

NIRB REGULATORY IMPROVEMENT INITIATIVES

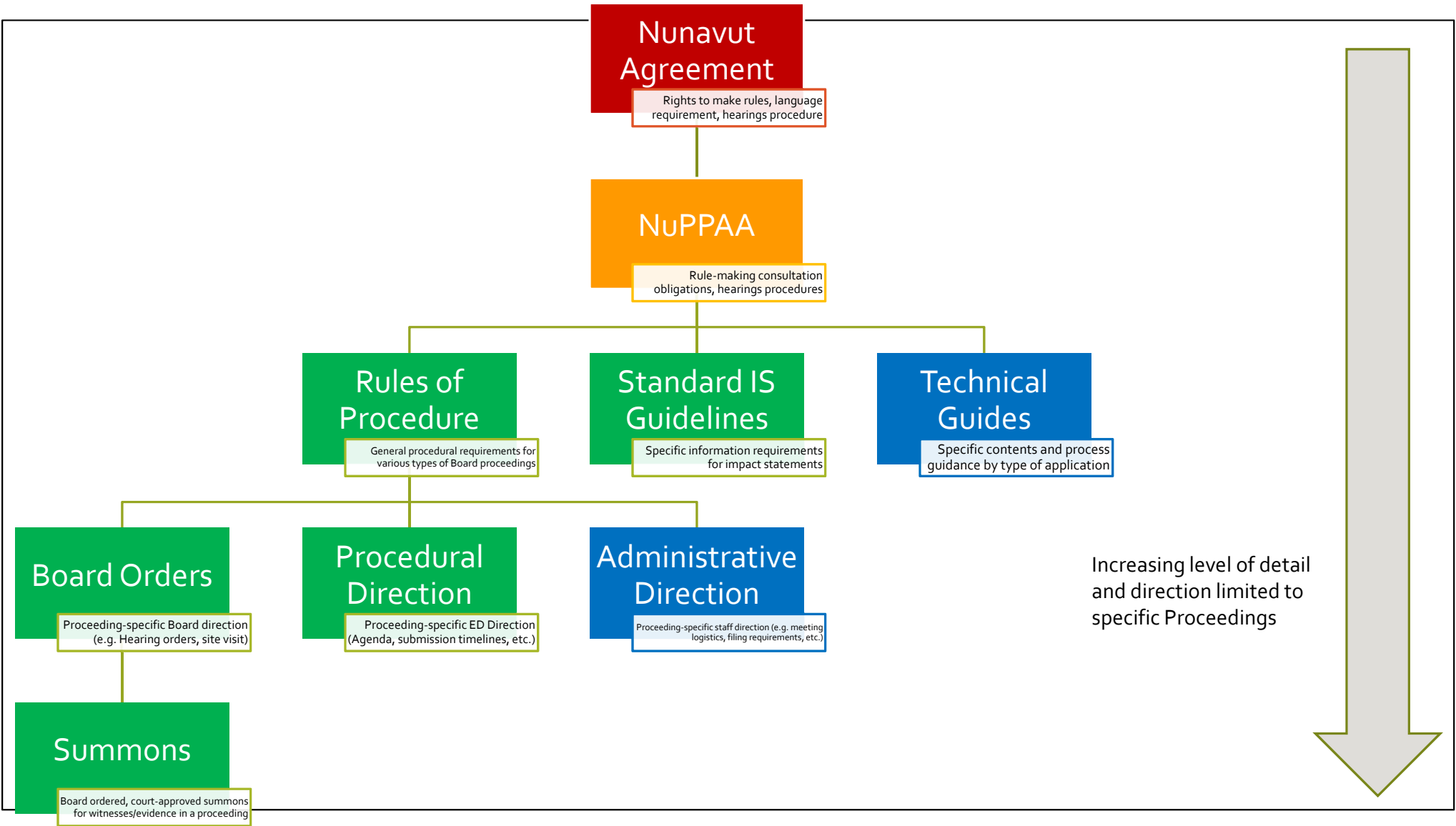
*Update on Development of new Rules of Procedure
and Standard Impact Statement Guidelines*



*NWT/NU Chamber of Mines, Iqaluit, April 2, 2019
Nunavut Impact Review Board*

What is being updated?

- ***Draft Rules of Procedure:*** detail how proceedings will be conducted by the NIRB for assessments and project monitoring, and how further direction and guidance is provided when required
- ***Draft Standard Impact Statement Guidelines:*** instructions to Proponents on how to prepare the information required (i.e. an impact statement) to support a NIRB Review of a project proposal



Rules of Procedure

- **2009 Version:**

- Address *Nunavut Agreement* requirements only
- Focus on conduct of public hearings
- Some items no longer reflect current practices

- **2019 Draft:**

- Address requirements of *Nunavut Agreement* and *NuPPAA*
- Expanded focus on all NIRB proceedings
- Reflect updated processes (e.g. community roundtables)
- Clarify what direction can come from Board vs. Staff

