



DRAFT
RULES OF PRACTICE
FOR
PUBLIC MEETINGS AND HEARINGS

These are the *Rules of Practice for Public Meetings and Hearings* of the Nunavut Impact Review Board.

The intent of these Rules is to provide a fair, open, flexible and understandable process to enhance public participation for the NIRB screening and reviewing of project proposals.

The Board intends to use these *Rules of Practice for Public Meetings and Hearings* within the spirit and language of the Nunavut Land Claims Agreement.

Table of Contents

FUNCTIONS AND MANDATE OF NIRB	4
INTRODUCTION AND PURPOSE	4
PART I - GENERAL	5
1. Citation.....	5
2. Definitions.....	5
3. Application of Rules	6
4. Interpretation.....	6
5. Forms	7
6. Non-Compliance with the Rules.....	7
PART II - Commencement of Proceedings	7
7. Filing of Proposal with the Board.....	7
8. Environmental Impact Statement (EIS).....	7
9. Documents to be filed on Public Register.....	9
10. Service of Documents to Parties.....	10
11. Publicly Available Documents	10
12. Public Submissions	10
13. Contents of Submissions.....	11
14. Affidavits	11
15. Summoning Witnesses: Subpoena.....	11
PART III - PRE-HEARING	12
16. Pre-Hearing Conferences.....	12
17. Public Consultation.....	12
18. Mediation Meetings	12
19. Additional Information.....	13
20. Written Questions	13
21. Formulation of Issues.....	13
22. Meeting of Technical Experts.....	13
23. Site Visit.....	13
PART IV - HEARINGS (UNDER PART V OF THE AGREEMENT)	14
24. Notice.....	14
25. Venue and Schedule.....	14
26. Informal and Formal Hearing Venues	14
27. Hearing Notice or Order	14
28. Change of Venue.....	15
29. Failure to Attend Proceedings.....	15
30. Transcripts and Record of Proceedings	15
31. Motions and Requests	15
32. Translation	15

33.	Evidence: General.....	16
34.	Evidence: Inuit Traditional Knowledge.....	16
35.	Evidence: Burden of Proof.....	17
36.	Evidence: Questioning.....	17
37.	Evidence: Cross Examination.....	17
38.	Evidence: Expert Witnesses.....	17
39.	Closing Arguments and Briefs.....	17
40.	Closing of the Record.....	17
41.	Order of Events at a Hearing.....	18
42.	Intervener Status and Public Participation.....	18
43.	Funding.....	19

DRAFT

FUNCTIONS AND MANDATE OF NIRB

The Nunavut Impact Review Board (“NIRB”) was established on July 9, 1996 as an institution of public government responsible for the environmental assessment of project proposals in the Nunavut Settlement Area as described in Article 12 of the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, commonly referred to as the Nunavut Land Claims Agreement (“NLCA”).

The main functions of NIRB are:

1. to screen project proposals in order to determine whether or not a review is required;
2. to gauge and define the extent of a project on regions or communities;
3. to review the ecosystemic and socio-economic impacts of a project proposal;
4. to determine, on the basis of a review, whether a project proposal should proceed and under what terms and conditions, and then report its determination to the Minister; and
5. to monitor projects in accordance with the provisions of the NLCA.

The mandate of NIRB is to use traditional Inuit knowledge and recognized scientific methods to assess and monitor on a site-specific and regional basis the environmental, cultural, and socio-economic impacts of those proposals for which it has legal responsibility; bearing in mind that NIRB’s task under the NLCA is to determine whether proposals should proceed to development, and if so, under what circumstances.

In making its decisions, reports and recommendations, NIRB shall act fairly and carry out its responsibilities in such a way that at all times, the integrity of the ecosystem of the Nunavut Settlement Area is protected and the existing and future well being of residents of Nunavut is promoted.

Please refer to the Nunavut Impact Review Board Operational Procedures for Project Proposals for more detailed information about the screening and review process authorized by the NLCA.

INTRODUCTION AND PURPOSE

The Nunavut Impact Review Board (NIRB), established in accordance with the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (the “Agreement”), makes these Rules of Practice (the “Rules”) for the conduct of Hearings pursuant to section 12.2.23 of the Agreement.

This document outlines the Rules for use during Hearings held pursuant to Part 5 of the Agreement. Hearings held under Part 6 of the Agreement, which deals with reviews by Federal Environmental Assessment Panels, are subject instead to terms of reference outlined by the relevant Minister.

These Rules are based upon the authority provided in the Agreement and are intended to ensure that Hearing procedures meet the requirements of fairness and natural justice. They are also designed to ensure that Hearings are efficient, focused, and meet the needs of all Parties.

The Board would like to stress that the procedures set out in these Rules are flexible. As such, the Board may formulate rules that are applicable on a case-by-case basis to specific types of Hearings. In addition, the Board, after due consultation, may amend these Rules from time to time.

PART I - GENERAL

1. Citation

- 1.1 These Rules may be cited as the Rules of Practice

2. Definitions

- 2.1 In these Rules:

“Affidavit” - refers to a document containing a voluntary declaration of facts sworn to by the declarant before an officer authorized to administer oaths.

“Agreement” - means the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, signed in Iqaluit, Northwest Territories, on May 25, 1993, as amended.

“Board” - means the Nunavut Impact Review Board established pursuant to Article 12 of the Agreement.

