YUKON ENVIRONMENTAL AND SOCIO-ECONOMIC ASSESSMENT BOARD

Rules for Screenings Conducted by the Executive Committee

Office Consolidation

This document is an office consolidation of the *Rules for Screenings Conducted by the Executive Committee* made by the Yukon Environmental and Socio-economic Assessment Board on November 23, 2005 (the "2005 Screening Rules"), to include amendments made by the Board on March 31, 2022.[1] The citation in parentheses after each section and each Part heading indicates its origins in either or both of the 2005 Screening Rules or the 2022 amendments.

The 2022 amendments – and thus the amended Screening Rules as they appear in this document – generally apply as of an "effective date" that is defined as the later of June 1, 2022 and the day of the amendments' publication in the *Canada Gazette*. However, an exception is provided for any proposal that as of the effective date was undergoing (or had undergone) either a pre-screening adequacy review or the preliminary administrative process known as a "completeness check". Such a proposal remains subject to the 2005 Screening Rules as they read before the 2022 amendments.[2]

[1] Notice of the 2005 Screening Rules was published in the *Canada Gazette Part I*, vol. 140, no. 1, January 7, 2006; notice of the 2022 amendments (*Rule to Amend the Rules for Screenings Conducted by the Executive Committee (Pre-Submission Engagement)*) is expected to be published in the same manner in spring or summer 2022.

[2] The application provision, section 14 of the 2022 amendments, is annexed at the end of this document.

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

(2005, Part 1 heading)

Citation

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

(2005, s 1)

Terms defined in the Act

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

(2005, s 2)

Headings

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

(2005, s 3)

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;

"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;

"participant" has the meaning assigned in section 16;

"person" includes a body that is not a legal person;

"pre-submission engagement" has the meanings assigned

(a) in respect of proposed projects, in section 16, and

(b) in respect of referred projects, in subsection 31(1);

"proposal" means a proposal for a proposed project or for a referred project;

"proposed project" means a project for which a proponent submits or intends to submit a proposal to the Executive Committee under paragraph 50(1)(a) of the Act;

"referred project" means a project that a designated office refers to the Executive Committee under paragraph 56(1)(d) of the Act;

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

(2005, s 4; "participant", "pre-submission engagement", "proposal", "proposed project" and "referred project" added by 2022, s 2)

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.

(2005, s 5)

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 paragraph 32(1)(a); and

(b) unless the context requires otherwise, these Rules shall be interpreted and applied to the projects as if they were a single project.

(2005, s 6; 2022, s 3)

Part 2
General

(2005, Part 2 heading)

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.

(2005, s 7)

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.

(2005, s 8)

Personal information to be excluded

8.1(1) For the purposes of subsection (2), "personal information" means information, about an identifiable individual, that is described in any of paragraphs (a) to (i) of the definition "personal information" in section 3 of the *Privacy Act*, but does not include information described in any of paragraphs (j) to (m) of that definition.

(2) A document submitted to the Executive Committee must not include personal information about any individual, other than the person making the submission, unless the submission includes the individual's written consent to the collection, use and disclosure of the personal information in accordance with the *YESAB Online Registry Privacy Statement*, as amended from time to time.

(Section 8.1 added by 2022, s 4)

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.

(2005, s 9)

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.

(2005, s 10)

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.

(2005, s 11)

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.

(2005, s 12)

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.

(2005, s 13)

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.

(2005, s 14)

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.

(2005, s 15)

Part 3
Pre-Submission Engagement

(2005, Part 3 heading; replaced by 2022, s 5)

Interpretation

16 In this Part

"Draft Project Proposal Guideline", for a proposed project, means the document that the Executive Committee provides under paragraph 25(1)(a) in relation to the proposed project;

"local government" has the meaning assigned in the *Municipal Act* (Yukon), as amended from time to time;

"participant", in respect of the pre-submission engagement for a proposed project, means

(a) each decision body in relation to the proposed project,

(b) each person who would be an interested person in respect of a screening of the proposed project,

(c) each first nation in whose territory the proposed project will be located or might have significant environmental or socio-economic effects,

(d) the local government of any area in which the proposed project will be located or might have significant environmental or socio-economic effects,

(e) any first nation, government agency or independent regulatory agency that has notified the Executive Committee of its interest in the proposed project or in projects of that kind,

(f) any person (including any group, community or entity) that

(i) has notified the Executive Committee of its interest in the proposed project or in projects of that kind, and

