



ENVIRONMENTAL IMPACT SCREENING COMMITTEE

RULES OF PROCEDURE

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Introduction

The mandate of the Environmental Impact Screening Committee (Screening Committee) is to conduct environmental impact screenings in accordance with sections 11 through 13 of the Inuvialuit Final Agreement (IFA). Pursuant to section 11(14) of the IFA, the Screening Committee may establish and adopt bylaws and rules for its internal management and procedures in order to ensure the reasonable and expeditious consideration of applications.

These Rules of Procedure (“Rules”) apply to the proceedings of the Screening Committee for environmental screenings pursuant to the IFA. They are intended to guide the EISC as it conducts environmental impact screenings in a manner that is procedurally fair and transparent and meets the objectives of the IFA. The Rules are intended to be a living document and will be regularly reviewed and revised as needed.

Any word or term defined in the IFA has that same meaning when used in these Rules. In the event of any consistency between the IFA and these Rules, the IFA shall apply.

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1 General

This Part applies to all aspects of the proceedings of the Environmental Impact Screening Committee.

1.1 Definitions

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

“Chair” means the Chairperson of the Environmental Impact Screening Committee.

“clarification” means the process by which the Screening Committee seeks an explanation of any document or information which is on the record without seeking new evidence or information in a proceeding.

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

“Coordinator” means a staff person to the Screening Committee designated as such.

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

“development” means

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

“direction on procedure” means a direction issued by the Screening Committee at any time in a proceeding.

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



“Environmental Impact Screening Committee” (“Screening Committee”) means the body established pursuant to s 11.5 of the IFA.

“environmental screening” means an examination of a project description undertaken by the Screening Committee pursuant to subsection 11(1) of the IFA.

“environmental review” means an examination of a proposal for a development undertaken by the Review Board established pursuant to section 11(22) of the IFA.

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

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

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

“information request” means a written request for information or particulars issued to a party to a proceeding under the authority of the Screening Committee in the course of an environmental screening.

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

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

“Inuvialuit Final Agreement” (“IFA”) means the agreement signed by the Government of Canada and the Inuvialuit on June 5, 1984, as approved by the Parliament of Canada in 1984 pursuant to the *Western Arctic Claims (Inuvialuit) Settlement Act*, and as amended from time to time.

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



“member of the public” means a person or organization other than a party, who is permitted to participate in an environmental screening.

“other uses” means activities described in s.12(3)(b) and (c) of the IFA.

“panel” means those members of the Screening Committee based on the provisions of the IFA, assigned to participate in an environmental screening.

“party” means Inuvialuit and Inuvialuit organizations and communities, the developer, authorizing authorities, government departments, co-management organizations, and other individuals and organizations are granted party status by the Screening Committee to participate in a proceeding.

“proceeding” means an environmental screening, or any part thereof and any process resulting in a determination by the Screening Committee during an environmental screening, but does not include a business meeting of the Screening Committee.

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

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

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

“record” means all admissible and relevant documents submitted to the Screening Committee during a proceeding from the time the project description is accepted until a screening decision is made.

“registry” means the paper copy or the electronic copy of the record of documents established by the Screening Committee which contains all of the documents on the record of a proceeding.

“request for a ruling” means a written request by a party for a ruling or order in a proceeding.

“Review Board” or “EIRB” means the Environmental Impact Review Board established pursuant to subsection 11(22) of the IFA.



“Rules” means these Rules of Procedure.

“ruling” means a decision or order made by the Screening Committee in response to a request for a ruling or in an oral hearing

“Screening Committee” means the Environmental Impact Screening Committee established pursuant to s. 11(5) of the *IFA*, and includes a screening panel thereof.

“significant negative impact” is a determination made by the Screening Committee following its assessment of the implications of a development on the environment and on Inuvialuit harvesting in accordance with Appendix D of the Rules of Procedure.

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

“traditional knowledge” means the knowledge, innovations and practices of the Inuvialuit and other Indigenous peoples embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and the maintenance of their cultures.

1.2 Application of the Rules

1.2.1 These Rules apply to all proceedings pursuant to *IFA* sections 11, 12 and 13.

1.3 Interpretation and Variation of Rules

1.3.1 Consistent with the *IFA* and the principles of natural justice and procedural fairness, the Screening Committee may liberally construe and vary these Rules in order to result in a just, expeditious and fair decision on any matter before the Screening Committee.

1.3.2 Where any matter of procedure is not provided for by these Rules, the Screening Committee may, at any time, issue such direction on procedure to supplement these Rules as it considers necessary for the fair determination of an issue.

1.3.3 The Screening Committee may on its own motion dispense with or vary any part of these Rules that it considers necessary for the fair determination of an issue.

1.3.4 The Screening Committee may, on a request from a party, issue a direction on procedure that it considers necessary for the fair determination of an issue.

