



**Environmental Impact Screening Committee  
Environmental Impact Review Board**

# **Rules of Procedure for the Environmental Impact Screening and Review Process of the Inuvialuit Final Agreement**

**Approved for Use by the EISC:**

**July 25, 2011**

This version of the *Rules of Procedure* represents the culmination of a great deal of collaborative effort by all stakeholders, to produce a document that provides improved clarity, guidance and direction to parties participating in the environmental screening of proposed developments.

[This document is subject to final editorial review but is nonetheless in force.](#)

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# 1. Introduction

These are the Rules of Procedure (Rules) for the environmental impact screening and review processes established by section 11 of the Inuvialuit Final Agreement. These Rules apply to the Proceedings of both the Environmental Impact Screening Committee (Screening Committee or EISC) and the Environmental Impact Review Board (Review Board or EIRB).

These Rules are made pursuant to sections 11(14) and 11(28) of the Inuvialuit Final Agreement.

These Rules are intended to meet the objectives of the Inuvialuit Final Agreement by establishing a procedural framework that ensures that Environmental Impact Screenings and Environmental Impact Reviews meet the requirements of procedural fairness.

Any word or term defined in the Inuvialuit Final Agreement has that same meaning when used in these Rules.

These Rules shall be interpreted in a manner consistent with the Inuvialuit Final Agreement.

## **PART 1: General**

This part applies to all parts of all Proceedings of the Environmental Impact Screening Committee and the Environmental Impact Review Board.

### **1.1 Definitions**

“Actual wildlife harvest loss” means provable loss or diminution of wildlife harvesting or damage to property used in harvesting wildlife.

“Chair” means the Chairperson of the Environmental Impact Screening Committee, or the Chairperson of the Environmental Impact Review Board.

“Clarification” means the process by which the Screening Committee or the Review Board seeks an explanation of any document or information which is on the Record without seeking new evidence or information in a Proceeding.

“Community hearing” means an informal oral hearing held by the EIRB in a community under Part 3.8 of these Rules.

“Competent Authority” means any government agency which provides funding, a private land owner and any department or agency that has the authority to issue a licence, permit or other authorization that would authorize in any way the carrying out of a development.

“Developer” means a person, the government or any other legal entity owning, operating or causing to be operated any development in whole or in part in the Inuvialuit Settlement Region, and includes any co-contractant of such owner or operator. For greater certainty, “developer” includes any Inuvialuit developer.

“Development” means

- a) any commercial or industrial undertaking or venture, including support and transportation facilities relating to the extraction of non-renewable resources from the Beaufort Sea, other than commercial wildlife harvesting; or
- b) any government project, undertaking or construction whether federal, territorial, provincial, municipal, local or by any Crown agency or corporation, except government projects within the limits of communities not directly affecting wildlife resources outside those limits and except government wildlife enhancement projects.

“Direction on procedure” means a direction issued by the Screening Committee or the Review Board at any time in a Proceeding.

“Document” means any record in printed form and any record in electronic form, including any telecommunication or electronic transmission, capable of being reduced to a printed format, video or audio recordings and any records filed in a Proceeding.

“Environmental Screening” means an examination of a Project Description submission undertaken by a Panel of the Screening Committee under subsection 11(1) of the Inuvialuit Final Agreement.

“Environmental Review” means an examination of a proposal for a development undertaken by a Panel of the Review Board established under section 11 of the Inuvialuit Final Agreement.

“Exclusion list” means the list of classes or types of developments which the Screening Committee has determined would not have a significant negative impact on air, water, land or renewable resources and which are exempt from environmental impact screening and review. (subsection 11(2)(c) of the IFA).

“Formal hearing” means an oral hearing conducted by the EIRB under section 3.8 of these Rules.

“Future harvest loss” means provable damage to habitat or disruption of harvestable wildlife having a foreseeable negative impact on future wildlife harvesting.

“Hearing” means a written hearing, a formal hearing or a community hearing forming part of an Environmental Review Proceeding where the Review Board receives information or evidence either orally or in writing from the Parties and Members of the public.

“Hunters and Trappers Committee” (HTC) means an organization established by subsection 14(75) of the IFA.

“IFA” means the Inuvialuit Final Agreement as amended from time to time.

“Information Request” means a written request for information or particulars issued to a party to a proceeding under the authority of the EISC in the course of an Environmental Screening or issued under the authority of the EIRB in the course of an Environmental Review.

