



YUKON WATER BOARD RULES OF PROCEDURE

These Rules are made under the authority of Section 22 of the *Waters Act* and section 2.12.2.10 of the Yukon First Nations Final Agreements.

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PART 1 INTERPRETATION

Definitions

1.1 In these Rules,

“Act” means the *Waters Act*;

“application” means a written request to the Board for the issuance, amendment, renewal, cancellation, assignment of a licence or a written request to the Board under Chapter 14 of a First Nation Final Agreement;

“applicant” means a person who makes an application to the Board;

“authorized representative” means the person who is empowered to act for or represent another person;

“business day” means a day that is neither a Saturday, Sunday nor a holiday;

“Board” means the Yukon Water Board;

“Chairperson” means the Chairperson of the Board or, in the absence of the Chairperson, the Vice-Chairperson;

“claim” means a written request for compensation made under Part 10;

“document” means a piece of written, printed, or electronic matter that provides information including, but not limited to, a book, journal, sound recording, video, film, photograph, chart, graph, map, plan, survey, model or report;

“emergency” means a sudden, unexpected situation requiring immediate action in which there is a probability of adverse environmental or social impact;

“government” includes a Yukon First Nation government;

“holiday” means any of the following:

- New Year’s Day
- Heritage Day
- Good Friday
- Easter Monday
- Victoria Day
- Indigenous Peoples Day
- Canada Day
- Discovery Day
- Labour Day
- Thanksgiving Day
- Remembrance Day



Christmas Day
Boxing Day

“intervener” means a person who has filed an intervention under Part 11;

“intervention” means a written statement made by an intervener;

“licence” means a licence issued under the Act;

“licensee” means a person who holds a licence;

“licence proceeding” means the process by which the Board comes to a final decision on the issuance, renewal, amendment, assignment or cancellation of a licence;

“or” includes “and”;

“panel of the Board” means the members of the Board who participate in a licence proceeding, a security determination process or a review and approval process;

“party” means a person who is an applicant, a claimant, an intervener or a licensee;

“person” includes an individual, association, partnership, society, board, committee, council, organization, corporation, municipality, government, or agency of a government;

“public document” means a document made available for public reference and use;

“public hearing” means the proceeding referred to in section 19 of the Act;

“register” means the register referred to in section 23 of the Act;

“regulation” means the *Waters Regulation*;

“secretariat” means the officers and staff of the Board as referred to in section 9 of the Act;
and

“Indigenous knowledge” means the stories, history, skills, observations and understandings about the environment, and about the relationship of living beings with one another and the environment, that has been and continues to be accumulated over generations by Indigenous peoples.

Terms defined in the Act, regulation or Yukon First Nation Final Agreement

1.2 Unless otherwise defined in these Rules, a word or term defined in the Act, regulation, or a Yukon First Nation Final Agreement has the same meaning when used in these Rules.

Headings

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



Words in singular and plural

- 1.4 In these Rules, words in the singular include the plural, and words in the plural include the singular.

Panel of the Board

- 1.5 In these Rules, a reference to the Board includes a panel of the Board if the context so requires.

PART 2 GENERAL

Authorized representative

- 2.1 In these Rules a reference to an applicant, intervener or claimant includes the authorized representative of the applicant, intervener or claimant.

Categories of undertakings

- 2.2 The Board, in its sole discretion, may determine to which category of undertakings an application corresponds.

Computation of time

- 2.3 Subject to section 2.4, in these Rules, if the time for doing an act falls or expires on a Saturday, Sunday or holiday, the act may be done on the day next following that is not a Saturday, Sunday or holiday.

Interpretation

- 2.4 If a holiday falls on a Saturday or Sunday and the business day next following the holiday is designated as a non-working day in lieu of the holiday, the time for doing an act may be done on the next business day.

Variation of Rules

- 2.5 Subject to the rules of procedural fairness, the Board may vary these Rules or any part of the Rules during a licence proceeding, a security determination process or a review and approval process.

Extension or abridgement of time

- 2.6 On its own initiative or in response to a request by a party or potential intervener, the Board may extend or abridge the time fixed by these Rules or the time fixed by the Board.



Request for abridgement of time

- 2.7 If a party or potential intervener wishes to make a request to extend or abridge the time fixed by these Rules or the time fixed by the Board, the request must be made prior to the expiration of the time so fixed.

Notice

- 2.8 If the Board varies the Rules under section 2.5 or extends or abridges time under section 2.6, the Board must:
- (a) immediately notify all parties or potential interveners of the variance, extension or abridgement;
 - (b) if necessary, issue directions in respect of the procedure to be followed as a result of the variance, extension or abridgement; or
 - (c) fix the time that has been extended or abridged taking into consideration the fair conduct of a licence proceeding, security determination process or a review and approval process.

Non-compliance

- 2.9 If a party, intervener or person
- (a) fails to comply with these Rules, an order, a direction or a written request from the Board; or
 - (b) causes undue delay;

the Board may

- (i) deem the party, intervener or person to have accepted all of the material facts set out in information provided by another party, intervener or person;
- (ii) determine that a party, intervener or a person is not entitled to present evidence or make submissions;
- (iii) proceed in the party's, intervener's or person's absence without any further notice to the party, intervener or person;
- (iv) make a decision based solely on the information before it; or
- (v) make an order it considers appropriate.

PART 3 QUORUM

- 3.1 A quorum of the Board is three members as approved on September 15, 2005 by the Minister in accordance with section 22(b) of the Act.