Rules of Procedure

- Updates intended to reflect:
 - NIRB's increasing experience with different types of assessments (e.g. phased development and Strategic EA) and the resulting need for greater procedural flexibility and "scalability"
 - NIRB's emerging best practices with respect to community involvement;
 - Broadening the scope to apply to a range of Board "proceedings" rather than being limited to NIRB Public Hearings only
 - The NIRB's electronic registry and moving away from exchange of hard copy documents
 - Reorganization to address distinctions between file administration/logistical direction (addressed by staff and Executive Director) and substantive procedural matters (addressed by the Board)

Impact Statement Guidelines

- **Project-specific Guidelines**

- NIRB is required to issue project-specific guidelines to Proponent during the Review of a proposal
 - Unless project proposal can, in the opinion of NIRB, be accepted as an impact statement

- **Standard Guidelines**

- Allow Proponents to develop an impact statement before a Screening commences
 - Reduce time required for developing project-specific guidelines during NIRB Reviews

Standard Impact Statement Guidelines

- New guidelines introduced to:
 - Clarify for all participants in the assessment process what information is expected to be included in an Impact Statement
 - Focus public engagement when developing project-specific guidelines
 - Ensure that translation and public engagement requirements of IS Guidelines under *NuPPAA* can be met;
 - Allow more focused project/industry-specific guidance to supplement Standard IS Guidelines.

Key Features of Standard IS Guidelines

- Proponents will be bound by the Standardized IS Guidelines at a minimum (may be supplemented by project-specific/industry-specific information requirements upon request or if the NIRB considers it necessary)
- Guidelines describe the required content and approach to developing Impact Statements and addressing issues like cumulative effects and expected treatment of Inuit Qaujimajatuqangit
- After this general consultation on the Standardized IS Guidelines, NIRB will conduct consultations and provide additional translations only on the supplementary project-specific/industry-specific requirements
- Cross-referencing of NIRB Guide to Terminology and Definitions

Key Features of Standard IS Guidelines

- Any party who has prepared an Impact Statement in Nunavut over the last 3-5 years will be familiar with the approach and the content of the Standardized Impact Statement Guidelines as this version captures the best practices that the NIRB has developed with each assessment
- Once adopted, these Guidelines should enable Proponents to submit an Impact Statement in final form, rather than having the assessment analyze first a Draft IS and then Final IS

Process so far

- Dec. 6 2018: Draft documents circulated with invitation for feedback
 - All documents provided in English, Inuktitut, French & Inuinnaqtun
 - Notice published in Nunatsiaq News
 - Documents posted online at NIRB's website
 - Letters circulated to required parties
 - Offer of directed engagement sessions provided
- Jan. 30 2019: Industry engagement session
- Mar. 15 2019: Comment period closed
 - Request for extension to deadline and additional engagement
 - All comment submissions available online from the NIRB website