1.3.5 Where there is a conflict between any Rule and any direction on procedure issued by the Screening Committee, the direction on procedure prevails over the Rule.

1.3.6 The *IFA* prevails over any Rule or direction on procedure.



- 1.3.7 Where reference is made in any direction on procedure to a number of days, it will mean calendar days. Where a time fixed falls on a statutory holiday or a Saturday or a Sunday, the time fixed shall extend to the following business day.
- 1.3.8 The Screening Committee may, in its discretion, vary any time period prescribed for any action to be taken in an environmental screening proceeding, subject to any conditions the Screening Committee may impose.
- 1.3.9 No proceeding is invalid by reason only of a defect or other irregularity in form.
- 1.3.10 In conducting a proceeding, the Screening Committee is not bound by the strict rules of evidence.
- 1.3.11 To the extent consistent with its duty of procedural fairness, the Screening Committee will emphasize flexibility and informality in the conduct of its proceedings and in the manner in which it receives information or documents.

1.4 Traditional and Local Knowledge

- 1.4.1 In the application of these Rules to its proceedings the Screening Committee shall to the extent consistent with the principles of natural justice and procedural fairness, emphasize flexibility and informality, and, specifically:
- (i) allow, where appropriate, the admission of evidence that would not normally be admissible under the strict rules of evidence;
 - (ii) give due regard and weight to the tradition of Inuvialuit and of other Indigenous peoples' oral communication and decision-making;
 - (iii) ensure that local knowledge is considered; and
 - (iv) ensure that traditional knowledge is considered and given weight equal to other sources of information in proceedings.

1.5 Form of Communication Prior to the Start of a Proceeding

- 1.5.1 Unless the Screening Committee directs otherwise, all procedural steps and requests by a party to be dealt with in advance of an environmental screening shall be dealt with in writing. Such documents may be sent attached to an e-mail directed to the Coordinator.

1.6 The Record and Privacy Matters

- 1.6.1 The record in environmental screening proceedings is opened when the developer completes the on-line questionnaire for environmental screening. The record is closed at the time set by the Screening Committee in its direction on procedure and before a decision is made. The record forms part of the Screening Committee registry.
- 1.6.2 No new information will be accepted for consideration in a proceeding after the record has been closed. However, the Screening Committee may reopen the record on its own motion or in response to a request for a ruling.



- 1.6.3 The Screening Committee may, upon notice to the parties, make appropriate arrangements to seek clarification of any evidence or information on the record without causing the record to be re-opened.
- 1.6.4 The Screening Committee is subject to the *Access to Information and Protection of Privacy Act*, S.N.W.T. 1994, c. 20, as amended from time to time.
- 1.6.5 All admissible and relevant documents received during a proceeding shall be placed on the record unless a request for a ruling to protect the confidentiality of information is filed with and approved by the Screening Committee pursuant to s. 1.6.8, below.
- 1.6.6 If a party wants to protect confidential information contained in its submissions, it must submit a request for a ruling to the Screening Committee.
- 1.6.7 The Screening Committee shall notify parties of a request for a ruling involving the filing of confidential information and shall deal with any issues that arise as the Screening Committee deems appropriate.
- 1.6.8 The Screening Committee may protect information of a confidential or sensitive nature, including matters involving security, business, personal or proprietary interests, or traditional knowledge. The Screening Committee may make a ruling to limit the introduction of or to prevent the disclosure of such information.
- 1.6.9 All admissible and relevant information received by the Screening Committee from the time the record is opened until the closing of the record by the Screening Committee shall be considered by the Screening Committee in reaching its decision.
- 1.6.10 If, after an environmental screening proceeding, further examination of a proposed development by way of an environmental review is ordered, the Screening Committee shall provide a copy of the record from the environmental screening proceeding to the Review Board or to the government agency which will perform the environmental impact review.

1.7 Requests for a Ruling

- 1.7.1 Requests for a ruling may only be made for legal and procedural issues.

Any legal or procedural issue raised by a party to a proceeding that requires a ruling from the Screening Committee must be brought to the Screening Committee's attention by way of a written request for a ruling. The request must include a clear, concise statement of the relevant facts, an indication of the ruling being sought and the reasons why the ruling should be granted.
- 1.7.2 All requests for a ruling must be filed with the Coordinator. The Coordinator shall ensure that a copy of the request for a ruling is placed on the record and shall notify the parties no later than twelve (12) days before the Screening Committee plans to consider the request for a ruling.
- 1.7.3 A party wishing to respond to a request for a ruling must provide a written response and supporting documents to the Coordinator no less than (7) days before the request for a ruling is scheduled to be heard by the Screening Committee. The Coordinator



shall ensure that copies of the responses are placed on the record established for the proceeding for the parties to access four (4) days before the Screening Committee considers the request for a ruling.