- 3.2 For greater certainty, in the absence of quorum, no decision must be made by the Board, other than to obtain quorum or adjourn or recess a licence proceeding, security determination process or a review and approval process.

PART 4 DECISION MAKING

- 4.1 The Board may make decisions in person, by email, teleconference or video conference.
- 4.2 If one member of the Board requests that a decision be made either by video conference or in person rather than by email or teleconference, the Board must make reasonable efforts to meet by video conference or in person.
- 4.3 In the event that the Board is unable to come to a consensus decision, the Board will determine the decision by means of a majority vote.

PART 5 TECHNICAL OBJECTIONS

- 5.1 An objection based on a technical irregularity or a defect in form does not invalidate a licence proceeding, security determination process or a review and approval process.

PART 6 SUBMISSION OF DOCUMENTS

Method of submission

- 6.1 A person may submit a document to the Board by hand delivery, mail, courier, facsimile, or by electronic means.

Electronic submission

- 6.2 If a person submits a document to the Board by electronic means, the person must submit the document to ywb@yukonwaterboard.ca or to Waterline.

Responsibility of person

- 6.3 It is the responsibility of the person submitting the document to confirm its receipt by the Board.

Date of submission

- 6.4 A document submitted to the Board after 4:30 pm Yukon Standard Time (YST) is deemed to be submitted on the next business day.

Contents

- 6.5 When submitting a document to the Board, a person must include the following information:



- (a) the person's name;
- (b) mailing address, including postal code;
- (c) email address, if available; and
- (d) telephone number.

Prohibited content

- 6.6 No person may submit a document that contains unlawful, abusive, libelous, frivolous or vexatious content.

Striking of documents

- 6.7 The Board may, by order, amend or strike all or any part of a document that, in its opinion, may prejudice a fair disposition of a licence proceeding, security determination process or review and approval process.

PART 7 PUBLIC DOCUMENTS

Party may use

- 7.1 Unless otherwise directed by the Board, a party may cite, refer to or quote from a public document without providing copies of that public document to the Board or the other parties.

Relevant and specific

- 7.2 If a party wishes to cite, refer to or quote from a public document, the party must indicate to the Board
- (a) the title of the document;
 - (b) the specific reference, citation or quotation on which the party is relying;
 - (c) the location of the document in the public domain; and
 - (d) the document's relevance.

Board not required to consider

- 7.3 If a party fails to comply with section 7.2, the Board is not required to consider the public document from which the party is citing or quoting or to which the party is referring.

Party may contest

- 7.4 A party who believes that a document of the type mentioned in section 7.1 is not a public document may make a written submission to that effect to the Board.



Not a public document

- 7.5 If the Board determines that a document is not a public document, it may require the party citing, quoting from or referring to the document to submit one or more copies of the document to the Board and to the other parties.

PART 8 LICENCE PROCEEDING

Not open to the public

- 8.1 Subject to Part 16, and unless the Board directs otherwise, a licence proceeding is not open to the public.

Commencement

- 8.2 A licence proceeding is commenced on the date:
- (a) an application is determined to be adequate under section 8.12;
 - (b) the Board determines that the criteria for an amendment on an emergency basis set out in section 8.20 are met; or
 - (c) the Board initiates a proceeding under section 8.27.

A. Licence proceeding commenced by an application

Contents of applications

- 8.3 An application, other than an application for an assignment or cancellation of a licence, must include:
- (a) a completed application form pertaining to that particular undertaking;
 - (b) the information required by the regulation;
 - (c) a description of
 - (i) how the applicant intends to use waters and if this use will affect another licensee or a person described in section 12 (4) of the Act,
 - (ii) in the case of an amendment, any changes to the use of waters; and
 - (iii) any deposit of waste to waters;
 - (d) a description of the probable qualitative and quantitative effects of the undertaking on waters and how the applicant proposes to mitigate any adverse effects;
 - (e) the name(s) of the Yukon First Nation(s) if the project is situated or might have adverse effects within a Yukon First Nation's traditional territory;



- (f) a copy of a compensation agreement between the applicant and another licensee or other person whose application for a water licence would take precedence under section 27 of the Act;
- (g) proof of any compensation paid or to be paid by the applicant to a person described in section 12 (4) of the Act or section 14.12 of a Yukon First Nation Final Agreement;
- (h) confirmation that the applicant has adequate resources to be financially responsible for:
 - (i) carrying out the work under the licence, or any proposed changes to this work;
 - (ii) maintenance and restoration of the work site; and
 - (iii) the cost of decommissioning, including the cost of any temporary closures;
- (i) other information that is required by these Rules or by the Board.

Contents of applications - assignment

8.4 An application for an assignment of a licence, must include:

- (a) a completed application form;
- (b) the information required by the regulation;
- (c) information pertaining to the sale, transfer or lease of the appurtenant undertaking or any other agreement that is relevant to the sale, transfer or lease of the appurtenant undertaking; and, if applicable,
 - (i) the name and address of the proposed assignee;
 - (ii) the assignors' written agreement to assign the licence; and
 - (iii) the assignee's written agreement to assume responsibility for the licence.

Contents of applications - cancellation

8.5 An application for cancellation of a licence, must include:

- (a) a completed application form;
- (b) the information required by the regulation;
- (c) a description of rehabilitation that has been completed;
- (d) details of any outstanding decommissioning activities that are required by the licence; and



- (e) a proposal for how the outstanding decommissioning requirements, if any, will be met.