Feedback Received

Nunavut Tunngavik Incorporated

Kivalliq Inuit Association

Qikiqtani Inuit Association

Government of Nunavut

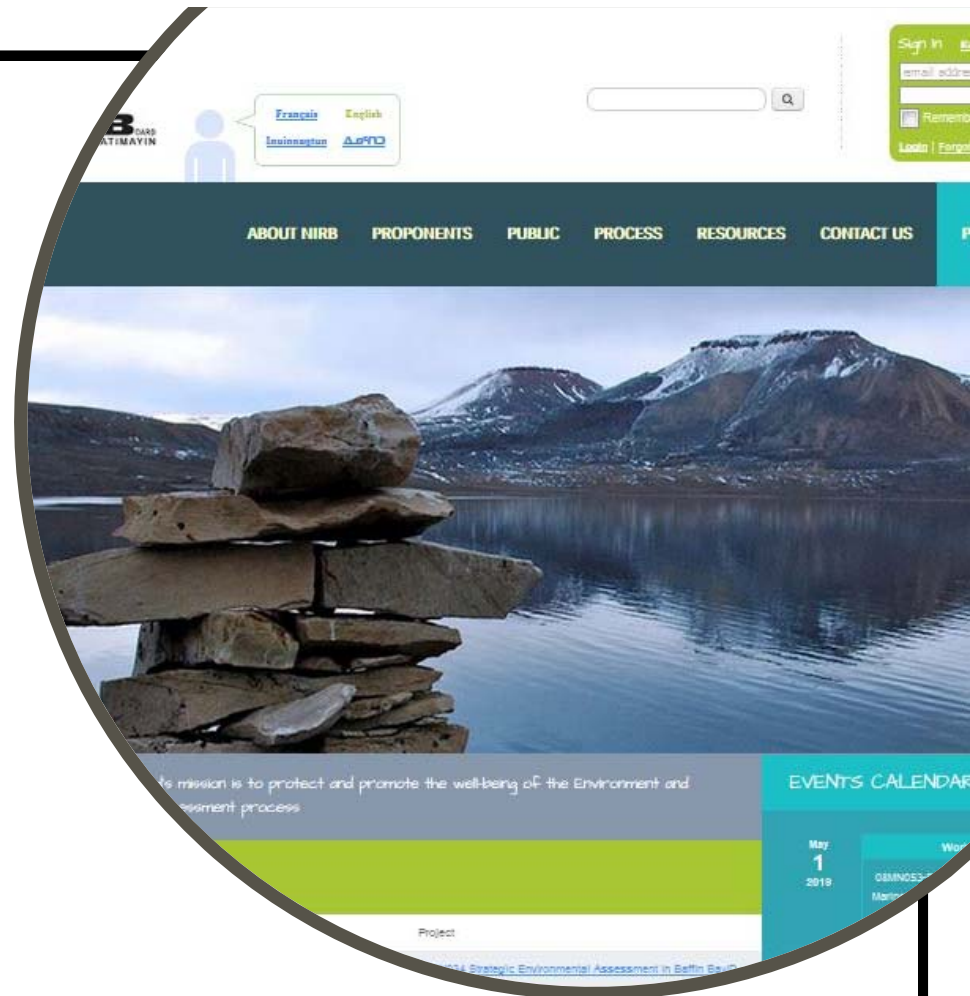
Government of Canada

Government of the Northwest
Territories

Agnico Eagle Mines Limited

TMAC Resources Incorporated

Baffinland Iron Mines Corporation



www.nirb.ca/rules-of-procedure

What we've heard

- Support for the initiative
- Recommendations for specific updates for additional clarity
- Explain factors considered when Board exercises discretion
- Advice on treatment of Inuit Qaujimagatuqangit and specific issues (e.g. food security, sustainable development)
- Clarify applicability for transboundary participants
- Have documents reflect process flexibility for different types of assessments
- Establish process for addressing extension requests and consequences for missed deadlines
- Clarify factors influencing coordination with Nunavut Water Board
- Clarify level of detail for various information requirements

Key Themes from Comments

- All Parties:
 - Supportive of updates to reflect implementation of *NuPPAA*, phased development and coordinated process requirements
 - More express references should be included to emphasize that both adverse and beneficial effects should be assessed
 - Information Request (IR) processes should be more clearly explained for all parties (e.g. how does the Board identify IRs that require responses and those that do not)
 - Where the Board has reserved discretion for itself, there should be some indication of the factors that will inform the Board's exercise of discretion or alternatively there should be a requirement that the Board provide a written decision outlining the Board's reasoning
 - There should be a process set out to govern extension requests/adjournment requests and providing some indication of consequences for failing to comply with established timelines
 - Increased level of detail to guide the assessment of socio-economic effects is required to ensure socio-economic factors are fully considered

Key Themes from Comments

- Government/Authorizing Agencies:
 - Greater attention and updated definitions of Inuit Qaujimajatuqangit and non-Inuit Traditional or Community Knowledge should be included to reflect developing best practices and involvement of transboundary indigenous groups
 - Food security should be expressly listed in the socio-economic issues to be included in the assessment
 - More clearly address the effects of commitments made during NIRB processes (including outlining consequences for failing to meet commitments)
 - Reference availability of site visit funding for Community Representatives
 - More express references should be included throughout the documents regarding application to transboundary participants... e.g. governments, Indigenous groups, etc.

Key Themes from Comments

- Government/Authorizing Agencies (cont'd):
 - The definition of project proposal from the *Nunavut Agreement* is not necessary to include and confusing
 - Question the need for reference to pre-*NuPPAA* projects and transition provisions
 - Clarity regarding participation rights of “parties”, Intervenors, Authorizing Agencies and members of the public should be given
 - The NIRB should make the conformity assessment/completeness of the Impact Statement determination more open to parties to weigh in regarding whether the information submitted is adequate for the stage of the assessment
 - Suggest addition to the IS Guidelines to provide information regarding the contribution of a project to sustainable development

Key Themes from Comments

- Industry:
 - More express mechanisms should be included throughout the documents to make them scalable (i.e. how/where would the current process and information requirements be reduced/streamlined to deal with a reconsideration rather than completely new project?)
 - Increase clarity around the options for coordinated NIRB/NWB processes, including what factors influence the NIRB/NWB determinations about the appropriate level of coordination and the decisions to stop the coordinated process
 - Increase clarity around the expectations of the Board in relation to a Proponent's handling of "future development" in the IS Guidelines (e.g. what is the level of detail required, how this information about future plans can/should affect the project/phase under assessment, etc.)
 - Clarity regarding contents and level of details of required plans should be better spelled out in IS Guidelines

Process to come

- **April-May 2019:** conduct directed engagement sessions with parties who have requested further opportunities for discussion or have not provided feedback yet
- **June 2019:** revise the draft documents to reflect the input received to date and the direction from the Board.
- **July 2019:** issue final drafts for comment, with a table outlining the feedback received and the Board's responses
- **July-September 2019:** 60 days for interested parties to submit comments on the revised drafts
- **October 2019** finalize documents with consideration for feedback received
- **November 2019:** Issue notice in Canada Gazette re Final ROP and IS Guidelines, issue table outlining the feedback received and the Board's responses
- **January 2020:** new Rules Of Procedure and Standard Impact Statement Guidelines come into effect

How to get involved

- NIRB is encouraging feedback from all interested groups or individuals
- Open to requests for directed engagement session (in person or teleconference)
- All materials and comments received to date are available online:
 - www.nirb.ca/rules-of-procedure
- Send comments in by email, fax or regular mail

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