- 1.7.4 The process used to make a decision on a request for a ruling shall be at the Screening Committee's discretion.

1.8 Burden of Proof and Questioning of Parties in Proceedings

- 1.8.1 Any party or member of the public seeking to establish any point or position in a proceeding bears the burden of proof and the responsibility to introduce information or evidence to support their position.
- 1.8.2 Any party which provides evidence in a proceeding is subject to questioning in the proceeding. In a written proceeding questions will be presented to the party in written format.

1.9 Information Requests

- 1.9.1 The Screening Committee may seek information from any party at any time during the proceeding by way of a written information request ("IR").
- 1.9.2 A party may seek information within the first 35 days of the proceeding from another party in the form of an IR.
- 1.9.3 A party requesting an IR must submit the request to the Screening Committee for approval using the IR instructions set out in Appendix C of these Rules.
- 1.9.4 If an IR is approved, the Screening Committee shall transmit the IR to the party from which information is being requested. Copies of all approved IRs will be placed on the registry.
- 1.9.5 The party to whom the IR is directed must respond to the Screening Committee in writing within the time limits imposed by the Screening Committee.
- 1.9.6 Upon receipt of the party's response, the Screening Committee shall place the response to the IR on the record. All parties shall immediately be notified by the Screening Committee that the IR response can be found on the record.
- 1.9.7 The Screening Committee may vary the timelines in a proceeding to allow the parties to consider and respond to any new information submitted in a response to an IR.

1.10 Non-Compliance with these Rules

- 1.10.1 Where a party fails to comply with these Rules or to a direction on procedure issued by the Screening Committee, the Screening Committee may:
- Adjourn the environmental screening until satisfied that the Rule or direction on procedure has been complied with; or
 - Take such other steps as it considers just and reasonable.



2 Environmental Impact Screening Committee

2.1 Establishment of the Screening Committee

- 2.1.1 The Screening Committee and its composition are established pursuant to S.11(5) to 11(7) of the *IFA*. Operational specifics are set out in s. 11, 12, and 13 of the *IFA*.

2.2 Mandate and Role of the Screening Committee

- 2.2.1 The mandate of the Screening Committee is to conduct environmental impact screenings in accordance with s. 11, 12 and 13 of the *IFA*. Section 11(14) allows the Screening Committee to establish and adopt bylaws and rules for its internal management and procedures in order to ensure reasonable and expeditious consideration of applications.
- 2.2.2 The Screening Committee is responsible for the environmental impact screening process established pursuant to the *IFA*. The goal of the environmental impact screening process is to ensure that proposed developments in the Inuvialuit Settlement Region do not cause a significant negative impact on the environment, wildlife, wildlife productivity or on Inuvialuit harvesting.

3 Projects Considered for Screening

- 3.1.1 Two types of projects are considered for screening: “developments”, and in the case of the Yukon North Slope, “other uses”.
- 3.1.2 “Other use” projects are considered by the Screening Committee pursuant to s. 12(3)(b) and (c) of the *IFA*. The Yukon North Slope falls under a special conservation regime whose primary purpose is the “conservation of wildlife, habitat and traditional native use”.
- 3.1.3 Developments and “other use” projects are subject to the environmental screening process described in section 5 of these Rules.

4 The Pre-screening Process

The pre-screening process is an administrative function which has been established to determine whether a project is subject to screening or can be exempted pursuant to the Exclusion List (Appendix A of the Screening Guidelines), or for other reasons identified in s.11(2) of the *IFA*.

4.1 Exclusion List

- 4.1.1 Section 11(2)(c) of the *IFA* states that an environmental impact screening is not required for proposed developments that are exempt from screening pursuant to an exclusion list developed by the Screening Committee. The Exclusion List includes



proposed developments that in the opinion of the Screening Committee are deemed not to have the potential to cause a significant negative environmental impact, or a significant negative impact on wildlife harvesting by Inuvialuit.

- 4.1.2 Notwithstanding the fact that a type of development is listed on the exclusion list, Inuvialuit may request an environmental screening of an otherwise exempt project pursuant to subsection 11(1)(c) of the *IFA*.
- 4.1.3 The Screening Committee may also decide, on its own motion that a proposed development of a class or type that is set out on the Exclusion List shall be subject to an environmental screening in certain circumstances. The Screening Committee shall provide reasons for its decision to screen a project that is otherwise on the Exclusion List.

4.2 Pre-Screening Committee

- 4.2.1 To meet the commitments of the *IFA* and to ensure reasonable and expeditious consideration of applications, the Screening Committee has established a pre-screening committee (PSC). The PSC reports directly to the Screening Committee and is representative of the mandated structure of the Screening Committee. All members are encouraged to participate, and the Chair becomes involved only when needed to enable the PSC to reach a decision. At a minimum, a PSC shall consist of three members representative of the Screening Committee.