Sufficient information

- 8.6 An application must be clear, accurate and contain sufficient information for the Board to understand the nature and effects of the appurtenant undertaking as well as to allow a person to reasonably understand and provide comments to the Board on the application.

Information request by the Board

- 8.7 During a licence proceeding the Board may, by order, require an applicant or a licensee to provide information, particulars or documents and must set a deadline date by which the information, particulars or documents must be submitted.

Paper copies

- 8.8 Upon request by the Board, an applicant must provide to the Board an unbound paper copy of an application of a quality that can be reproduced by a photocopier.

Additional paper copies

- 8.9 The Board may require an applicant to provide additional paper copies of an application.

Electronic copies required – Type A

- 8.10 In respect of Type A applications, an applicant must provide to the Board an electronic searchable Adobe PDF copy of the application.

Electronic copies upon request – Type B

- 8.11 In respect of Type B applications, upon request by the Board an applicant must provide to the Board an electronic searchable Adobe PDF copy of an application.

Adequacy and YESAA decision document preliminary review

- 8.12 Upon the submission of an application the secretariat must determine if the application is adequate by
 - (a) examining the application to determine whether it is clear and accurate and contains the information set out in sections 8.3, 8.4 or 8.5; and
 - (b) reviewing the applicable YESAA decision document to evaluate whether or not the decision document allows the appurtenant undertaking to proceed.

Secretariat may require information

- 8.13 If the secretariat determines that the application does not meet the criteria set out in paragraph 8.12(a) the secretariat may require an applicant, in writing or in person, to provide further clarity, accuracy, information, particulars or documents.



Applicant to provide information

- 8.14 An applicant must provide the clarifications, information, particulars or documents requested under section 8.13 to the satisfaction of the secretariat.

Board decision – Information not provided

- 8.15 If an applicant does not provide the clarifications, information, particulars or documents requested under section 8.13 to the satisfaction of the secretariat, the secretariat must seek a decision from the Board on the matter.

Board decision – YESAA Decision Document

- 8.16 If the secretariat believes that the applicable YESAA decision document does not allow the appurtenant undertaking to proceed, the secretariat must seek a decision from the Board on the matter.

Technical workshop

- 8.17 Following the submission of an application or a submission under section 8.31 and prior to making a determination of adequacy under section 8.12, the secretariat may hold a technical workshop for the following purposes:

- (a) to clarify technical issues; or
- (b) to obtain further information.

Not open to the public

- 8.18 A technical workshop is not open to the public.

Notice

- 8.19 If the secretariat determines that an application is adequate, the Board must, except in the case of an application for an amendment on an emergency basis, publish notice of each application that complies with sections 8.3, 8.4 or 8.5 in accordance with section 21(1) of the Act and on Waterline.

A. (i) Amendment – emergency basis

Decision on emergency

- 8.20 Upon submission of an application for an amendment on an emergency basis, the Board must determine whether the circumstances described in the application meet the threshold of an emergency and must inform the applicant, in writing, of its decision.

Priority

- 8.21 If the Board determines that the circumstances described in the application meet the threshold of an emergency, the Board may prioritise the licence proceeding for the application.



Board decision or public notice

- 8.22 If the Board determines that the circumstances described in the application meet the threshold of an emergency, the Board may
- (a) make a decision;
 - (b) publish notice of the application in the manner set out in section 21(1) of the Act and on Waterline; or
 - (c) seek comments on the application from the parties who intervened in the initial licence proceeding.

Public Notice

- 8.23 If the Board publishes notice under paragraph 8.22(b), Part 11 applies with such modifications as the circumstances require.

Seeking comments - deadline

- 8.24 If the Board seeks comments under paragraph 8.22(c), the Board must set a deadline date by which comments must be received.

Response to comments

- 8.25 If comments have been submitted under a request made under paragraph 8.22(c), an applicant may submit to the Board a written response to the comments.

Information request by the Board

- 8.26 The Board may, by order, require an applicant for an amendment on an emergency basis to provide information, particulars or documents and must set a deadline date by which the information, particulars or documents must be submitted.

B. Licence proceedings commenced by the Board

Board initiated

- 8.27 On its own initiative or at the written request of a person, if the Board is satisfied that it is in the public interest, the Board may initiate licence proceedings to cancel, renew or amend a licence.

Request

- 8.28 If a person wishes to request that the Board initiate a licence proceeding under section 8.27, the request must include
- (a) the person's name, email address, mailing address (including postal code), and telephone number and fax numbers (if applicable);



- (b) a clear statement of the reasons the person believes the request to be in the public interest; and
- (c) information or documents that support the request.

Notice

8.29 If the Board initiates a licence proceeding under section 8.27, the Board must give written notice to the licensee and publish notice of the licence proceeding in accordance with section 21(1) of the Act.

Part 11 applies

8.30 If the Board publishes notice under section 8.29, Part 11 applies with such modifications as the circumstances require.

Submission by licensee

8.31 A licensee may make a submission to the Board in respect of a licence proceeding commenced under section 8.27.

Deadline for submission

8.32 The licensee's submission must be made within the time period specified in the notice under section 8.29.

Contents of submission

8.33 A submission made under section 8.31 must include:

- (a) the licensee's name, email address (if available), mailing address (including postal code), and telephone number and fax number (if applicable);
- (b) a clear statement addressing all issues raised in the licence proceeding;
- (c) information or documents supporting the licensee's statement; and
- (d) copies of all supporting documents, other than public documents.

Deadline Date

8.34 If the Board publishes a notice under sections 8.19, 8.22 or 8.29, it must set a deadline date by which interventions must be submitted.



