

**YUKON ENVIRONMENTAL AND
 SOCIO-ECONOMIC ASSESSMENT ACT**

**RULE TO AMEND THE
 RULES FOR SCREENINGS CONDUCTED
 BY THE EXECUTIVE COMMITTEE
 (PRE-SUBMISSION ENGAGEMENT)**

The Yukon Environmental and Socio-economic Assessment Board makes this Rule pursuant to its authority under the *Yukon Environmental and Socio-economic Assessment Act*.

Table of Contents

Item	Clause
Rules amended	1
Definitions added	2
Section 6 amended	3
Section added	4
Part 3 replaced	5
Section 34 amended	6
Section 40 amended	7
Section added	8
Section 63 replaced	9
Section 67 amended	10
Section 83 amended	11
Section added	12
Schedule A replaced	13
Application	14

Rules amended

1 This Rule amends the *Rules for Screenings Conducted by the Executive Committee*.

Definitions added

2(1) The following definitions are added to section 4 in alphabetical order:

“participant” and “pre-submission engagement” have the meanings assigned in section 16;

“proposal” means a proposal for a project that paragraph 50(1)(a) (or, where the context requires, subsection 56(4)) of the Act requires be submitted to the Executive Committee;

“proposed project” means a project for which a proponent submits or intends to submit a proposal to the Executive Committee;

(2) The expression “project” is replaced, wherever it appears in the Rules (other than in the definitions “proposal” and “proposed project” in section 4 and the expression “proposed project”), with the expression “proposed project”.

Section 6 amended

3 In paragraph 6(a), the reference to section 26 is replaced with a reference to paragraph 32(1)(a).

Section added

4 The following section is added immediately after section 8:

Personal information to be excluded

8.1(1) For the purposes of subsection (2), “personal information” means information about an identifiable individual, including but not limited to information 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*.

Part 3 replaced

5 Part 3 is replaced with the following:

Part 3**Pre-Submission Engagement****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);

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

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

(d) 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,

(e) 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

(f) 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 (or, in the case of a referred project, the day on which the 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 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 complies with the requirements set out in Schedule A (including the elaboration of those requirements provided in the *Project Description Requirements* issued by the Executive Committee on March 1, 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, how and when it intends to do so;

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

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

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

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.

General powers of Executive Committee

18 The Executive Committee may at any time during the pre-submission engagement period for a proposed project

(a) subject to section 20 but despite any other provision of this Part, modify any aspect of the pre-submission engagement process, including (but not limited to) by extending or waiving any time limit under this Part (including any time limit that applies to the Executive Committee or that it establishes), if it considers that the modification is warranted, having regard to all of the circumstances; or

(b) gather any information it considers may be helpful.

Publication

19(1) Each document that the Executive Committee produces, collects or receives in relation to the pre-submission engagement for a proposed project must, subject to subsection (2), be included in a register maintained by the Board under section 118 of the Act.

(2) If a document includes information that is designated confidential pursuant to section 83 or 85, only the non-confidential summary of that information referred to in

paragraph 80(e) is to be included in the register.

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 time period for comments by participants or the public, or adding an additional such time 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 application of this Part by notifying the Executive Committee and each other

participant 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) in the case of a proposed project that is not a referred project

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

(B) 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, or

(ii) in the case of a referred project, within 24 months after the designated office refers the referred project to the Executive Committee, a Revised Proposal that meets the requirements set out in paragraph 31(1)(b).

(4) The Executive Committee must, at least 45 days before a time period 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.

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 at least 30 days' written notice, of its intention to submit the Project Description, to

- (a) the Executive Committee; and
- (b) each first nation in whose territory the proposed project will be located or might have significant environmental or socio-economic effects.

Review of Project Description

22 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, provide it to the proponent and the other participants and make it publicly available,
 - (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, 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).

Initial submissions and comments

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

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.

Project Proposal Guideline

25(1) Within 60 days after the end of the time period 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 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.

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

(5) Within 30 days after the end of the time period referred to in subsection (4), the Executive Committee must prepare and provide to the proponent and 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).

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.

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 time period the Executive Committee has established and in the manner it has specified for such comments.

Project Proposal Report

28(1) Within 60 days after the end of the time period the Executive Committee has established for comments on the Project Proposal Guideline Response, it must prepare and provide to the 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.

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.

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 it considers may be helpful.

Review of Revised Proposal

31(1) 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.

(2) To assist it in making the determinations referred to in subsection (1), the Executive Committee may gather any information it considers may be helpful.

Notice to proponent

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(1) 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 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 that it will not carry out a screening on the basis of the Project Proposal or Revised Proposal, as the case may be.

(2) 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) to redo any other aspect of the pre-submission engagement process.

Section 34 amended

6 Section 34 is replaced with the following:

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

- (a) prepare a preliminary statement that describes the scope of the proposed project in accordance with section 51 of the Act and based on the information contained in the proposal; and
- (b) provide a copy of the preliminary statement to the proponent.

Section 40 amended

7 In section 40, the reference to section 26 is replaced with a reference to paragraph 32(1)(a).

Section added

8 The following section is added immediately after section 48:

Additional comment period

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

- (a) material changes to the proposal;
- (b) the emergence of new information regarding the proposal 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 proposed 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 63 replaced

9 Section 63 is replaced with the following:

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

- (a) each participant in the pre-submission engagement for the proposed project (other than a participant that has requested the Executive Committee in writing not to be included in the notification list); and
- (b) each person that
 - (i) has requested the Executive Committee in writing to be included in the notification list, and
 - (ii) in the opinion of the Executive Committee has an interest in the outcome of the screening.

Section 67 amended

10 In paragraph 67(a), the expression “project proposal” is replaced with the expression “proposal”.

Section 83 amended

11 In paragraph 83(a), the expression “is relevant” is replaced with the expression “may be relevant”.

Section added

12 The following section is added immediately after section 99:

Applies to pre-submission engagement

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

Schedule A replaced

13 Schedule A is replaced with the following:

Schedule A**PROJECT DESCRIPTION REQUIREMENTS**

- 1.0 Executive Summary**
- 2.0 General Information and Contacts**
- 3.0 Project Overview**
 - 3.1 Project Activities and Components
 - 3.2 Project Location
- 4.0 Project Stages and Schedule**
- 5.0 Regulatory Context**
- 6.0 Initial Engagement and Consultation**

**7.0 Preliminary Valued Components and
Data**

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) March 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”.