38 and Section 39 set out the scope of information can be designated as confidential, and who the applications should be directed to. Applications to designate information as confidential under s.121 of the Act can only be made in respect of traditional knowledge (TK) (s.121(a) of YESAA) or information that is limited from disclosure under the *Access to Information Act* (ATIA) (s.121(b) of YESAA). Persons seeking to apply to have information designated as confidential must provide the application to the Executive Committee (EC).

Sections 40 to 42 set out the confidential application requirements:

- timing – the application is submitted prior to the DO determining that it has sufficient information to conclude the evaluation;
- content – the application must include:
 - confirmation as to whether the application is in respect of TK or ATIA exempt information;
 - the information which the applicant is seeking to be kept confidential;
 - the justification for designating it as confidential. For applications to designate information as confidential under s.121(a), this justification must address the matters set out in sections 45(1)(b) and (c) of the Proposed Rules. For applications to designate information as confidential under s.121(b), this justification must specify the specific ATIA exemption which the applicant is relying on; and,
 - a non-confidential summary of the information.

Section 40(f) specifies additional requirements if the application is in respect of TK, and the applicant is neither the First Nation itself, nor a citizen of the applicable First Nation.

Section 43 specifies that upon receiving a confidentiality application, the EC must **notify the responsible DO** and include a **time estimate for making its decision**.

Section 44 enables the EC to **seek additional information or views** before it decides whether to designate confidential information or not. In doing so, however, the EC must not disclose the information the applicant is requesting to be designated confidential.

Section 45 sets out the **conditions under which the EC may designate the information confidential for TK applications**:

- it is relevant to the proposal or evaluation;
- it is not generally available from a non-confidential source;
- disclosure would either result in probable harm, or would be a violation of the cultural value system of the affected First Nation; and,
- the non-confidential summary of the information contains enough information to communicate a reasonable understanding of the information.

The rule clarifies what it means for information to be “not generally available”, in this context.

Section 46 sets out the **conditions under which the EC may designate the information confidential for ATIA applications**:

- it is relevant to the proposal or evaluation,
- the disclosure is prohibited under the ATIA; and
- the non-confidential summary of the information contains enough information to communicate a reasonable understanding of the information.

Section 47 sets out the requirements for the **EC’s decision on the confidentiality application**: it should be as soon as practicable, contain written reasons, provided to the applicant, proponent and decision body and posted on the YOR.

Section 48 sets out the actions to be taken by the EC if the **applicant’s non-confidential summary is not satisfactory**. The EC must notify the applicant and identify the date by which they can provide a satisfactory non-confidential summary. If the non-confidential summary is not provided within that timeline, the EC can provide the applicant with a later deadline to provide a satisfactory non-confidential summary. Otherwise, the information is not designated as confidential, and the application must be returned to the applicant or destroyed.

Section 49 requires the EC to provide a **copy of the confidentiality application to the responsible DO** for the project, which must consider the information in the evaluation.

Section 50 requires that **TK designated confidential for a project must not be disclosed** by the EC to any other person other than the responsible DO. Information designated as confidential under s.121(b) can only be disclosed in the circumstances set out in sections 121(b)(i) and (ii) of YESAA. Information designated as confidential must be kept or stored accordingly.

Section 51 sets out the procedures if the EC determines that the **applicant has not established that the information should be designated as confidential**. The information must be returned to applicant or destroyed, and the information will only be taken into account in the evaluation

of the project if the applicant resubmits it non-confidentially to the DO, or the DO receives it from a source other than the applicant.

Section 52 requires that the **non-confidential summary** of the information designated as confidential for the project be **posted on the YOR**.

Section 53 states that on a confidentiality application, the **burden of proof lies on the applicant** to establish that information should be designated confidential for the project.

Section 54 states that the **time period** between the EC receiving a confidentiality application and the EC providing its decision on the application is in addition to and is not counted under the time periods established in the rules.

PART 6 - INTEGRATING SCIENTIFIC INFORMATION, TRADITIONAL KNOWLEDGE AND OTHER INFORMATION INTO AN EVALUATION (Sections 55-57)

Section 55 clarifies that the **DO can take into account information**, including TK, that may not be admissible as evidence in a court of law.

Section 56 requires the DO to give **full and fair consideration** to scientific information, TK and other information provided to it or obtained by it during the evaluation.

Section 57 requires the **DO to determine the relevance and weight** given to any information provided to it or obtained by it during the evaluation. There must be no presumption that either scientific information or TK be accorded greater weight based solely on the fact that it is scientific information or TK.

PART 7 - COMMENCEMENT AND TRANSITION PROVISIONS (Section 58)

Section 58 concludes the Proposed Rules with **transition provisions** that set out the effective date and application of the *Rules for Evaluations Conducted by the Designated Offices, 2026*, once finalized.

The *Rules for Evaluations Conducted by the Designated Offices, 2026* will come into effect on the later of the two dates or events specified in s.58.

The *Rules for Evaluations Conducted by the Designated Offices, 2026* will apply to any project proposal submitted to the DOs after that date.

The 2010 DO Rules will apply to any project proposal submitted to the DOs before the effective date. This means that a project for which a proponent has submitted a proposal to the DO, prior to the effective date, will remain under the 2010 DO Rules.

Schedule A – Time Limits

Schedule A establishes the number of days within which various events or processes under the Proposed Rules must occur. As per section 5, weekends and holidays are not included when counting numbers of days.

Schedule B – Project Proposal Requirements

Schedule B sets out the headings of the information which must be included in project proposals. These requirements will be elaborated upon in the *Project Proposal Requirements Directive*.

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