“Inuvialuit” means those people known as Inuvialuit, Inuit or Eskimo who are beneficiaries under this Agreement by reason of the settlement of their claim to traditional use and occupancy of the land in the Inuvialuit Settlement Region and who are represented by the Committee for Original Peoples’ Entitlement (COPE) and, where the context requires, includes the Inuvialuit Regional Corporation, the Inuvialuit Land Corporation, the Inuvialuit Development Corporation, the Inuvialuit Investment Corporation, the Inuvialuit community corporations and any other corporation, trust or organization controlled by the Inuvialuit that may be established by or pursuant to this Agreement.

“Inuvialuit community” means any of the communities of Aklavik, Inuvik, Paulatuk, Sachs Harbour, Tuktoyaktuk, or Ulukhaktok.

“Inuvialuit organization” means the Inuvialuit corporations, trusts or organizations controlled by Inuvialuit set out in section 2 of the IFA

“Member of the public” means a person or organization other than a Party, who is permitted to participate in an Environmental Screening or an Environmental Review Proceeding subject to these Rules.

“Panel” means those members of the Screening Committee or the Review Board and other members based on the provisions of the IFA, assigned to participate in an Environmental Screening or an Environmental Review of a proposed development.

“Party” means Inuvialuit and Inuvialuit organizations and communities, the Developer, authorizing authorities, government departments, and co-management organizations operating in the Inuvialuit Settlement Region who are granted Party status to participate in an Environmental Screening or Environmental Review subject to these Rules.

“Proceeding” means an Environmental Screening or an Environmental Review, or any part thereof and any process resulting in a determination by the Screening Committee Panel during an Environmental Screening or by the Review Board Panel during an Environmental Review, but does not include a business meeting of the Screening Committee or the Review Board.

“Project Description” means the submission that a Developer provides to the EISC in support of a proposed development that is to be screened by the Screening Committee, and includes a description of the proposed development, the environmental impact and cumulative effects analysis, the report on engagement and consultation and, proposed mitigation measures and commitments made by the Developer.

“Proposed development” means an activity or project proposed by a Developer that may be subject to the environmental impact screening and review process set out in sections 11, 12, and 13 of the IFA.

“Public notice” means an announcement related to a Proceeding made through newspaper, radio, community poster or other public means, according to such reasonable terms as are set out by the Screening Committee or the Review Board.

“Record” means all admissible and relevant documents submitted to the Screening Committee during an Environmental Screening Proceeding from the time the Project Description is accepted until a screening decision is made or all admissible and relevant documents submitted to the Review Board during an Environmental Review Proceeding from the time a development proposal is referred until a review decision is made.

“Registry” means the paper copy or the electronic copy of the Record of documents established by the EISC or by the EIRB which contains all of the documents on the Record for a Proceeding.

“Request for Ruling” means a written request by a Party to the EISC or EIRB for a Ruling or order in a Proceeding.

“Review Board” or “EIRB” means the Environmental Impact Review Board established by subsection 11(22) of the IFA, and includes a Review Panel thereof.

“Rules” means these Rules of Procedure for the Environmental Impact Screening and Review Process of the Inuvialuit Final Agreement.

“Ruling” means a decision or order made by the Screening Committee or the Review Board in response to a Request for Ruling or in an oral hearing

“Screening Committee” or “EISC” means the Environmental Impact Screening Committee established by subsection 11(5) of the IFA, and includes a Screening Panel thereof.

“Specialist” means an expert or technical advisor engaged by the EISC or the EIRB to assist with an EISC or EIRB proceeding by providing expert advice, opinion, evidence or analysis.

“Traditional Knowledge” means the knowledge, innovations and practices of the Inuvialuit and other aboriginal peoples embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.

## **1.2 Application of the Rules**

- 1.2.1 These Rules apply to all Environmental Screening and Environmental Review Proceedings pursuant to the IFA sections 11, 12 and 13.