PART 9 CHAPTER 14 – YUKON FIRST NATION FINAL AGREEMENT

Notice - method

- 9.1 If the Board or an applicant is required by Chapter 14 of a Yukon First Nation Final Agreement to provide notice to a Yukon First Nation, the Board or the applicant whichever has the responsibility, must provide such notice in writing by hand delivery, mail, courier, facsimile or other means of communication.

Water Use Disputes

Application by Yukon First Nation – alternatives or measures to avoid

- 9.2 An application made under subsection 14.11.1.1 or 14.11.1.2 of a Yukon First Nation Final Agreement must contain a clear and detailed description of the right the Yukon First Nation believes is affected, the remedy the Yukon First Nation is seeking and
- (a) in the case of 14.11.1.1, suggested alternatives that may satisfy the requirements of a licensee without interfering with the right being affected; or
 - (b) in the case of 14.11.1.2, suggested measures that could be taken to avoid interference with the right being affected.

Application by Yukon First Nation – compliance or unforeseen impacts

- 9.3 An application made under subsection 14.11.1.3 or 14.11.1.4 of a Yukon First Nation Final Agreement must contain the remedy the Yukon First Nation is seeking, and a clear and detailed description of the Yukon First Nations' issues and concerns related to
- (a) in the case of 14.11.1.3, a licensee's compliance with the terms and conditions of its licence; or
 - (b) in the case of 14.11.1.4, the unforeseen impacts caused by the terms and conditions of a licence.

Application by Yukon First Nation – compensation

- 9.4 An application for compensation made under subsection 14.11.1.5 of a Yukon First Nation Final Agreement must contain a clear and detailed description of the provable loss or damage to the Yukon First Nation.

Application by Yukon Indian Person

- 9.5 An application for compensation made under section 14.11.5 of a Yukon First Nation Final Agreement must contain a clear and detailed description of the provable loss or damage to the Yukon Indian Person.



Information request

- 9.6 The Board may request that a Yukon First Nation that has made an application under subsection 14.11.1.5 or a Yukon Indian Person who has made an application under section 14.11.5 provide further information, particulars or documents.

Notice to licensee

- 9.7 If the Board receives an application made under section 14.11.1 or 14.11.5, the Board must
- (a) give written notice to the licensee of receipt of an application; and
 - (b) set a deadline date by which a licensee may make a submission.

Submission by licensee

- 9.8 A licensee may make a submission to the Board in respect of an application made under section 14.11.1 or 14.11.5.

Deadline for submission

- 9.9 The licensee's submission must be made within the time period specified in the notice under section 9.7.

Contents of submission

- 9.10 A submission made under section 9.8 must include:
- (a) the licensee's name, email address (if available), mailing address (including postal code), telephone number and fax number (if applicable);
 - (b) a clear statement addressing the issues raised in the application;
 - (c) information or documents supporting the licensee's statement; and
 - (d) copies of all supporting documents, other than public documents.

Information request

- 9.11 The Board may require a licensee to provide further information, particulars or documents, including information related to the licensee's financial responsibility.

Hearing

- 9.12 The Board may hold a hearing in order to
- (a) gain a better understanding of the views of the parties; or
 - (b) obtain further information from the parties.

Applicant and licensee to be invited

- 9.13 If the Board holds a hearing under section 9.12, the Board must invite the applicant and the licensee to attend.



Not open to the public

9.14 A hearing held under section 9.12 is not open to the public.

Interim order

9.15 Prior to making a final determination in respect of an application made under section 14.11.1 or 14.11.5, the Board may make an interim order in accordance with section 14.11.3.

PART 10 COMPENSATION

Claim for compensation – *Waters Act* or a Yukon First Nation Final Agreement

10.1 A person who wishes to make a claim for compensation from an applicant under the Act or a Yukon First Nation Final Agreement, must do so in accordance with the Board's *Compensation Guidelines*.

Application to amend a compensation order - Yukon First Nation Final Agreement

10.2 A person may make an application to the Board under section 14.12.8 of a Yukon First Nation Final Agreement to request that the Board review and amend a compensation order.

Changing circumstances

10.3 An application made under section 10.2 must contain a description of the change in circumstances that form the basis of the request.

Notice

10.4 Upon receiving an application under section 10.2, the Board must give written notice to a person affected by the compensation order and set a deadline date by which the person may make a submission to the Board.

Submission

10.5 A person who receives notice under section 10.4, may make a submission to the Board on or before the deadline date specified in the notice.

Information request

10.6 The Board may require a person who has submitted an application under section 10.2 or a person who has made a submission under section 10.5 to provide further information, particulars or documents.



PART 11 INTERVENTION

Submission

- 11.1 A person may submit an intervention to the Board in relation to an application or a licence proceeding initiated by the Board if a notice has been published under sections 8.19, 8.22 or 8.29.

Deadline for intervention

- 11.2 A person must submit an intervention to the Board on or before the date and time specified in the notice published under sections 8.19, 8.22 or 8.29.

Request for extension of deadline

- 11.3 A person may request an extension of the deadline date but the request for an extension must be submitted, in writing, to the Board on or before the deadline date specified in the notice.

Contents of request

- 11.4 A request for an extension of the deadline date must contain the following information:
- (a) the intervener's name, email address (if available), mailing address (including postal code), telephone number and fax number (if applicable); and
 - (b) a clear rationale for the request.

Board must not extend deadline

- 11.5 If a person submits a request for an extension after the deadline date has passed, the Board must not extend the deadline.