4.3 The Role of a Pre-Screening Committee

The pre-screening function is administrative and is required to determine whether a particular application is a development as defined in the *IFA*, and if so, whether it is exempt from screening. The role of a PSC is to conduct the pre-screening process and to determine whether or not a project proposal requires an environmental impact screening.

4.4 The Pre-Screening Process

- 4.4.1 All developers must complete an on-line questionnaire that officially registers the project on the Screening Committee public registry and describes the activities associated with the proposed project. The Coordinator reviews the project summary questionnaire (PSQ) to determine if it is complete for the purposes of pre-screening and if so, refers the file to a PSC.
- 4.4.2 Members of the designated PSC review the PSQ to determine if they have enough information to make a decision. If they do not, they communicate their specific information needs to the Coordinator with a copy to the other PSC members. The Coordinator will contact the developer or other appropriate parties to obtain the sought-after information and will advise all PSC members when the information is



obtained. Members then submit their decision forms within seven (7) days, clearly indicating their reasons for decision, to the Coordinator and the Chair.

4.5 The Pre-Screening Decision

4.5.1 In reaching a decision, the PSC has the following options:

- a) If the project is defined as development and not exempt from screening then it is subject to an environmental impact screening;
- b) If the project is defined as development and exempt from screening then it is not subject to an environmental impact screening;
- c) If the project is located on the Yukon North Slope and defined as an “other use” pursuant to s. 12(3)(b) of the *IFA* and is not exempt from screening then it is subject to an environmental impact screening;
- d) If a project is located on the Yukon North Slope, defined as an “other use” pursuant to s. 12(3)(b) of the *IFA*, and is exempt from screening then it is not subject to an environmental impact screening.
- e) Pursuant to 4.1.2 and 4.1.3 above, the PSC may determine that a project otherwise exempt from screening should be referred to screening.

4.5.2 The Coordinator reviews the PSC decisions, determines whether there is consensus and, if necessary, facilitates discussions toward resolution. If consensus is achieved the Chair will direct the Coordinator to promptly prepare and issue a decision letter. If consensus is not achieved, the Chair will refer the file to the full Screening Committee for further consideration.

4.5.3 If a consensus decision is achieved by the PSC pre-screening decision, that decision is formally ratified at the next Screening Committee meeting. In cases where consensus was not achieved and the file has been referred to the full Screening Committee, the Screening Committee will review the file and work toward a consensus decision at its next meeting. If a consensus decision is not achievable then a decision will be made by majority vote. The Chair will vote only in the case of a deadlock.

5 The Environmental Impact Screening Process

Pursuant to the *IFA*, the Screening Committee is required to consider:

- whether a proposed development could have a significant negative environmental impact (*IFA* subsections 11(17) and 12(3)(a));
- whether any development of consequence that is likely to cause a negative environmental impact, could have a significant negative impact on present or future wildlife harvesting by Inuvialuit (*IFA* subsection 13(7));
- whether other uses on the Yukon North Slope could have a significant negative impact on wildlife, habitat or Inuvialuit harvesting [*IFA* subsection 12(3)(b)];
- whether other uses on the Yukon North Slope that may have a significant negative impact on wildlife, habitat or native harvesting should be permitted if it is decided that



public convenience and necessity outweigh conservation or native harvesting interests in the area [IFA subsection 12(3)(c)].

5.1 Parties to Screening Committee Proceedings

- 5.1.1 The following entities are automatically included on the Screening Committee's distribution list and are automatically parties to a proceeding:
- the developer proposing the development under consideration;
 - relevant government agencies, government departments and other Inuvialuit co-management organizations;
 - relevant Inuvialuit organizations;
 - Inuvialuit communities;
 - any authority competent to authorize the development in the Inuvialuit Settlement Region.

It is the responsibility of the parties to ensure that the Screening Committee has their current contact information.

- 5.1.2 Any entities not automatically parties to a proceeding which wish to be a party must apply to the Screening Committee for party status by completing and submitting a request according to the instructions in Appendix B of this document.
- 5.1.3 The Screening Committee will make its decision expeditiously on a request for party status and adjust its distribution list accordingly.

5.2 Contacting the Screening Committee Prior to Submitting a Project Description

- 5.2.1 A developer may seek clarification from the Coordinator as to whether the project is a development and subject to the environmental impact screening and review process. In doing so the developer must complete the on-line questionnaire that officially registers the project on the public registry. The PSC will then make a determination pursuant to 4.5.1 (above).

5.3 Proceedings of the Screening Committee

Requirements for Project Descriptions and Submissions to the EISC

- 5.3.1 Unless it decides otherwise, Screening Committee proceedings shall be conducted in writing.
- 5.3.2 The developer's project description submission and submissions from all parties in a proceeding shall be made in a manner consistent with Screening Guidelines. All submissions shall be placed on the registry in the form of a Record for the particular proceeding.