(ii) in the opinion of the Executive Committee, has a material interest in the proposed project, and

(g) where the context requires, the proponent of the proposed project;

"pre-submission engagement", for a proposed project, means those events and processes described in this Part that take place during the pre-submission engagement period for the proposed project;

"pre-submission engagement period", for a proposed project, means the period of time that

(a) begins on the day on which the proponent submits a Project Description under section 21, and

(b) ends on the earlier of

(i) the day, if any, on which the Executive Committee notifies the proponent, under paragraph 32(1)(a), that it intends to commence a screening of the proposed project, and

(ii) the day, if any, on which the proposed project is withdrawn, or deemed to be withdrawn, under subsection 20(3);

"Project Description", for a proposed project, means a description of the proposed project that includes the items of information listed in Schedule A and that is consistent with the elaboration of that list in the *Project Description Requirements* issued by the Board on March 31, 2022;

"Project Proposal" means a proposal that a proponent submits to the Executive Committee under paragraph 50(1)(a) of the Act;

"Project Proposal Guideline", for a proposed project, means the document that the Executive Committee provides under subsection 25(5) in relation to the proposed project;

"Project Proposal Guideline Response", for a proposed project, means a document in which the proponent describes clearly

(a) which of the requirements of the Project Proposal Guideline for the proposed project it has met and how it has done so, and

(b) if it has not met a requirement,

(i) why it has not done so (including, if applicable, a description of any additional information or explanation it needs), and

(ii) how and when it intends to meet the requirement;

"Project Proposal Report", for a proposed project, means the report that the Executive Committee provides under section 28 in relation to the proposed project;

"Revised Proposal" means a proposal that a proponent submits to the Executive Committee under subsection 56(4) of the Act.

(2005, s 16; replaced by 2022, s 5)

Part applies to all proposals

17 Before a proponent submits a proposal to the Executive Committee under paragraph 50(1)(a) or subsection 56(4) of the Act, the proponent must comply with all of the applicable requirements of this Part.

(2005, s 17; replaced by 2022, s 5)

Process modifications

18(1) Subject to section 20 but despite any other provision of this Part, if the Executive Committee considers that doing so would improve the process or outcome of pre-submission engagement for a proposed project, it may at any time

(a) postpone the date (referred to in this section as a "deadline") by which something is to be done under this Part; or

(b) modify the pre-submission engagement process in any other respect.

(2) A participant in respect of a proposed project may at any time ask the Executive Committee to postpone a deadline or otherwise to modify the pre-submission engagement process as it applies to the proposed project.

(3) A request to postpone a deadline or otherwise to modify the pre-submission engagement process must be submitted to the Executive Committee, in the form and manner and within the period of time that it specifies.

(4) As soon as practicable after it decides whether or not to grant a request to postpone a deadline or decides otherwise to modify the pre-submission engagement process as it applies to a proposed project, the Executive Committee must notify the participants of the Executive Committee's decision and the reasons for it.

(5) If the Executive Committee decides (whether in response to a request or otherwise) to postpone a deadline, the period of time to which the deadline applies runs continuously from the day on which it begins until the day the Executive Committee specifies in its decision.

(6) If the Executive Committee decides not to grant a request to postpone a deadline, the period of time to which the deadline applies runs continuously from the day on which it begins until the later of

(a) the day on which it would otherwise end; and

(b) the day, if any, that the Executive Committee specifies in its decision.

(2005, s 18; replaced by 2022, s 5)

Information gathering

19 The Executive Committee may at any time before the end of the pre-submission engagement period for a proposed project

(a) establish, and may determine the terms of reference and composition of, a technical review or advisory committee; or

(b) gather any information that it believes relevant to the pre-submission engagement or to its screening of the proposed project.

(2005, s 19; replaced by 2022, s 5)

Project change or withdrawal

20(1) If, at any time during the pre-submission engagement period for a proposed project, the Executive Committee is notified in writing by the proponent or otherwise determines that the proposed project has materially changed, the Executive Committee may, in response to the change, adapt any procedure or requirement set out in this Part in any manner that it considers appropriate, including (but not limited to) by

(a) extending a period of time for comments by participants or the public, or adding an additional such period; or

(b) revising or replacing the Draft Project Proposal Guideline, the Project Proposal Guideline or the Project Proposal Report for the proposed project.

(2) In determining whether and how to adapt a procedure or requirement under subsection (1), the Executive Committee must have regard to

(a) the stage of pre-submission engagement at which the change to the proposed project has been made;

(b) any relevant views or information provided by participants; and

(c) the likely effects of the change to the proposed project on requirements for baseline information.