## **1.3 Interpretation and Variation of Rules**

- 1.3.1 Consistent with the IFA and the principles of natural justice and procedural fairness, the Screening Committee or the Review Board may liberally construe and vary these Rules in order to result in a just, expeditious and fair decision on any matter before the EISC or the EIRB.
- 1.3.2 Where any matter of procedure is not provided for by these Rules, the Screening Committee or Review Board may, at any time, issue such direction on procedure to supplement these Rules as it considers necessary for the fair determination of an issue.
- 1.3.3 The Screening Committee or the Review Board may on its own motion dispense with or vary any part of these Rules that it considers necessary for the fair determination of an issue.
- 1.3.4 The Screening Committee or Review Board may, on a request from a Party, issue a direction on procedure that it considers necessary for the fair determination of an issue.
- 1.3.5 Where there is a conflict between any Rule and any direction on procedure issued by the Screening Committee or the Review Board, the direction on procedure prevails over the Rule.
- 1.3.6 The IFA prevails over any Rule or direction on procedure.
- 1.3.7 Where reference is made in any direction on procedure to a number of days, it will mean calendar days. Where a time fixed falls on a statutory holiday or a Saturday or a Sunday, the time fixed shall extend to the following business day.
- 1.3.8 The Screening Committee or Review Board may, in its discretion, vary any time period prescribed for any action to be taken in an Environmental Screening Proceeding or an Environmental Review Proceeding, subject to any conditions the Screening Committee or the Review Board may impose.
- 1.3.9 No Proceeding is invalid by reason only of a defect or other irregularity in form.
- 1.3.10 In conducting their proceedings, the EISC and the EIRB are not bound by the strict rules of evidence.
- 1.3.11 To the extent consistent with its duty of procedural fairness, the EISC and the EIRB will emphasize flexibility and informality in the conduct of their proceedings and in the manner in which they receive information or documents.

## **1.4 Traditional and Local Knowledge**

1.4.1 In the application of these rules to its Proceedings the EISC and the EIRB shall:

To the extent consistent with the principles of natural justice and procedural fairness, emphasize flexibility and informality, and, specifically:

- (i) allow, where appropriate, the admission of evidence that would not normally be admissible under the strict rules of evidence;
- (ii) give due regard and weight to the tradition of Inuvialuit and of other aboriginal peoples' oral communication and decision-making;
- (iii) ensure that local knowledge is considered; and
- (iv) ensure that Traditional Knowledge is considered and given weight equal to other sources of information in these Proceedings.

## **1.5 Form of Communication Prior to the Start of a Proceeding**

1.5.1 Unless the Screening Committee or the Review Board directs otherwise, all procedural steps and requests by a Party to be dealt with in advance of an Environmental Screening in the case of the EISC or an Environmental Review in the case of the EIRB, shall be dealt with in writing. Such documents may be sent attached to an e-mail or by facsimile directed to the EIS Coordinator for the Screening Committee or the EIR Coordinator for the Review Board.

## **1.6 The Record and Privacy Matters**

1.6.1 The Record in Environmental Screening or Environmental Review Proceedings is opened when the Developer completes the on-line questionnaire for Environmental Screening, or when a proposed development is referred to the EIRB for Environmental Review. The Record is closed at the time set by the Screening Committee or Review Board in its direction on procedure and before a decision is made.

1.6.2 No new information will be accepted for consideration in a Proceeding after the Record has been closed. However, the Screening Committee or the Review Board may reopen the record on its own motion or in response to a Request for Ruling.

1.6.3 The Screening Committee or Review Board may, upon notice to the Parties, make appropriate arrangements to seek clarification of any evidence or information on the Record without causing the Record to be re-opened.

1.6.4 The Screening Committee and the Review Board are subject to the *Access to Information and Protection of Privacy Act*, S.N.W.T. 1994, c. 20, as amended.

1.6.5 All admissible and relevant documents received during a Proceeding shall be placed on the Record unless a Request for Ruling to protect the confidentiality of information is filed with and approved by the Screening Committee or Review Board under Rule 1.6.8.

- 1.6.6 If a Party wants to protect confidential information contained in its submissions, it must submit a Request for Ruling to the EISC or the EIRB. The Request for Ruling should include the information required under Rule 1.7.3.
- 1.6.7 The Screening Committee or Review Board shall notify Parties of a Request for Ruling under Rule 1.6.6 involving the filing of confidential information and shall deal with any issues that arise as the Screening Committee or Review Board deems appropriate.
- 1.6.8 The Screening Committee or Review Board may protect information of a confidential or sensitive nature, including matters involving security, business, personal or proprietary interests, or Traditional Knowledge. The Screening Committee or Review Board may make a Ruling to limit the introduction of or to prevent the disclosure of such information.
- 1.6.9 All admissible and relevant information received by the Screening Committee or Review Board from the time the Record is opened until the closing of the Record by the Screening Committee or Review Board shall be considered in the decision of the Screening Committee or Review Board.
- 1.6.10 If, after an Environmental Screening Proceeding, further examination of a proposed development by way of an Environmental Review is ordered, the Screening Committee shall provide a copy of the Record from the Environmental Screening Proceeding to the EIRB or to a government agency which will perform the environmental impact review.