Return of a Project Description Submission

- 5.3.3 Upon receipt of a project description submission, the Screening Committee shall determine whether the submission is complete for the purpose of environmental screening.
- 5.3.4 Where a project description is deemed incomplete, the Screening Committee may request the developer provide the missing information. Failing that, the project description shall be returned to the developer.

Notification of a Proceeding

- 5.3.5 Where a development is subject to screening and the project description is deemed complete, the Screening Committee shall issue a public Notice of Proceeding and set out the timelines for the consideration of the project description.
- 5.3.6 The Coordinator shall notify the developer and the parties when a project description is placed on the record.

Comment Period

- 5.3.7 Upon placing a project description on the registry and sending notification to the parties, the parties will have 45 days within which to provide comments on the project description. The 45-day comment period may be extended by the Screening Committee if it deems that additional time is necessary by one or more parties to prepare and submit their interventions, or the Screening Committee needs to seek additional information.
- 5.3.8 The developer and the parties may respond to information and documents related to the environmental impact screening of the proposed development that are on the record during the comment period.

5.4 Presentations

- 5.4.1 A developer or a party to a proceeding may request the opportunity to make a public presentation to the Screening Committee to provide clarification, either in-person or by online conference. All requests for a public presentation must be made in writing to the Coordinator at least fifteen (15) days prior to the close of the comment period.
- 5.4.2 The Chair shall determine whether to allow a public presentation, and, if so, when and how it will be held. Any presentation shall be open to the public, and the Screening Committee will notify the parties to the proceeding and the public of the details of the presentation.
- 5.4.3 The Screening Committee may, after giving notice to the parties, request a public presentation from a developer or a party to seek clarification on any issues related to a project description. The Chair will decide when and how the public presentation will be



held. Any presentation shall be open to the public, and the Screening Committee will notify the parties to the proceeding and the public of the details of the presentation.

- 5.4.4 If in a public presentation made to the Screening Committee there is a material change to the project description or to a party's submission or if new information is presented, the Screening Committee may extend the proceeding.
- 5.4.5 All public in-person presentations made to the Screening Committee will normally be held in Inuvik, NT unless otherwise directed by the Screening Committee.
- 5.4.6 All public presentations will be recorded and will be placed on the record.

5.5 Specialists, Experts and Consultants

- 5.5.1 The Screening Committee may engage specialists to provide evidence relevant to the issues raised in any proceeding. All evidence received from a specialist shall be disclosed to all parties and placed on the record. The parties may comment on the evidence or question the evidence.
- 5.5.2 The Screening Committee may hire specialists or consultants to advise the Screening Committee and to assist it in the interpretation of the information and evidence submitted by the developer or the parties.

5.6 Closing of the Proceeding and the Record

- 5.6.1 The Screening Committee may review the record at any time during a proceeding to determine if it is complete for the purposes of a decision.
- 5.6.2 If the Screening Committee determines the record is complete, it may issue a Notice of Termination of the Proceeding and close the record.

5.7 Environmental Impact Screening

- 5.7.1 Following the closing of the record, the Screening Committee shall convene to conduct the environmental impact screening, including the determination of significant negative impact, and make a decision pursuant to s 11(17) of the *IFA*.

5.8 Determination of Significant Negative Impact

- 5.8.1 The Screening Committee shall expeditiously determine if the proposed development could have a significant negative impact.

5.9 Environmental Screening Panel Decision

- 5.9.1 Based on the information provided to the Screening Committee and the determination of significant negative impact, the Screening Committee shall make one of the following four decisions:

11(17)(a) Decision

The Screening Committee may determine that the development will have no such significant negative impact and may proceed without environmental impact assessment and review under the *IFA*. In reaching an 11(17)(a) decision, the Screening



Committee shall take into account any prior government development or environmental impact review process that in the Committee's opinion adequately encompassed the environmental assessment and review function.

11(17)(b) Decision

The Screening Committee may determine that the development, if authorized subject to the environmental terms and conditions recommended by the Panel, will have no such significant negative impact and may proceed without environmental impact assessment and review under the *IFA*.

Where the Screening Committee makes a section 11(17)(b) determination it does so on the expectation that its recommendations will be implemented by the competent authorities in order that the effect(s) predicted during the environmental screening will be mitigated. However, the competent authorities can only implement those recommended terms and conditions that are within their legislative authorities.

Where the competent authority or authorities are unable to implement a recommendation or recommendations of the Screening Committee, it is expected that the developer will implement the recommendation(s).