(3) The proponent of a proposed project

(a) may, at any time before the end of the pre-submission engagement period for the proposed project, withdraw it from the pre-submission engagement and the subsequent screening process by notifying the Executive Committee in writing that the proponent wishes to do so; and

(b) is deemed to have withdrawn the proposed project from the application of this Part if the proponent fails to submit to the Executive Committee

(i) within 24 months after being provided with the Project Proposal Guideline for the proposed project, a Project Proposal Guideline Response, or

(ii) within 24 months after being provided with the Project Proposal Report for the proposed project, a Project Proposal that meets all of the requirements of the Project Proposal Report.

(4) The Executive Committee must, at least 45 days before a period of time referred to in paragraph (3)(b) ends in relation to a proposed project, notify the proponent in writing of the possible application of that paragraph to the proposed project.

(5) If a proposed project is withdrawn (or is deemed to be withdrawn) under subsection (3), and the proponent wishes to proceed with the project, the proponent must submit a new Project Description in accordance with the Act and these Rules.

(2005, s 20; replaced by 2022, s 5)

Submission of Project Description

21(1) The proponent of a proposed project must submit a Project Description for the proposed project to the Executive Committee.

(2) The proponent must give the Executive Committee at least 30 days' written notice, of its intention to submit the Project Description.

(2005, s 21; replaced by 2022, s 5)

Review of Project Description

22(1) Within seven days after it determines that a proponent's description of a proposed project complies with the requirements referred to in the definition "Project Description" in section 16, the Executive Committee

(a) must

(i) identify the participants in respect of the proposed project,

(ii) prepare a list of participants and provide it to the proponent and the other participants,

(iii) invite the participants to participate in the pre-submission engagement for the proposed project,

(iv) provide the Project Description to the participants,

(v) invite the participants, during a period of time that the Executive Committee establishes in accordance with section 24 and in a manner that it specifies

(A) to make submissions regarding the process and timing of the pre-submission engagement (other than aspects of the process and timing that the Executive Committee establishes and specifies under this subparagraph and paragraph (b)), and

(B) to comment on the Project Description;

(b) may establish any other aspect of the process and, in accordance with section 24, the timing that the Executive Committee considers appropriate to establish at that time; and

(c) must notify the participants of what it has established and specified under subparagraph (a)(v) and paragraph (b).

(2) The Executive Committee may at any time during the pre-submission engagement period for a proposed project add a person to or remove a person from the list of participants by

(a) preparing a revised list; and

(b) providing the revised list, together with the reasons for the modification, to the proponent and each other person who is listed as a participant in either or both of the original list and the revised list.

(2005, s 22; replaced by 2022, s 5)

Initial submissions and comments

23 The participants in respect of a proposed project may, during the period of time the Executive Committee has established, and in the manner it has specified, under subparagraph 22(1)(a)(v)

(a) make submissions regarding the process and timing of the pre-submission engagement for the proposed project; and

(b) comment on the Project Description for the proposed project.

(2005, s 23; replaced by 2022, s 5)

Time periods for comments

24 The periods of time that the Executive Committee establishes for participants (and where applicable, members of the public) to comment in relation to a proposed project must be

(a) for submissions regarding the process and timing of the pre-submission engagement and comments on the Project Description, no more than 40 days;

(b) for comments on the Draft Project Proposal Guideline, no more than 40 days; and

(c) for comments on the Project Proposal Guideline Response, no more than 60 days.

(2005, s 24; replaced by 2022, s 5)

Project Proposal Guideline

25(1) Within 60 days after the end of the period of time the Executive Committee has established for comments on the Project Description for a proposed project, it must

(a) prepare and provide to the proponent and the other participants in respect of the proposed project a Draft Project Proposal Guideline for the proposed project; and

(b) if it has not already done so

(i) establish, in accordance with section 24, the period of time during which participants and members of the public may comment on the Draft Project Proposal Guideline, and specify the manner in which they may do so, and

(ii) notify the participants of what it has established and specified under subparagraph (i).

(2) In preparing the Draft Project Proposal Guideline, the Executive Committee

(a) must have regard to the matters referred to in paragraphs 42(1)(a) to (j) and, if applicable, subsection 42(2.1) of the Act;

(b) must take into account any comments on the Project Description that it has received under paragraph 23(b); and

(c) may take into account any other information that it considers relevant.