## **1.7 Requests for Rulings**

- 1.7.1 Requests for Rulings may only be made for legal and procedural issues.
- 1.7.2 Any legal or procedural issue raised by a Party to a Proceeding that requires a Ruling from the Screening Committee or Review Board must be brought to the EISC's or EIRB's attention by way of a written Request for Ruling. The Request must include a clear, concise statement of the relevant facts, an indication of the Ruling being sought from the EISC or EIRB and the reasons why the Ruling should be granted. The Request for Ruling should be filed according to the instructions on making a Request for Ruling in Appendix A.
- 1.7.3 All Requests for Rulings must be filed with the EISC's EIS Coordinator for Environmental Screenings or with the EIRB's EIR Coordinator for Environmental Reviews. The Coordinator shall ensure that a copy of the Request for Ruling is placed on the Registry and shall notify the Parties no later than twelve (12) days before the Screening Committee or Review Board plans to consider the Request for Ruling.
- 1.7.4 A Party wishing to respond to a Request for Ruling must provide a written response and supporting documents to the Coordinator no less than (7) days before the Request for Ruling is scheduled to be heard by the EISC or the EIRB. The Coordinator shall ensure that copies of the responses are placed on the Registry established for the Proceeding for the Parties to access four (4) days before the Screening Committee or Review Board considers the Request for Ruling.

- 1.7.5 The process used to make a decision for a Request for a Ruling shall be at the Screening Committee's or the Review Board's discretion.

## **1.8 Burden of Proof and Questioning of Parties in Proceedings**

- 1.8.1 Any Party or Member of the public seeking to establish any point or position in a Proceeding before the EISC or the EIRB bears the burden of proof and the responsibility to introduce information or evidence to support their position.
- 1.8.2 Any Party who provides evidence in a Proceeding will be subject to questioning in the Proceeding. In a written Proceeding before the EISC, questions will be presented to the Parties in writing in the form of Information Requests.

## **1.9 Information Requests**

- 1.9.1 The EISC and the EIRB may seek information from any Party at any time during the Proceeding by way of a written Information Request (IR).
- 1.9.2 A Party may seek information within the scope of the Proceeding from another Party.
- 1.9.3 A Party requesting an IR must submit the request to the EISC or the EIRB for approval using the Information Request instructions (Appendix C). The IR instructions may also be accessed on the websites of the EISC and the EIRB.
- 1.9.4 If an Information Request is approved, the EISC or the EIRB shall transmit the IR to the Party from which information is being requested. Copies of approved Information Requests will be placed on the Registry.
- 1.9.5 The Party to whom the IR is directed must respond to the EISC or the EIRB in writing within the time limit imposed by the EISC or the EIRB. To be considered, an IR response must be submitted in advance of the scheduled EISC meeting date. The IR process for the EISC must take place within the 45-day comment period in the time period dictated by the EISC. For the EIRB, timing of IRs will be subject to the discretion of the Board.
- 1.9.6 Upon receipt, the EISC or the EIRB shall place the Party's response to the IR onto the Registry. All Parties shall either be provided with the response by the EISC or the EIRB or shall be notified that it can be found on the Registry.
- 1.9.7 The EISC or the EIRB may vary the timelines in a Proceeding to allow the Parties to consider and respond to any new information submitted in a response to an IR.

## **1.10 Non-Compliance with these Rules**

1.10.1 Where a Party fails to comply with these Rules or a Direction on Procedure issued by the Screening Committee or the Review Board, the Screening Committee or Review Board may:

- Adjourn the Environmental Screening or Environmental Review until satisfied that the Rule or Direction on Procedure has been complied with; or
- Take such other steps as it considers just and reasonable.

## **PART 2: Environmental Impact Screening Committee**

This part applies to all parts of all Proceedings of the Environmental Impact Screening Committee.

### **2.1 Exclusion List**

- 2.1.1 Notwithstanding the fact that a type of development is listed on the Exclusion List (EISC Guidelines, Appendix C), the Inuvialuit may request an environmental screening of an otherwise exempt development under the authority of subsection 11(1)(c) of the IFA.
- 2.1.2 The Screening Committee may also decide, on its own motion that a proposed development of a Class that is set out on the Exclusion List can be subject to an environmental screening in certain circumstances. The Committee shall provide reasons for its decision to screen a development on the Exclusion List.
- 2.1.3 If there is any uncertainty as to whether a proposed development is included on the Exclusion List the Developer is advised to contact the EIS Coordinator.

### **2.2 Parties to the EISC Proceedings**

- 2.2.1 The following entities are included on the EISC's Distribution List and are Parties to an EISC Proceeding:
- The Developer proposing the Development which is the subject of an EISC Proceeding
  - Government agencies, government departments and other Inuvialuit co-management organizations
  - Inuvialuit organizations
  - Inuvialuit communities
  - Any authority competent to authorize the development in the Inuvialuit Settlement Region.