11(17)(c) Decision

The Screening Committee may determine that the development could have significant negative impact and is subject to assessment and review. Where a proposed development is, or may be subject to, a government development or environmental impact review process, and in the opinion of the Screening Committee that review process adequately encompasses or will encompass the assessment and review function, the Screening Committee shall refer the proposal to the body carrying out that review process (s. 11(19) of the *IFA*)

If, in the opinion of the Screening Committee, the governmental review process does not or will not adequately encompass the assessment and review function, or if the review body declines to carry out the review, the Screening Committee shall refer the proposed development to the Review Board for a public review.

11(17)(d) Decision

The Screening Committee may determine that the development proposal has deficiencies of a nature that warrant a termination of its consideration and the submission of another project description.

5.10 Notification and Closure of Record

- 5.10.1 The Screening Committee's decision letter and reasons for decision shall be posted on the record, and provided to the developer, to the authority or authorities competent



to authorize the proposed development, and to the parties to the proceeding. The record will then be permanently closed.

6 Other Considerations During Screening

6.1 Environmental Impact Screening Proceeding Extensions

6.1.1 Requests for an extension to a proceeding may be made by a party, a developer or by the Screening Committee itself for one or more of the following reasons:

- New information regarding the proposed development has been identified or received, and is considered material to the Screening Committee decision. This new information could be received during the comment period, as a result of an information request from a party, or as a result of a change to the project design by the developer.
- Circumstances out of the control of a party have occurred that prevent an adequate review of the project description within the allotted comment period.
- A developer has requested an extension with reasons and the Screening Committee has accepted the request.

6.1.2 If the Screening Committee grants an extension, the Coordinator will:

- Post the extension decision to the registry, along with a revised timeline for completion of the environmental screening proceeding.
- Notify the parties, that new information regarding a proposed development has been posted to the registry.

6.2 Changes to a Project Description during a Proceeding

6.2.1 A developer may choose to change a project description prior to completion of a proceeding. Developers planning on making changes to a project description should contact the Coordinator. Failure to contact and consult with the Coordinator prior to making a change may result in a delay to a proceeding. Changes that may result in the developer being required to resubmit the project description include:

- Further refinement of design plans that result in any change in location, access or methods of construction or activity, or a change in the timing of the activities.
- A change to the project description that would result in a change to a regulatory authorization or a requirement for additional authorizations.
- An extension in schedule or duration of project.

6.2.2 If changes are made to a project description the developer must submit an updated project description or a detailed letter of clarification that corrects the original submission at the completion of the 45-day comment period. Alternatively, a



developer may request an extension in order to prepare and submit an updated project description or letter.

- 6.2.3 Any correspondence with the Coordinator regarding changes to a project description should have the words “Project Description Change for ...” in the subject line.

6.3 Amendments to a Development following Completion of the EIS Process

- 6.3.1 With respect to regulatory authorizations, no amendments or new approvals should be authorized until the Screening Committee has considered the proposed amendment and made a determination as to whether an environmental impact screening is required.
- 6.3.2 Where a developer decides to make a modification to a development either during the term of the development or at the end of the term of the authorization the developer may be required to file a new project description. If the proposed changes alter the location, duration, frequency, timing or any of the other significance criteria to an extent that may alter the original determination by the Screening Committee on the significance of the environmental effect of the development the developer should consult with the Coordinator. Examples that may trigger this reconsideration include: the scope of the proposed development is enlarged or changed to include the development being located on Category D or E lands of a Community Conservation Plan; or, the scheduling of the planned activities is changed to take place during a critical wildlife period (e.g., calving, nesting).

6.4 Multi Year Development Proposals

- 6.4.1 Project descriptions for multi-year development proposals shall include the required information for each planned year of the proposed development. The Screening Committee will consider multi-year development proposals only if there is sufficient information and details for the subsequent year(s) for a screening decision to be reached. If the developer fails to provide the information or if the Screening Committee considers that the information is insufficient to allow it to reach a decision on the proposed development, the proceeding may be terminated.



Appendices

Appendix A: Instructions for Making a Request for a Ruling

These instructions are to be used when a party wishes to make a legal or procedural request for a ruling by the Screening Committee. A request for a ruling is made during a proceeding when a legal, procedural or a jurisdictional issue arises that needs resolution to enable the proceeding to continue. The Screening Committee shall make the decision as a ruling that all parties must abide by. The Screening Committee may also make rulings at any time on its own initiative.

The following information is requested when making a request for a ruling:

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

When a request for a ruling has been received by the Coordinator the Screening Committee shall decide on the request for a ruling. Once the ruling has been made, a copy will be placed on the record and all parties will be notified accordingly.



Appendix B: Instructions on Making a Request for Party Status

The following information is required when making a request for party status:

- Name of the individual or organization seeking party status
- Name of proceeding
- Reasons for requesting party status
- Description of how the individual or organization plans to participate (e.g., what information, witnesses, or presentations), and who will participate on the organization's behalf if relevant (e.g., legal counsel, third party)
- Identify if the applicant is a competent authority
- Dated and signed application

When the Coordinator has received a request for party status, the Screening Committee shall expeditiously determine whether party status should be granted. If party status is granted, the Coordinator will place a formal notice of party status on the record and all parties will be notified accordingly.