(3) The Draft Project Proposal Guideline may include requirements for the proposed project in relation to the following:

(a) valued environmental and socio-economic components and corresponding baseline information;

(b) the manner in which the proponent acquires, analyzes and presents information;

(c) cumulative effects considerations; and

(d) any other topic or consideration that the Executive Committee considers relevant to the pre-submission engagement or to its screening of the proposed project.

(4) The proponent, the other participants and members of the public may comment on the Draft Project Proposal Guideline during the period of time the Executive Committee has established and in the manner it has specified for such comments.

(5) Within 30 days after the end of the period of time referred to in subsection (4), the Executive Committee must prepare and provide to the proponent and the other participants in respect of a proposed project a Project Proposal Guideline for the proposed project.

(6) The Project Proposal Guideline may include requirements in relation to any of the matters listed in paragraphs (3)(a) to (d).

(7) In preparing the Project Proposal Guideline, the Executive Committee must take into account any comments on the Draft Project Proposal Guideline that it has received under subsection (4).

(2005, s 25; replaced by 2022, s 5)

Project Proposal Guideline Response

26(1) The proponent of a proposed project must, within 24 months after being provided under subsection 25(5) with the Project Proposal Guideline for the proposed project, submit a Project Proposal Guideline Response to the Executive Committee.

(2) The proponent must, at least 30 days before it submits the Project Proposal Guideline Response, give written notice to the Executive Committee that it intends to do so.

(2005, s 26; replaced by 2022, s 5)

Review of Guideline Response

27(1) Within seven days after the Executive Committee receives a Project Proposal Guideline Response for a proposed project, it must

(a) provide the Project Proposal Guideline Response to the participants in respect of the proposed project; and

(b) if it has not already done so

(i) establish, in accordance with section 24, the period of time within which participants and members of the public may comment on the Project Proposal Guideline Response and specify the manner in which they may do so, and

(ii) notify the participants of what it has established and specified under subparagraph (i).

(2) Participants and members of the public may comment on the Project Proposal Guideline Response during the period of time the Executive Committee has established and in the manner it has specified for such comments.

(2005, s 27; replaced by 2022, s 5)

Project Proposal Report

28(1)Within 60 days after the end of the period of time the Executive Committee has established for comments on the Project Proposal Guideline Response, it must prepare and provide to the proponent and the other participants in respect of a proposed project a Project Proposal Report for the proposed project.

(2) In the Project Proposal Report, the Executive Committee must set out the requirements for a Project Proposal for the proposed project, including

(a) that the proponent demonstrate in the Project Proposal that it has

(i) taken into consideration the matters referred to in paragraphs 42(1)(b), (c) and (e) to (h) and, if applicable, subsection 42(2.1) of the Act,

(ii) consulted first nations and the residents of communities in accordance with subsection 50(3) of the Act, and

(iii) met all of the requirements of the Project Proposal Guideline, including, if the Executive Committee has changed or added to those requirements, the changed or additional requirements;

(b) any additional issues that the proponent must address, and any additional information the proponent must include, in the Project Proposal; and

(c) any requirements as to the form of the Project Proposal that the Executive Committee considers appropriate.

(2005, s 28; replaced by 2022, s 5)

Project Proposal

29 The proponent of a proposed project must, within 24 months after being provided under subsection 28(1) with the Project Proposal Report for the proposed project, submit to the Executive Committee a Project Proposal that meets the requirements of the Project Proposal Report.

(2005, s 29; replaced by 2022, s 5)

Review of Project Proposal

30(1) Within 60 days after it receives a Project Proposal for a proposed project, the Executive Committee must determine whether, in its opinion

(a) the applicable rules have been complied with; and

(b) the proponent has in the Project Proposal taken into consideration the matters referred to in paragraphs 42(1)(b), (c) and (e) to (h) and, if applicable, subsection 42(2.1) of the Act and has consulted first nations and the residents of communities in accordance with subsection 50(3) of the Act.

(2) For greater certainty, a Project Proposal for a proposed project complies with the applicable rules only if the Executive Committee is of the opinion that it meets all of the requirements set out in the Project Proposal Report for the proposed project.

(3) To assist it in making the determinations referred to in subsection (1), the Executive Committee may gather any information that it believes relevant to the pre-submission engagement or to its screening of the proposed project.