These Parties must ensure that the EISC has current contact information for them.

- 2.2.2 Any entities not automatically considered as Parties to an EISC Proceeding that wish to be a Party to the Proceeding must apply to the EISC for Party status. They must complete and submit a Party Status Request based on the instructions in Appendix B which can also be found on the EISC web site at [www.screeningcommittee.ca](http://www.screeningcommittee.ca)
- 2.2.3 The EISC will make its decision expeditiously on a request for Party status and adjust its Distribution List accordingly.

### **2.3 Contacting the EISC Prior to Submitting a Project Description**

- 2.3.1 A Developer may make a request to the EIS Coordinator for clarification of whether the Developer's proposed development is a "development" as defined by the IFA and if it is subject to the environmental impact screening and review process.

- 2.3.2 A Developer making a request outlined in Rule 2.3.1 must complete the on-line questionnaire that officially registers the project on the public Registry, and informs the EISC about the activities associated with the proposed project.

## **2.4 Proceedings of the Screening Committee**

### **Requirements for Project Descriptions and Submissions to the EISC**

- 2.4.1 Unless the Screening Committee decides otherwise, the Screening Committee's Proceedings shall be conducted by written submissions.
- 2.4.2 The Developer's Project Description submission and all Parties' submissions in a Proceeding of the Screening Committee shall be made in a manner consistent with the Environmental Impact Screening Guidelines.

### **Return of a Project Description Submission**

- 2.4.3 Upon receipt of a Project Description submission, the Screening Committee shall determine whether the submission is complete in accordance with the Guidelines for the purposes of environmental screening.
- 2.4.4 Where the Project Description does not meet the requirements set out in the Guidelines, the Project Description shall be returned to the Developer.

### **Notification of a Proceeding**

- 2.4.5 Where a development is subject to Screening and the Project Description is deemed complete, the Screening Committee shall issue a public Notice of Proceeding and set out the timelines for the consideration of the Project Description.
- 2.4.6 The EIS Coordinator shall notify the Developer and the Parties when a Project Description is placed onto the Registry.

### **Comment Period**

- 2.4.7 Upon placing a Project Description onto the Registry and sending notification to the Parties, a forty-five (45) day comment period shall begin for Parties to provide comments on the Project Description.
- 2.4.8 The Developer and the Parties may respond to information and documents related to the environmental impact screening of the proposed development that are contained in the Registry during the comment period pursuant to the timeline in Rule 2.4.7.

## **2.5 Presentations**

- 2.5.1 A Developer or a Party to the Proceeding may request the opportunity to make a public presentation to the EISC to provide clarification, either in-person or by teleconference. All

requests for a public presentation must be made in writing to the EIS Coordinator at least fifteen (15) days prior to the close of the comment period.

- 2.5.2 The Chair shall determine whether to allow the public presentation, and, if so, when it will be held. Any presentation shall be open to the public, and the EISC will notify the Parties to the Proceeding and the public of the details of the presentation.
- 2.5.3 The Screening Committee may, after giving notice to the Parties, request a public presentation from a Developer or a Party to seek clarification on an issue related to a Project Description. The Chair will decide when the public presentation will be held. Any presentation shall be open to the public, and the EISC will notify the Parties to the Proceeding and the public of the details of the presentation.
- 2.5.4 The intent of a public presentation to the EISC is to allow the Committee to better understand the information contained in the Project Description or the information provided by a Party.
- 2.5.5 If in the public presentation made to the EISC there is a material change to the Project Description or to a Party's submission or if new information is presented, the EISC may be required to extend the Proceeding.
- 2.5.6 All public presentations made to the Screening Committee shall be made in Inuvik, NWT unless otherwise directed by the Screening Committee.

## **2.6 Specialists, Experts & Consultants**

- 2.6.1 The EISC may engage specialists to provide evidence relevant to the issues raised in any Proceeding. Any evidence received from a specialist shall be disclosed to all Parties and placed on the Registry. The Parties will be able to provide comments on the evidence or to question the evidence.
- 2.6.2 The EISC may hire specialists or consultants to advise the EISC and to assist the EISC in the interpretation of the information and evidence submitted by the Parties.

## **2.7 Closing of the Proceeding and the Record**

- 2.7.1 The EISC may review the Record at any time during the Proceeding to determine if it is complete for the purposes of a decision.
- 2.7.2 If the EISC determines the Record is complete, it may issue a Notice of Termination of the Proceeding and close the Record.
- 2.7.3 Subsequent to the closing of the Record, the EISC shall appoint a Screening Panel.