Submission after deadline date

- 11.6 If a person has not requested an extension of the deadline date under section 11.3 but submits an intervention after the deadline date has passed, the Board is not required to consider the intervention.

Board may consider late intervention

- 11.7 The Board may only consider an intervention that was submitted after the deadline date if the intervention contains information necessary for the proper adjudication of the matter and if acceptance of the new information is justified based on fairness, relevancy and reliability.



Board may seek views

- 11.8 The Board may seek views from the parties to the licence proceeding on the fairness of accepting the intervention and on relevancy and reliability of the information in the intervention submitted after the deadline date.

Board decision

- 11.9 The Board must examine the intervention and submissions of the parties to determine whether or not to accept the late intervention.

Contents of intervention

- 11.10 An intervention must include, where applicable:
- (a) the intervener's name, email address (if available), mailing address (including postal code), and telephone number and fax number (if applicable);
 - (b) a clear and detailed description of the intervener's issues and concerns;
 - (c) a copy of all supporting documents, other than public documents;
 - (d) if a notice of public hearing has been published, a clear indication of whether or not the intervener intends to appear at the public hearing and make representations;
 - (e) if a notice of public hearing has not been published and the intervener believes that holding a public hearing is in the public interest, the rationale for why the intervener believes it is in the public interest; and
 - (f) a copy of any document authorizing another person to represent the intervener.

Indigenous Knowledge

- 11.11 Where applicable, an intervention may include Indigenous knowledge that helps explain or demonstrate the issues or concerns.

Paper copies

- 11.12 Upon request by the Board, an intervener must provide to the Board an unbound paper copy of an intervention of a quality that can be reproduced by a photocopier.

Additional paper copies

- 11.13 The Board may require an intervener to provide additional paper copies of an intervention.

Electronic copies upon request

- 11.14 Upon request by the Board, an intervener must provide to the Board an electronic searchable Adobe PDF copy of an intervention.



Multiple interventions

- 11.15 A person may submit an intervention in response to a notice of application or a Board initiated licence proceeding and another intervention in response to a notice of public hearing published in respect of the same licence proceeding.

Response to intervention

- 11.16 Subject to section 11.19, a licensee or an applicant may, after an intervention is submitted, submit to the Board a written response to the intervention.

Request for information

- 11.17 After an intervention is submitted, the Board may request that an intervener provide further information, particulars or documents.

Response to intervener response

- 11.18 Subject to section 11.19, an applicant or a licensee may submit to the Board a written response to an intervener's response to a request from the Board under section 11.17.

Deadline for response prior to public hearing

- 11.19 If a public hearing will be held in relation to an application or a Board initiated licence proceeding, the applicant or licensee, as the case may be, must submit its response to interventions or its response to interveners' responses no later than 10 (ten) days prior to the date of the public hearing.

PART 12 INDIGENOUS KNOWLEDGE

Request

- 12.1 A person who wishes to submit Indigenous knowledge to the Board and who wishes for some or all of that Indigenous knowledge to be kept confidential must:
- (a) request, in writing, that the Indigenous knowledge be kept confidential;
 - (b) separate the Indigenous knowledge from any other information the person is submitting;
 - (c) include a complete statement of the Indigenous knowledge the person is requesting to be kept confidential;
 - (d) clearly explain the justification for the request; and
 - (e) include a non-confidential summary of the Indigenous knowledge with enough detail to convey a reasonable understanding of the substance of the Indigenous knowledge.



Non-confidential summary

- 12.2 If the Board decides that the non-confidential summary does not meet the requirements referred to in paragraph 12.1(e), it must notify the requestor, in writing, and specify the date by which the requestor must provide a revised non-confidential summary.

Deadline for submission

- 12.3 Notwithstanding section 12.2, if a satisfactory non-confidential summary is not submitted to the Board at least twenty (20) days prior to a public hearing, the Board must not accept a non-confidential summary.

Board may keep Indigenous knowledge confidential

- 12.4 Upon receiving a request under section 12.1, the Board may keep Indigenous knowledge confidential if, in its opinion:
- (a) the Indigenous knowledge is relevant to the licence proceeding related to which it was submitted;
 - (b) the Indigenous knowledge is not generally available from a source that is not confidential;
 - (c) disclosure of the Indigenous knowledge would result in a reasonable expectation of probable harm to a person, place or thing, or constitute a violation of the cultural value system of a First Nation; or
 - (d) the non-confidential summary referred to in paragraph 12.1(e) meets the requirements of that section.

Decision – confidential

- 12.5 If the Board decides that the Indigenous knowledge will be kept confidential, the Board must:
- (a) notify the requestor of the decision, in writing;
 - (b) not include the Indigenous knowledge on the register; and
 - (c) include the non-confidential summary on the register.

Decision – not confidential

- 12.6 If the Board decides that the Indigenous knowledge will not be kept confidential, the Board must notify the requestor of the decision, in writing.



PART 13 AMENDMENTS

Request to amend

- 13.1 A party may request to amend its application, claim for compensation, intervention or response by submitting a written request to the Board.

Board may allow amendment

- 13.2 After receiving a request under section 13.1, the Board may allow the party to submit an amendment.

Adjournment or cancellation of licence proceeding

- 13.3 If an application or a submission made under section 8.31 is amended, and the Board determines that, as a result of the amendment, the appurtenant undertaking is substantially changed, the Board may:
- (a) adjourn the licence proceeding related to that application or submission; or
 - (b) adjourn or cancel a public hearing related to that application or submission.