(2005, s 30; replaced by 2022, s 5)

Referred projects

31(1) In this section

"pre-submission engagement", for a referred project, means those events and processes described in this Part that take place during the pre-submission engagement period for the referred project;

"pre-submission engagement period", for a referred project, means the period of time that

(a) begins on the day on which a designated office refers the referred project to the Executive Committee, and

(b) ends on the earlier of

(i) the day, if any, on which the Executive Committee notifies the proponent, under paragraph 32(1)(a), that it intends to commence a screening of the referred project, and

(ii) the day, if any, on which the referred project is withdrawn under subsection (2).

(2) The proponent of a referred project may, at any time before the end of the pre-submission engagement period for the referred project, withdraw it from the pre-submission engagement and the subsequent screening process by notifying the Executive Committee in writing that the proponent wishes to do so.

(3) Within 60 days after it receives a Revised Proposal for a referred project, the Executive Committee must determine whether, in its opinion

(a) the applicable rules have been complied with; and

(b) the proponent has in the Revised Proposal taken into consideration the matters referred to in paragraphs 42(1)(b), (c) and (e) to (h) and, if applicable, subsection 42(2.1) of the Act and has consulted first nations and the residents of communities in accordance with subsection 50(3) of the Act.

(4) To assist it in making the determinations referred to in subsection (3), the Executive Committee may gather any information that it believes relevant to the pre-submission engagement or to its screening of the proposed project.

(5) Despite any other provision of this Part, if the Executive Committee considers that doing so would improve the process or outcome of pre-submission engagement for a referred project, it may at any time extend a period of time referred to in subsection (3) or subsection 32(1).

(2005, s 31; replaced by 2022, s 5)

Notice of determination

32(1) Within seven days after the Executive Committee makes a determination under subsection 30(1) in relation to a proposed project or subsection 31(3) in relation to a referred project, it must

(a) if it has determined that the requirements referred to in that subsection have been met, notify the proponent and, in the case of a proposed project, each other participant that it intends to commence a screening of the proposed project or referred project; or

(b) if it has determined that those requirements have not been met, notify the proponent and, in the case of a proposed project, each other participant that it will not carry out a screening on the basis of the Project Proposal or Revised Proposal, as the case may be.

(2) The Executive Committee must include in a notice under subsection (1) the reasons for its determination.

(3) If a proponent is given notice under paragraph (1)(b) and still intends to submit a proposal to the Executive Committee in respect of the same proposed project or referred project, the Executive Committee may facilitate that submission by, instead of requiring the proponent to initiate pre-submission engagement again, allowing the proponent

(a) to make, to revise or to replace any submission; or

(b) in the case of a proposed project, to redo any other aspect of the pre-submission engagement process.

(2005, s 32; replaced by 2022, s 5)

Part 4
Determining the Scope of a Project

(2005, Part 4 heading)

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.

(2005, s 33)

Preliminary statement of scope of project

34 Within six days after the Executive Committee notifies, under paragraph 32(1)(a), the proponent of a project that it intends to commence a screening of the project, the Executive Committee must

(a) prepare a preliminary statement that describes the scope of the project in accordance with section 51 of the Act; and

(b) provide a copy of the preliminary statement to the proponent.

(2005, s 34; replaced by 2022, s 6)

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.

(2005, s 35)

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.

(2005, s 36)

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.

(2005, s 37)

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.

(2005, s 38)

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.

(2005, s 39)

Part 5
Conduct of Screenings, including Participation of Interested Persons, the Public and Others

(2005, Part 5 heading)

Publishing notice of the screening

40 Within six days of sending notice to the proponent under paragraph 32(1)(a), the Executive Committee shall publish on the online registry a notice that it is conducting a screening of the project.

(2005, s 40; 2022, s 7)

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.

(2005, s 41)

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.

(2005, s 42)

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.

(2005, s 43)

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.

(2005, s 44)

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.

(2005, s 45)

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.

(2005, s 46)

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.

(2005, s 47)

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.

(2005, s 48)

Additional comment period

48.1(1) The Executive Committee may, at any time during its screening of a project, determine that an additional comment period is warranted by

(a) material changes to the proposal;

(b) the emergence of new information regarding the project or its possible effects; or

(c) any other exceptional circumstance.

(2) If the Executive Committee determines that an additional comment period is warranted, it may, in a notice published on the online registry

(a) designate as an additional comment period a period of time, not exceeding 30 days, during which interested persons and members of the public may, in accordance with paragraph (b), submit their views about the project and information relevant to the screening; and

(b) specify the particular matters in relation to which views may be submitted and the manner in which such submissions are to be made.