## **2.8 Environmental Screening Panel Decision**

- 2.8.1 Subsequent to the closing of the Record, the Screening Panel shall convene and make a decision. Refer to the EISC Guidelines for information on the four decisions a Screening Committee Panel can render under subsection 11(17) of the IFA.

## **PART 3: Environmental Impact Review Board**

This part applies to all parts of all Proceedings of the Environmental Impact Review Board.

### **3.1 Notice of Referral for Environmental Review**

3.1.1 The Review Board shall, upon receipt of a referral for Environmental Review, publish a public notice of referral of the Proceeding. The notice of referral shall include a brief description of the proposed development and the deadline for making an application for Party status for the Proceedings.

### **3.2 Parties to the EIRB Proceedings**

3.2.1 A Request for Party status in an Environmental Review Proceeding must be filed with the Review Board EIR Coordinator within the time specified by the Review Board in the notice of referral in Rule 3.1.1. The Request must clearly state why Party status should be granted and outline any information or other assistance the Party may provide to the Review Board during the proceeding. The Request should be filed as outlined in Appendix B.

3.2.2 Those entities identified as Parties to the Proceedings of the EISC are Parties to the EIRB Proceedings.

3.2.3 The Review Board shall, in its discretion, make a determination of who should receive Party status, shall place the decision onto the Registry and notify the Parties.

3.2.4 The Developer is automatically a Party to a Review Board proceeding.

3.2.5 The Review Board may request additional information from any person or organization before granting Party status.

### **3.3 Participation in the EIRB Proceedings**

3.3.1 Any Member of the public may provide written information or comments to the Review Board at any time during a Proceeding. Parties shall be given the opportunity to respond to such information or comments before the conclusion of the Proceeding.

3.3.2 If there is a change in a Party's contact person or legal counsel, the Party must notify the EIR Coordinator of the change as soon as practicable and in any case before a Hearing.

3.3.3 All Review Board formal and community Hearings are public unless otherwise ordered by the Review Board.

## **3.4 Proceedings of the EIRB**

### **Specialists, Experts & Consultants**

- 3.4.1 The Review Board may engage specialists to provide evidence relevant to the issues raised in any Proceeding. Any evidence received from a specialist shall be placed on the Registry and disclosed to all Parties. The specialist may be questioned by any Party to the Proceeding.
- 3.4.2 The Review Board may hire experts or consultants to advise the Board and assist the Board in the interpretation of the information and evidence submitted by the Parties.

### **Documents and Oral Presentations in EIRB Proceedings**

- 3.4.3 Copies of documents filed in a Review Board Proceeding shall be placed on the Registry and made available to all Parties and the Parties shall be given an opportunity to respond to the documents. This Rule applies to all information in a Proceeding that does not fall under Rule 1.6.8.
- 3.4.4 In the case of an oral presentation made during a Proceeding, the Parties shall be allowed to ask questions of the person who made the presentation.
- 3.4.5 The Review Board may, in its discretion, arrange for any Hearing to be electronically recorded or for transcripts of the Proceeding to be produced.

### **Filing and Exchanging Information or Documents in a Proceeding**

- 3.4.6 All documents and information filed with the EIRB during a Proceeding must be provided in accordance with any timelines set by the Board and must be filed with the EIR Coordinator. The information and documents shall be provided to the Parties as well as placed on the Registry and all Parties shall be notified of that. This Rule applies to all information in a Proceeding that does not fall under Rule 1.6.8.
- 3.4.7 All relevant information submitted in a Proceeding of the Review Board shall be placed on the Registry unless the EIRB approves a request made by a Party to protect all or portions of the material under Rule 1.6.8.
- 3.4.8 Failure to disclose information or documents as required by a direction on procedure or these Rules will be dealt with in accordance with Rule 1.10.
- 3.4.9 The Review Board may direct an exchange of information or documents among the Parties to a Proceeding to ensure that the Proceeding, including a Hearing, is focused, efficient and fair.

### **Copies of Documents and Service**

- 3.4.10 Any Party wishing to file documents during a Proceeding may be directed by the Review Board to provide sufficient copies for distribution to the other Parties.
- 3.4.11 The Review Board may, in its discretion, direct that documents be filed in printed and/or electronic format.

3.4.12 The Review Board may direct that certain information or documents be provided to the Parties by way of personal delivery, mail, electronic transmission or any other way directed by the Review Board.

3.4.13 When proof of delivery of information or documents is required, it may be provided by affidavit, by document showing electronic transmission and receipt by another party or by any other reasonable means acceptable to the Review Board.

