

Designated Office Rules Review

Introduction

The Yukon Environmental and Socio-economic Assessment Board (YESAB) has completed its review of the *Rules for Evaluations Conducted by Designated Offices* (Rules). A notice of the new Rules will soon be published in the Canada Gazette. This will provide a final opportunity for public review before the new Rules are finalized and adopted by YESAB.

The following provides some background on the review, an overview of the key issues and a rationale for the changes made to address these issues.

What are the Rules?

The Rules were developed by YESAB to guide how Designated Offices conduct environmental and socio-economic assessments of projects. They provide direction related to preparing and submitting project proposals, scoping projects, participating in assessments, timelines for evaluations, the handling of confidential information, and considering traditional and scientific knowledge. The Rules directly affect proponents of projects, First Nations and those who participate in the assessment of projects.

Why did YESAB conduct this review?

When the Rules were made in the fall of 2005, YESAB committed to reviewing them after two years of operations. This was to ensure that the process for conducting Designated Office assessments was effective, efficient and practical for all parties involved.

What was the process for reviewing the Rules?

YESAB established a Rules Review Committee and began the review in late 2007. In 2008 the Committee gathered comments and feedback from participants through public meetings, focus groups, written submissions and face-to-face meetings. All input received was given full consideration and assisted YESAB in creating a draft of the new Rules.

The draft was circulated for comment in the fall of 2009. Public meetings were held in Watson Lake, Teslin, Carcross, Whitehorse, Haines Junction, Mayo, Dawson and Old Crow. The resulting feedback helped YESAB to further refine the Rules. A notice of the new Rules will now be published in the Canada Gazette and allow for final public comment.

What issues were identified?

The issues identified can generally be grouped into the following themes:

- YESAB should develop additional guidance about information requirements for project proposals.
- Timelines should be flexible to accommodate both small-scale and large-scale projects.
- Large-scale projects should have more opportunity for participation during the adequacy review.
- There should be more opportunity for public review when new information is submitted or amendments are made to the project proposal.
- There should be more time to consider comments received during an assessment.

What changes have been made and why?

Each issue was carefully considered in the preparation of the new Rules. The following identifies the key changes and provides rationale as to why the changes have been made.

1. Form 1 has been removed from the Rules.

This will allow us to create sector-specific forms. These forms will clearly identify what information should be included in project proposals for specific development sectors (e.g. mining, forestry) and provide increased certainty to proponents, assessors, First Nations, governments and interested persons. Further work will be required to prepare this guidance.

2. Location review, completeness review, and the preparation of a public notice and notification list have been merged into one adequacy review period.

This addresses a number of issues by simplifying the process. It allows well-prepared and small-scale project proposals to be expedited through the adequacy review period of the assessment.

3. The period of time for determining if a proposal is adequate may be extended up to an additional 21 days.

This will allow additional time to review large-scale and/or complex project proposals. The extended period will also provide better opportunities for creating a working group or seeking technical advice as needed. The determination to extend this period is based on criteria provided in the Rules.

4. The timeline for reviewing responses to questions during adequacy has been increased.

During the initial 8 day adequacy review period the assessor may issue an information request. The assessor will have up to 6 days to review responses once they are submitted. In the existing rules only 3 days are allotted. Experience has proven that this timeline is too short.

The initial 8 day adequacy review period may now be extended. An information request may be made during this extension and the assessor will have up to 10 days to review responses once they are submitted. This is due to the fact that the response is likely related to a large and/or complex project and a working group may be involved in reviewing the response.

5. Seeking Views and Information (SVI) has been restructured.

The SVI period continues to require a minimum of 14 days, up to a maximum of 70 days. The overall timeline has not increased. However, SVI has been restructured into two separate periods of time.

The first period of SVI is a minimum of 14 days and can be extended up to 35 days. At the end of this period the assessor will have up to 3 days to determine if: they will prepare the recommendation or referral; further information is needed or; an extra period of SVI is required. This will allow comments received late in SVI to be reasonably considered. This will also allow the assessor time to consider the best direction for the assessment.

If the assessor decides further information is required, an information request may be issued. This will initiate a 28 day period of time for the proponent to respond to the request or advise when they will be responding within 1 year of the evaluation commencing, allowing proponents adequate time to prepare supplementary information. This also addresses concerns in the current process related to projects being deemed withdrawn when the proponent simply needs additional time to provide information.

The second period of SVI is a minimum of 10 days and can also be extended up to 35 days. It is available in consideration of: material changes to the project proposal; supplementary information submitted that interested persons should have time to consider and; issues identified that interested persons should have time to consider. This will help to ensure that those participating in assessments have adequate time to review any changes to the proposal and/or new information, and further examine key issues.

6. The period of time for preparing the recommendation or referral may be extended up to an additional 21 days.

This extension has been made available to allow adequate time for preparing a recommendation or referral for large-scale and/or complex projects. It is expected that the increased time will allow for more comprehensive assessments.

Comments or questions?

Comments or questions may be made in writing to:

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