New notice of amended application

- 13.4 If the Board adjourns a licence proceeding under paragraph 13.3(a), it must publish a new notice of the amended application or amended submission under subsection 21(1) of the Act.

New notice of public hearing

- 13.5 If the Board adjourns a public hearing under paragraph 13.3(b), it must publish a new notice of public hearing under subsection 21(2) of the Act.

Part 11 applies

- 13.6 If a new notice is published under sections 13.4 or 13.5, Part 11 applies with such modifications as the circumstances require.

PART 14 TECHNICAL PRE-HEARING CONFERENCE

Purposes

- 14.1 A technical pre-hearing conference may be held prior to a public hearing for the following purposes:
- (a) to clarify technical issues;
 - (b) to gain a better understanding of the views of the parties; or
 - (c) to obtain further information from the parties.



Not open to the public

- 14.2 Unless the Board directs otherwise, a technical pre-hearing conference is not open to the public.

Parties to participate

- 14.3 If a technical pre-hearing conference under section 14.1 is held, the parties to the licence proceeding must be invited to participate in the conference.

Register

- 14.4 As soon as possible after a technical pre-hearing conference is concluded a transcript of the conference must be included in the register.

Amendment - applicant

- 14.5 An applicant or licensee must amend its application after a technical pre-hearing conference, if, as a result of the technical pre-hearing conference, the application no longer accurately reflects the proposed appurtenant undertaking.

Amendment – intervener

- 14.6 An intervener must amend its intervention and submit it to the Board after a technical pre-hearing conference, if, as a result of the technical pre-hearing conference, the original intervention no longer accurately represents the intervener’s issues or concerns.

PART 15 ADMINISTRATIVE PRE-HEARING CONFERENCE

Purposes

- 15.1 Prior to a public hearing, all parties may be invited to attend an administrative pre-hearing conference for the following purposes:
- (a) to clarify and, where possible, to narrow the issues;
 - (b) to explore possible admissions of facts, the proof of facts by affidavit, or the use of any public documents;
 - (c) to review the procedure to be followed at the public hearing;
 - (d) to discuss the need for an adjournment and rescheduling of the public hearing;
 - (e) to discuss the estimated duration of the public hearing; and
 - (f) to identify the need for additional information, and to determine responsibilities for the production of the information.



Directions

- 15.2 As a result of the administrative pre-hearing conference, the Chairperson may issue a direction if it is necessary to achieve a fair and efficient public hearing.

Register

- 15.3 As soon as possible after an administrative pre-hearing conference is concluded an accurate record of the conference must be included in the register.

PART 16 PUBLIC HEARING

Notice

- 16.1 If the Board holds a public hearing, the Board must publish notice of the public hearing in accordance with subsection 21(2) of the Act and on Waterline.

Chairperson to control

- 16.2 Subject to the *Conflict of Interest Rules*, the Chairperson must direct and control the conduct of a public hearing.

Directions

- 16.3 The Chairperson may issue a direction if it is necessary to achieve a fair and efficient public hearing.

Order of appearance and content of representations

- 16.4 Unless the Chairperson directs otherwise, the order of appearance of persons at a public hearing and the content of the oral representations by those persons will be as follows:
- (a) the applicant's summary of its application or licensee's summary of its submission;
 - (b) questions to the applicant or licensee from other parties, the Board and the secretariat;
 - (c) the interveners, summaries of their interventions - in the order determined by the Chairperson;
 - (d) questions to the interveners by other parties, the Board and the secretariat;
 - (e) the applicant or licensee, in response to interventions;
 - (f) questions to the applicant or licensee from other parties, the Board and the secretariat;
 - (g) closing statements by the interveners;
 - (h) representations by members of the public;



- (i) closing statement by the applicant or licensee.

Limit on questions and submissions

- 16.5 The Chairperson may limit the number of questions asked by a party and the submission made by a party if the questions or submissions are irrelevant or repetitive, do not assist the Board or are prejudicial to a fair hearing.

Limit on time

- 16.6 The Chairperson may limit the amount of time a party is given to make oral representations in order to ensure a public hearing is conducted in a timely and expeditious manner.

Representations by members of the public

- 16.7 A member of the public who is not a party to a licence proceeding may make representations at a public hearing if the member informs the secretariat prior to the beginning of closing statements.

Absence of member of the public

- 16.8 If a member of the public has informed the secretariat under section 16.7 but is not present during the public hearing when that member is scheduled to make a representation to the Board, the Board may continue with the public hearing in the absence of the representation.

Visual aids

- 16.9 Unless the Board determines otherwise, a party may use a visual aid to assist it in making representations at a public hearing.

Copies to be provided

- 16.10 Prior to relying on a visual aid, a party must provide a copy of the visual aid to the Board.

Written promise

- 16.11 During a public hearing, the Board may require, in the form of a written promise, a party to provide information to the Board.

PART 17 NEW INFORMATION DURING PUBLIC HEARING

Written explanation

- 17.1 If a party wishes to submit new information during a public hearing, the party must provide the new information to the Board, with a written explanation setting out the following:
- (a) the reason the new information could not be filed by the deadline date set out in the notice of public hearing;



- (b) a description of the new information; and
- (c) an explanation as to why the new information is relevant and reliable.

Interpretation

- 17.2 For clarity, this Part does not apply to information provided to the Board as a result of a written promise given by a party during a public hearing.

Distribution to all parties

- 17.3 The party wishing to submit new information under section 17.1 must provide copies of the new information to all parties.