### **Technical Sessions**

3.4.14 The Review Board may at any time during a Proceeding and upon such terms as it deems appropriate, organize technical sessions or workshops or take such other steps as are necessary to encourage the Parties to communicate and attempt to resolve technical issues and other questions.

### **Site Visits**

3.4.15 At any time during a Proceeding, the Review Board may schedule a site visit to the proposed development site.

## **3.5 Rules for all Hearings**

This part sets out provisions that apply to all Hearings held in Environmental Review Proceedings.

### **Call for a Hearing**

3.5.1 The Review Board may direct that a Hearing be held as part of a Proceeding.

3.5.2 The Review Board may cancel a Hearing at any time.

### **Proceedings with a Written Hearing**

This part applies to all Proceedings to be conducted through written submissions.

3.5.3 The Review Board may, in its discretion, issue a direction on Procedure specifying that a Proceeding be conducted by way of written submissions.

3.5.4 The Parties and Members of the public may provide information, documents or submissions to the Review Board in a Proceeding conducted by written submissions. The information, documents and submissions must be provided to the EIR Coordinator in a manner consistent with the direction on procedure issued by the Review Board.

3.5.5 The Parties and Members of the public may respond to written information, documents or submissions received by the Review Board pursuant to Rule 3.6.2 before a Review Board decision is made.

### **Hearing Notice for Formal or Community Hearings**

3.5.6 When a Proceeding is to include a formal or community Hearing, the Review Board shall, at least 30-days in advance of that Hearing, ensure that public notice of the date of a Hearing is given to the Developer, the Parties and to the public.

3.5.7 The Hearing notice shall include the following information:

- a) The date, time, place and nature of the Hearing, whether a formal or a community hearing.
- b) The matters to be considered at the Hearing.
- c) The opportunity for Members of the public to participate.
- d) The date by which interventions to be presented in the Hearing must be filed.
- e) Any other information relevant to the conduct of the Hearing.

3.5.8 Notice of any preliminary, legal or jurisdictional issue in a Hearing must be raised as a Request for Ruling and filed using the instructions in Appendix A with the Review Board at or before the Pre-Hearing Conference. The Review Board shall ensure that all Parties are notified of the Request for Ruling at least 10 days before the matter is addressed.

### **3.6 Proceedings with a Formal Hearing**

This part applies to all Proceedings with formal Hearings.

#### **Participants in a Hearing**

3.6.1 A Party may appear in a Hearing on its own behalf. A Party represented by a contact person or legal counsel must notify the EIS Coordinator of that representation. The Party must inform the EIS Coordinator of any change in that representation in accordance with Rule 3.3.2.

3.6.2 The Review Board may in its discretion direct Parties with similar interests to make a joint presentation at a Hearing.

3.6.3 The Review Board shall maintain a list of Parties registered for a Proceeding under Rule 3.2.3.

3.6.4 Any Member of the public who wishes to participate in a Proceeding may:

- provide his or her views, in writing, to the Review Board in advance of the Hearing; or
- make an oral presentation during that portion of the Hearing that has been set aside by the Review Board to hear the views of the public.

## **Pre-hearing Conferences**

3.6.5 The Review Board may call a Pre-Hearing conference among the Parties to:

- finalize the list of issues to be discussed at the Hearing;
- seek a clear description or amplification of the issues in a Hearing;
- encourage the resolution of an issue by alternative means;
- set a time table for the exchange of information and for preparations for the Hearing;
- adopt procedures to be used at the Hearing; and
- consider any matter that may aid in the simplification and disposition of the Hearing.

3.6.6 The Review Board shall provide notice of a Pre-Hearing conference to the Parties and the public in a Proceeding. The notice shall include the date, time and place of the Pre-Hearing conference and a brief description of the agenda and shall identify the individual who is the point of contact within the Review Board for the Pre-Hearing conference.

## **Conduct of a Formal Hearing**

3.6.7 The Chairperson of the Review Board or his/her designate will preside at all Hearings.

3.6.8 Hearings shall be conducted in an orderly and professional manner.

3.6.9 Hearings may be conducted with one or several of the Parties participating in person, by way of video-conference or by telephone conference call.

3.6.10 Parties, Members of the public and specialists presenting information in Hearings shall be subject to such questioning as the Review Board may allow.

3.6.11 The Review Board may set time limits for oral submissions and questions by any Party or participant at an Environmental Review Hearing.

3.6.12 The Review Board may address any issue raised by a Party during the course of a formal Hearing and dispose of it by way of a Ruling.