Appendix C: Instructions on Making an Information Request

An Information Request (“IR”) may be requested by any party in accordance with section 1.9 of the Rules. The purpose of an IR is to provide the Screening Committee with the information it needs to decide whether the proposed development is likely to have a significant adverse environmental effect. An IR is a tool for the Screening Committee and the parties to obtain additional information or clarification on issues, and to address questions that arise during the proceedings.

IRs can originate from and be directed to any of the parties to the proceeding. A party can request information that is necessary for its technical analysis of the development’s potential impacts. All IRs are subject to the Screening Committee’s approval. The Screening Committee will generally not accept any IR outside the scope of the screening.

The following information shall be provided when making an IR:

IR Number:	(Number is assigned by EISC)
Source:	Organization proposing the request (your organization).
To:	Who the request is directed at, or the organization(s) expected to answer or provide information (e.g., the developer or a government department).
Subject:	The general subject of the request (e.g., fish, water, cultural impacts, permafrost).

Preamble

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

Request

The question the party is directed to answer. For example: “Please identify which mitigation measures are aimed at minimizing impacts on moose”. A question may consist of several parts. The questions should be as specific as possible.

Appendix D: Determination of Significant Negative Impact

Significance is determined based on a range of factors, some relatively easily quantifiable (e.g., water quality), some not (e.g., community values). There is no simple formula to determine significance. Instead, the Screening Committee must consider a range of factors and place the effects in the context of Inuvialuit values. In doing so the Screening Committee will consider the following, among other things:

1. Project description: description of project activities, environmental setting, and potential effects
2. Screening considerations
3. Determination of valued ecosystem components
4. Comments received during the comment period
5. Significance criteria
6. Impact mitigations

This information is usually included in the screening report for the project.

1. Project Description

The developer's project description contains the description of project activities, environmental setting, and potential effects.

2. Screening Considerations

The screening report for a project will include screening considerations, including the following:

- **Location** of the environmental effect (e.g., on Category D or E lands within a Community Conservation Plan; within or near critical wildlife habitat areas; or in or near important wildlife harvesting areas);
- **Duration** of the environmental effect (e.g., one day, seasonal or multi-seasonal);
- **Timing** of the environmental effect in relation to environmental factors (e.g., permafrost); wildlife (i.e., critical wildlife periods); wildlife harvesting (e.g., during important harvesting times);
- **Frequency** of activities having an environmental effect (e.g., a onetime event, repetitive, or continuous over time);
- **Magnitude** of the environmental effect on the environment or wildlife harvesting;
- **Scale** of the environmental effect (e.g., within a community, the ISR or a larger area);
- **Nature** of the environmental effect (e.g., direct impact, indirect impact or cumulative);
- **Reversibility or irreversibility** of the environmental effect (e.g., will the affected biophysical resource recover and if so over what time period);
- **Ecological context** of an environmental effect (e.g., disruption to important habitat, cumulative effects, food chain effects, endangered species, implications for biological diversity);

- **Wildlife harvesting context** of the environmental effect (e.g., potential effects on harvesting areas; timing of the proposed activities relative to harvesting activities; potential effects on species or populations under harvest quotas); and,
- **Likelihood** of the environmental effect occurring (e.g., what is the risk that the activity will actually impact the environment, wildlife or wildlife harvesting?).

3. Determination of Valued Components

A Valued Component or VC can be defined as: “an environmental element of an ecosystem that is identified as having scientific, ecological, social, cultural, economic, historical, archaeological or aesthetic importance. The value of an ecosystem component may be determined on the basis of cultural ideals or scientific concern.” In practical terms a VC is some component of the environment that has some “value” (where value could be inherent or could be ascribed to it by an individual, community, society, etc.) and can be measured (either quantitatively or qualitatively).

In order to make a significance determination, the Screening Committee must determine the VCs that will be used for the environmental impact screening. The VCs will vary for each project and location, and will be guided by whether the proposed development will have significant negative effects on:

- the environment (e.g. water quality, air quality, soil quality);
- wildlife or wildlife habitat (e.g. caribou, beluga whales, fish species); and,
- present or future wildlife harvesting by Inuvialuit.

VCs will be identified through the analysis of a range of documents and an understanding of community values. Sources may include the developer’s project description, comments provided by parties to the proceedings and by the public, Hunters and Trappers Committees, Community Conservation Plans, the Wildlife Management and Conservation Plan for the Yukon North Slope, and other documents and statements as appropriate.