Submissions by other parties

- 17.4 A party who has received the new information may make written or oral submissions to the Board and to the other parties related to whether or not the new information is relevant and reliable.

Board decision

- 17.5 The Board must examine the new information and the submissions of the parties to determine whether or not to accept the new information.

Criteria to be considered

- 17.6 In making a determination under section 17.4, the Board must consider if the new information is necessary for the proper adjudication of the matter and if acceptance of the new information is justified based on fairness, relevancy and reliability.

Opportunity to respond

- 17.7 If the Board determines that the new information is admissible, each party must be given an opportunity during the public hearing to respond to the new information.

PART 18 ADJOURNMENT

- 18.1 The Board may adjourn a licence proceeding, a security determination process, a review and approval process or a public hearing:
- (a) to ensure fairness to all parties;
 - (b) if it requests further information, particulars or documents and these cannot be obtained in time for the next sitting of the Board or for a public hearing;
 - (c) if an application, cost estimate or document submitted under Part 22 is amended, and an intervener determines that the amendment is likely to cause a significant change to its intervention;



- (d) if there has been a request for an interpreter under Part 19; or
- (e) for another reason the Board deems necessary.

PART 19 INTERPRETATION

English or French

- 19.1 A party may speak in English or French or produce documents in English or French during a licence proceeding, a security determination process, a review and approval process or a public hearing.

Language preference - technical pre-hearing conference or public hearing

- 19.2 Prior to a technical pre-hearing conference or a public hearing, the parties must advise the secretariat if they intend to speak in English or French.

Request for interpretation – technical pre-hearing conference or public hearing

- 19.3 A party may make a written request to the Board for a language interpreter or a sign language interpreter to be provided at a technical pre-hearing conference or at a public hearing.

Deadline for request

- 19.4 The request for an interpreter under section 19.3 must be made as early as possible but no later than twenty (20) days prior to the date of a technical pre-hearing conference or the date of a public hearing, as the case may be.

Reasonable efforts

- 19.5 The Board will make reasonable efforts to provide an interpreter upon request.

PART 20 REGISTER

- 20.1 The following information must be included in the register:

- (a) information submitted under sections 8.3, 8.4, and 8.5;
- (b) submissions made under section 8.31;
- (c) interventions submitted under Part 11;
- (d) non-confidential summaries of Indigenous knowledge submitted under paragraph 12.1(e);
- (e) claims for compensation submitted under Part 10;
- (f) the information, particulars or documents submitted in response to an information request made under sections 8.7, 8.13, 11.17, 21.6 or 22.3;



- (g) responses to intervener's responses made under section 11.18;
- (h) amendments allowed under section 13.2;
- (i) transcripts of technical pre-hearing conferences;
- (j) records of administrative pre-hearing conferences;
- (k) to the extent possible, copies of visual aids used during public hearings;
- (l) new information determined admissible under Part 17;
- (m) transcripts of public hearings;
- (n) cost estimates submitted under Part 21;
- (o) documents submitted under Part 22;
- (p) orders issued by the Board; and
- (q) decisions of the Board.

PART 21 SECURITY DETERMINATION PROCESS

Order

- 21.1 The Board may, by order, require an applicant for a licence, a licensee or a prospective assignee of a licence to furnish and maintain security under section 15 of the Act.

Not open to the public

- 21.2 Unless the Board directs otherwise, Board deliberations in respect of an order for security are not open to the public.

A. Licensee

Notice to licensee

- 21.3 Other than in cases where a licensee submits a cost estimate under a licence condition, if the Board determines that it will examine whether or not to require a licensee to furnish and maintain security under section 15 of the Act, the Board must:
- (a) give written notice to the licensee that the Board is examining the requirement for security; and
 - (b) set out the deadline by which a licensee must submit a cost estimate.

Cost estimate to be submitted

- 21.4 If the Board gives notice to a licensee under section 21.3, the licensee must submit a cost estimate in relation to the restoration or closure of the appurtenant undertaking in accordance with applicable Board guidelines.



Deadline for submission

- 21.5 The licensee's cost estimate must be submitted to the Board within the time period specified by the Board.

Adequacy

- 21.6 Upon the submission of a cost estimate, the secretariat must determine if the cost estimate is adequate by examining whether it is clear, accurate and contains the information required under section 21.4.

Secretariat may require information

- 21.7 If the secretariat determines that the estimate is not adequate, the secretariat may require a licensee, in writing or in person, to provide further clarity, accuracy, information, particulars or documents.

Technical workshop

- 21.8 Following the submission of a cost estimate and prior to making a determination of adequacy under section 21.6, the secretariat may hold a technical workshop for the following purposes:
- (a) to clarify technical issues; or
 - (b) to obtain further information.

Not open to the public

- 21.9 A technical workshop is not open to the public.

Licensee to provide information

- 21.10 A licensee must provide the clarifications, accuracies, information, particulars or documents requested under section 21.7 to the satisfaction of the secretariat.

Board decision – Information not provided

- 21.11 If an applicant does not provide the clarifications, information, particulars or documents requested under section 21.7 to the satisfaction of the secretariat, the secretariat must seek a decision from the Board on the matter.

Board decision or public comment

- 21.12 Once the secretariat determines that the cost estimate is adequate, the Board may
- (a) make a determination on whether or not to require the licensee to furnish and maintain security and, if the Board so requires, the amount of security to be furnished and maintained;



- (b) publish notice in the manner set out in section 21(1) of the Act and on Waterline; or
- (c) seek comments from the parties who intervened in the initial licence proceeding.