## **Adjournment of a Hearing**

3.6.13 Any Party may apply for an adjournment of a Hearing. If made in advance of a Hearing, such an application must be made by way of Request for Ruling in accordance with these Rules.

3.6.14 The Review Board may on its own motion adjourn or reschedule a Hearing at any time.

### **3.7 Proceedings with a Community Hearing**

This part applies to all Proceedings with oral community Hearings.

#### **Community Hearings or Sessions**

- 3.7.1 The Review Board may hold informal community Hearings to hear the views of any community potentially affected by a proposed development.
- 3.7.2 When it decides to hold a community Hearing the Review Board shall give directions for procedure at the community Hearing in advance. The Developer must be present at a community Hearing.
- 3.7.3 The Chairperson of the Review Board shall preside at those community Hearings.

## **Appendices**

- Appendix A    Instructions for Making a Request for Ruling**
- Appendix B    Instructions on Making a Request for Party Status**
- Appendix C    Instructions on Making an Information Request**

## **Appendix A:**

### **Instructions for Making a Request for Ruling**

These instructions are to be used when a Party wishes to make a legal or procedural Request for Ruling by the EISC or EIRB (see Rule 1.7). A Request for a Ruling is made during a Proceeding when a legal, procedural or a jurisdictional issue arises that needs resolution so the Proceeding can move on and be completed. The Screening Committee or the Review Board shall make the decision as a Ruling that all Parties must abide by. The Screening Committee or the Review Board may also make Rulings at any time without an application from a Party.

The following information is requested when making a Request for Ruling:

- Name of Party
- Name of Proceeding
- Explanation of the Ruling requested (state the relief sought as clearly as possible)
- The facts or information relevant to the request for a Ruling
- The authority or grounds for the Ruling (e.g., any rules or law)
- List of supporting documents
- Dated and signed application

When a Request for Ruling has been received by the EIS or EIR Coordinator the Screening Committee or the Review Board shall decide on the Request for a Ruling. Once the Ruling has been made, a copy will be placed on the Registry.

## **Appendix B:**

### **Instructions on Making a Request for Party Status**

These instructions must be followed when making a Request for Party Status to the EISC or the EIRB for all participants who want to register as a Party to the Proceedings, other than the Developer, those Parties listed under Rule 2.2.1, and for EIRB Proceedings those entities already identified as Parties to the Proceedings of the EISC.

The following information is required when making a Request for Party Status:

- Name of the individual or organization seeking Party status
- Name of Proceeding
- Reasons for requesting Party status
- Description of how the individual or organization plans to participate (e.g., what information, witnesses, or presentations), and who will participate on the organization's behalf if relevant (e.g., Counsel, third party)
- Identify if the applicant is a Competent Authority as defined in Rule 1.1.
- Dated and signed application

When a Request for Party status has been received by the EIS or EIR Coordinator the EISC or the EIRB shall decide who receives Party status. If Party status is granted, the EIS or EIR Coordinator will place a formal Notice of Party Status on the Registry.

## Appendix C:

### Instructions on Making an Information Request

The purpose of an Information Request is to provide the EISC/EIRB with the information it needs to decide whether the proposed development is likely to have a significant adverse environmental effect. An Information Request is a tool for the Screening Committee, the Review Board and the Parties to obtain additional information and/or clarification on issues, and to answer questions that arise during the Proceedings.

Information Requests can originate from and be directed to any of the Parties to the Proceeding. A Party can request information that is necessary for its technical analysis of the development's potential impacts. All IRs are subject to the Screening Committee's or the Review Board's approval. The Screening Committee or the Review Board will generally not accept any Information Requests outside the scope of the screening or the review.

Please provide the following information when making an Information Request:

|                   |  |
|-------------------|--|
| <b>IR Number:</b> | Number is assigned by EISC/EIRB.   |
| <b>Source:</b>    | Organization proposing the request (your organization).  |
| <b>To:</b>        | Who the request is directed at, or the organization(s) expected to answer or provide information (e.g., the Developer or a government department). |
| <b>Subject:</b>   | What is the general subject of the request (e.g., fish, water, cultural impacts, permafrost)?  |

#### Preamble

Provide background information and a rationale for your request. The preamble should identify any shortcomings of available information and how the requested information will be relevant. For example: "The Developer's correspondence to date describes various mitigation measures to minimize impacts on wildlife, but does not specify which measure is aimed at which species. To determine the effectiveness of proposed mitigation measures the species they are aimed at should be known".

#### Request

The question the Party is directed to answer. For example: "Please identify which mitigation measures are aimed at minimizing impacts on moose". A question may consist of several parts. Please make your questions as specific as possible.

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