4. Comments received during the Comment Period

The screening report for each project contains a summary of the comments received. They play an important role when determining whether the project will have a significant negative impact.

5. Significance Criteria

Main Considerations

The Screening Committee is guided by the following when making its determination of significance:

- Whether a proposed development could have a significant negative environmental effect.

- Whether a proposed development could have a significant negative effect on wildlife or wildlife habitat.
- Whether any development of consequence that is likely to cause a negative environmental effect could have a significant negative impact on present or future wildlife harvesting by Inuvialuit.

General Guidance for Assessing Significance

The determination of significance is not a strictly scientific determination. It depends on the subjective informed judgment of decision makers. It uses evidence to test for the public interest, and reflects decision maker's values about predicted impacts¹. Both scientific knowledge and Traditional Knowledge must be considered.

The central questions for the Screening Committee to consider when assessing significance are:

- Are the impacts from a project is so significant (or unacceptable) with respect to environmental effects, wildlife or wildlife habitat, or to present or future wildlife harvesting, that they should be reduced or prevented?
- If the impact cannot be reduced or prevented, should the project proceed?

The Screening Committee's threshold for determining significance is relatively low, appropriate for the screening level assessment required at this stage of the environmental impact screening and review process.

The term "significance" is used in environmental assessment (EA) legislation worldwide as a criterion or threshold which, when crossed, triggers administrative action within the assessment process. The criterion or threshold of "significance" may be expressed in terms of:

- Standards and guidelines, such as regulatory licence limits.
- Goals or targets, such as overall reduction in number or reduction in collective total.
- Carrying capacity, such as limits to environmental resilience as determined in environmental assessments including cumulative effects assessments.
- Limits of acceptable change, for example, as determined in Community Conservation Plans.

What the Screening Committee Considers

In determining the potential for significant negative environmental impacts of proposed developments, the Screening Committee considers the following, among other things:

¹ Alan Ehrlich, Mackenzie Valley Review Board, *Determining the Significance of Cumulative Effects.. IAIA Western and Northern Canada Online Seminar, May 13, 2020*

Quantitative (measurable)	Qualitative (experience)
<p>Is the proposed development in management category C, D or E lands as identified in Inuvialuit Community Conservation Plans?</p> <p>What effects will the project have on C, D or E lands?</p>	<p>Potential negative impacts to Inuvialuit culture and values due to potential impacts on wildlife and/or harvesting activities.</p>
<p>Potential negative impacts to Inuvialuit culture and values. Is there a conflict with wildlife management plans developed through the Inuvialuit co-management process?</p>	<p>Disruption to Inuvialuit harvesting due to changes in wildlife and wildlife habitat. Disturbance to wildlife or wildlife habitat</p>
<p>Disruption to Inuvialuit harvesting due to changes in wildlife and wildlife habitat.</p>	<p>Past experience with similar types of developments</p>
<p>Is there the potential to exceed territorial and/or federal environmental quality standards or guidelines?</p> <p>What are the effects of exceeding quality standards or guidelines?</p>	
<p>Does the proposed development have the potential to exceed established thresholds or thresholds determined by the Developer for the purposes of impact analysis (e.g., CCME guidelines, flight altitude guidelines)?</p>	
<p>Is there potential for habitat loss, disturbance, or population decline for any species with special conservation status, keystone species or species harvested by the Inuvialuit, as determined by the WMAC (NWT or NS) and/or the FJMC?</p>	
<p>What is the ecological context in which the project is proposed to take place (i.e., is the area a critical wildlife habitat, wildlife sanctuary or an area previously disturbed)?</p> <p>Does the proposed project affect areas with particularly high biodiversity potential?</p>	

Quantitative (measurable)	Qualitative (experience)
<p>Is the proposed mitigation feasible, practical and effective?</p> <p>Does the mitigation use best available and tested technology?</p>	
<p>Have established cumulative effects thresholds been reached?</p>	<p>Have environmental or harvesting changes been experienced from other developments within the same area?</p>
<p>Is there a consensus within the affected communities about the proposed development?</p>	<p>What do the affected communities say about the proposed development?</p>
<p>What is the advice of the parties about the proposed development?</p>	<p>What do the parties say about the project?</p>

For many effects, there are no clear thresholds or quantifiable measures. For these, qualitative or experiential (life experience) values can be used. This can include public consultation and asking people how much change they are prepared to tolerate. This is one reason why the engagement and consultation process is important to the environmental screening process.

6. Recommendations to Mitigate Impacts

For the areas where the Screening Committee has determined that there will be significant negative impacts, it will also determine whether and how the impacts can be mitigated. In such a case, it may issue a decision pursuant to s. 11(17)(b) of the IFA with recommendations. If such impacts cannot be mitigated, the EISC may issue a decision pursuant to s. 11(17)(c) of the IFA, where the project will be referred to impact review.