Published notice

- 21.13 If the Board publishes notice under paragraph 21.12(b), Part 11 applies with such modifications as the circumstances require.

Seeking comments - deadline

- 21.14 If the Board seeks comments under paragraph 21.12(c), the Board must set a deadline date by which comments must be received.

Extension – exceptional circumstances

- 21.15 The Board may only extend the deadline date specified under section 21.14 in exceptional circumstances.

Response to comments

- 21.16 If comments have been submitted under a request under paragraph 21.12(c), a licensee may submit to the Board a written response to the comments.

Board decision

- 21.17 Subject to section 21.18, after reviewing a cost estimate the Board may
- (a) ask the licensee for further clarifications, information, particulars or documents;
 - (b) require the licensee to furnish and maintain security;
 - (c) determine that no security is required; or
 - (d) determine that an amendment to the licence to which the cost estimate relates is required.

Comments to be considered

- 21.18 If the Board has published noticed under paragraph 21.12(b) or sought comments under paragraph 21.12(c), the Board must take the comments submitted into consideration when making a decision under section 21.17.



B. Applicant for licence or prospective assignee

Quartz mining undertaking

- 21.19 Along with its application to the Board, an applicant for a licence in respect of a quartz mining undertaking must submit a cost estimate in accordance with the *Reclamation and Closure Planning for Quartz Mining Projects: Plan Requirements and Closure Costing Guidance*.

Notice – other than quartz mining undertaking

- 21.20 In a case other than an application in respect of a quartz mining undertaking, if the Board determines that it will examine whether or not to require an applicant for a licence, an amendment or renewal of a licence or a prospective assignee of a licence to furnish and maintain security under section 15 of the Act, the Board must
- (a) give written notice to the applicant or prospective assignee that the Board is examining the requirement for security; and
 - (b) set out the deadline by which the applicant or prospective assignee must submit a cost estimate.

Cost estimate to be submitted

- 21.21 If the Board gives notice under section 21.20, the applicant or prospective assignee must submit a cost estimate in relation to the restoration or closure of the appurtenant undertaking in accordance with applicable Board guidelines.

Deadline for submission

- 21.22 The applicant's or prospective assignee's cost estimate must be submitted to the Board within the time period specified by the Board under paragraph 21.20(b).

Sections 21.6-21.18 apply

- 21.23 Upon the submission of a cost estimate pursuant to a notice issued under section 21.20, sections 21.6 to 21.18 apply with such modifications as the circumstances require.

PART 22 REVIEW AND APPROVAL PROCESS

Submission

- 22.1 If the Board has included a condition in a licence that requires a licensee to submit a document for review and approval by the Board, the licensee must submit:
- (a) the document in accordance with the licence condition;
 - (b) an explanation of how the document fulfills the requirement of the licence condition; and



- (c) a detailed description of:
 - (i) a new document; or
 - (ii) revisions to an existing document.

Adequacy and YESAA decision document preliminary review

- 22.2 Upon the submission of a document for review and approval, the secretariat must determine if the document is adequate by examining the document to determine if it
- (a) is clear, accurate and contains the information set out in section 22.1; or
 - (b) reveals a change to the appurtenant undertaking such that the applicable YESAA decision document no longer allows the appurtenant undertaking to proceed.

Secretariat may require information

- 22.3 If the secretariat determines that the document does not meet the criteria set out in paragraph 22.2(a), the secretariat may require a licensee, in writing or in person, to provide further clarity, accuracy, information, particulars or documents.

Licensee to provide information

- 22.4 A licensee must provide the clarifications, accuracies, information, particulars or documents requested under section 22.3 to the satisfaction of the secretariat.

Board decision – Information not provided

- 22.5 If an applicant does not provide the clarifications, information, particulars or documents requested under section 22.3 to the satisfaction of the secretariat, the secretariat must seek a decision from the Board on the matter.

Board decision - YESAA decision document

- 22.6 If the secretariat believes that the document meets the criteria set out in paragraph 22.2(b), the secretariat must seek a decision from the Board on the matter.

Board decision or public comment

- 22.7 If a document is determined to be adequate by the secretariat, the Board may
- (a) make a decision under section 22.12;
 - (b) publish notice of the document in the manner set out in section 21(1) of the Act and on Waterline; or
 - (c) seek comments on the document from the parties who intervened in the initial licence proceeding.



Published notice

- 22.8 If the Board publishes notice under paragraph 22.7(b), Part 11 applies with such modifications as the circumstances require.

Seeking comments - deadline

- 22.9 If the Board seeks comments under paragraph 22.7(c), the Board must set a deadline date by which comments must be received.

Extension – exceptional circumstances

- 22.10 The Board may only extend the deadline date specified under section 22.9 in exceptional circumstances.

Response to comments

- 22.11 If comments have been submitted under a request made under paragraph 22.7(c), a licensee may submit to the Board a written response to the comments.

Board decision

- 22.12 Subject to section 22.13, after reviewing a document the Board may
- (a) approve the document as submitted;
 - (b) ask the licensee for further clarifications, information, particulars or documents;
 - (c) require the licensee to make changes to the document;
 - (d) hold a public hearing under section 19(1) of the Act; or
 - (e) determine that an amendment to the licence to which the document relates is required.

Comments to be considered

- 22.13 If the Board has published noticed under paragraph 22.7(b) or sought comments under paragraph 22.7(c), the Board must take the comments submitted into consideration when making a decision under section 22.12.