(3) For greater certainty, an additional comment period designated under subsection (2) is in addition to, and is not to be counted as part of, any other period of time described in or established under this Part.

(Section 48.1 added by 2022, s 8)

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.

(2005, s 49)

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.

(2005, s 50)

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.

(2005, s 51)

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.

(2005, s 52)

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.

(2005, s 53)

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.

(2005, s 54)

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.

(2005, s 55)

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.

(2005, s 56)

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.

(2005, s 57)

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.

(2005, s 58)

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.

(2005, s 59)

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.

(2005, s 60)

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.

(2005, s 61)

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.

(2005, s 62)

Notification list

63 For each screening of a project that it conducts, the Executive Committee must, at the outset of the screening, prepare a notification list that includes

(a) in the case of a proposed project

(i) each person that was at any time a participant in the pre-submission engagement for the project, and

(ii) each person that

(A) has requested the Executive Committee in writing to be included in the notification list, and

(B) in the opinion of the Executive Committee has an interest in the outcome of the screening; or

(b) in the case of a referred project

(i) each first nation consulted under subsection 50(3) of the Act,

(ii) each government agency, independent regulatory agency or first nation that has notified the Executive Committee under subsection 57(4) of the Act, and

(iii) each person that

(A) has requested the Executive Committee in writing to be included in the notification list, and

(B) in the opinion of the Executive Committee has an interest in the outcome of the screening.

(2005, s 63; replaced by 2022, s 9)

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.

(2005, s 64)

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.

(2005, s 65)

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.

(2005, s 66)

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 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.

(2005, s 67; 2022, s 10)

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.

(2005, s 68)

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.

(2005, s 69)

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.

(2005, s 70)

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.

(2005, s 71)

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.

(2005, s 72)

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.

(2005, s 73)

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.

(2005, s 74)

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.

(2005, s 75)

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.

(2005, s 76)

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.

(2005, s 77)

Part 6
Designating and Handling Confidential Information

(2005, Part 6 heading)

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.

(2005, s 78)

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.

(2005, s 79)

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.

(2005, s 80)

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.

(2005, s 81)

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.

(2005, s 82)

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 may be 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.

(2005, s 83; 2022, s 11)

Meaning of "generally available"

84 For greater certainty, information is not "generally available" under paragraph 83(b) solely because it is 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.

(2005, s 84)

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.

(2005, s 85)

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.

(2005, s 86)

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).

(2005, s 87)

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.

(2005, s 88)

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.

(2005, s 89)

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.

(2005, s 90)

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.

(2005, s 91)

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.

(2005, s 92)

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.

(2005, s 93)

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.

(2005, s 94)

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.

(2005, s 95)

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.

(2005, s 96)

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.

(2005, s 97)

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.

(2005, s 98)

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.

(2005, s 99)

Applies to pre-submission engagement

99.1 This Part applies, with any necessary modifications, to pre-submission engagement under Part 3.

(Section 99.1 added by 2022, s 12)

Part 7
Integrating Scientific Information, Traditional Knowledge and other Information

(2005, Part 7 heading)

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.

(2005, s 100)

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.

(2005, s 101)

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.

(2005, s 102)

Schedule A

PROJECT DESCRIPTION REQUIREMENTS

1.0 Executive Summary

2.0 General Information and Contacts

3.0 Project Overview

4.0 Project Stages and Schedule

5.0 Regulatory Context

6.0 Initial Engagement and Consultation

7.0 Preliminary Valued Components and Data

(2005, Schedule A; replaced by 2022, s 13)

Annex[3]

Rule to Amend the Rules for Screenings Conducted by the Executive Committee (Pre-Submission Engagement)

Application Provision

Application

14(1) In this section

"amended Rules" means the Rules for Screenings Conducted by the Executive Committee as amended by this Rule;

"effective date" means the later of

(a) June 1, 2022; and

(b) the day on which this Rule is published in Part I of the *Canada Gazette*;

"former Rules" means the *Rules for Screenings Conducted by the Executive Committee* read without reference to this Rule.

(2) Subject to subsection (3), the amended Rules apply on and after the effective date.

(3) The former Rules apply, and the amended Rules do not apply, to any proposal that, as of the effective date, is undergoing or has undergone

(a) a pre-screening adequacy review under Part 3 of the former Rules; or

(b) the preliminary administrative process known as a "completeness check".

(2022, s 14)

[3] This Annex reproduces section 14 of the 2022 amendments: that section is not in itself part of the consolidated rules but is included here for reference.