“Document” - includes anything in printed form, as well as telecommunication or electronic transmission capable of being reduced to a printed format, and video or audiotapes.

“Ecosystemic” means relating to the complex of a natural community of living organisms and its environment functioning as an ecological unit in nature.

“Elder” means any member of a community recognized as such in accordance with local culture, customs and traditions or someone recognized for their experience in Inuit culture, customs and knowledge.

“Environmental Impact Statement” (EIS) refers to a documented assessment of the environmental consequences and recommended mitigative actions of any proposal expected to have significant environmental consequences, which is prepared by the proponent in accordance with guidelines established by a panel.

“*Hearing*” includes a hearing on a proposal, the hearing of a motion, a pre-hearing conference, a written hearing, or a public meeting.

“*Information request*” means a written request for information or particulars made by the Board, and from a party to another.

“*Intervener*” means any person or organization that participates in a Board Hearing and intends to play a role regarding any issues raised by the proposal, either by questioning other parties or by bringing forward their own evidence.

“*Inuktitut*” means all forms of the Inuit language in current usage in Nunavut, including Innuinaqtun.

“*Motion*” means a request by an interested party for a ruling or order in a proceeding or in a pending proceeding, or a motion of the Board.

“*Panel*” where legislation provides for it, refers to those Board members assigned to preside over a particular hearing.

“*Party*” means the proponent and interveners.

“*Project proposal*” means a written application of a project proposal filed with the Board.

“*Proponent*” means a party who has filed a proposal with the Board.

3. Application of Rules

- 3.1 These Rules apply to all hearings held by the Board

4. Interpretation

- 4.1 These Rules may be liberally construed in order to result in the just, expeditious and fair hearing of every matter properly before the Board.
- 4.2 Where any matter of procedure is not provided for by these Rules, the Board may, at any time, issue direction on procedure to govern the conduct of the hearing.
- 4.3 The Board may, in a hearing, dispense with, vary or supplement these Rules.
- 4.4 Where there is a conflict between the rules and specific directions given by the Board on procedure under 4.2 above, the specific directions prevail over the general Rules.

5. Forms

- 5.1 Unless the Board has prescribed a form, any motion or procedural step to be dealt with in advance of a hearing shall be dealt with in writing.

6. Non-Compliance with the Rules

- 6.1 Where a party to a hearing fails to comply with these Rules or any procedural directions issued by the Board, the Board may:
- a) adjourn the proceeding until satisfied that the requirement has been complied with; or
 - b) take such other steps as it considers just and reasonable.
- 6.2 The Board may, in order to secure a just determination of any matter, dispense with compliance to any Rule at any time.
- 6.3 In case of conflict between these Rules and the Agreement, the latter shall be binding.

PART II - Commencement of Proceedings

7. Filing of Proposal with the Board

- 7.1 The Board may hold a hearing in connection with a project proposal and any matter relating to its objects when satisfied that it would be in the public interest to do so.
- 7.2 Procedures for filing a proposal are outlined in a separate Board document entitled *Operational Procedures for Project Proposals*.
- 7.3 The Board shall attempt to circulate all notices of project proposals to the affected parties and residents, having regard for the nature, location and size of the project, and the affected community. Once an EIS is completed in either draft or final form, it is the responsibility of the proponent to circulate the EIS and any submission of the Proponent, to all parties

8. Environmental Impact Statement (EIS)

- 8.1 The following are the minimum required elements for an Environmental Impact Statement.
- a) *Statement of Consultation Principles and Practices*
Pre-project consultations with locally affected persons must occur. Where at all possible, information about the project must be distributed, and comments collected with a view to resolving any differences. Discussions should include, but not be limited to, land uses, policies, resource uses, archaeological areas, infrastructure, and terrain sensitivities. Inuit cultural concerns must be highlighted throughout. All comments from the public must be summarized, documented, and presented in the EIS.

b) *Definition of Project*

A definition of the project must include a discussion of any connected or down-the-road related projects in order to reveal the primary purpose and better understand complex or multi-staged related proposals.

c) *Statement of Project's Purpose*

Based on the concepts of the precautionary principle and sustainable development, an EIS must contain a statement explaining the need for, and the purpose of the project.

d) *Anticipated Impacts Analysis*

A comprehensive impact assessment must be carried out which includes, but is not limited to, environmental effects that are likely to result from the project in combination with other projects or activities that have been, or will be, carried out. Anticipated impacts include short and long-term, direct and indirect, positive and negative, cumulative, socio-economic, archaeological and cultural impacts. This element of the EIS must include a mitigation analysis that explains how the impacts could be avoided, minimized, cured, eliminated, or compensated.

e) *Cumulative Effects Analysis (CEA)*

Cumulative effects must be analyzed for all Part 5 Reviews. A project proposal causes a cumulative effect if, when added to other projects in the region, or projects reasonably foreseeable in the region, will cause an additive effect. A comprehensive examination of all cumulative effects must be included in an EIS.

f) *Significant Effects Analysis*

The Board must be advised of the significant impacts of the project. This should be based upon:

- i. the project setting, taking into account the location's unique ecosystemic characteristics, and
- ii. the severity of the impacts, taking into account public health, land use plans, protected areas, habitat, or species, public concern, etc.

Ultimately, the Board will decide which effects are significant and report to the Minister accordingly.

g) *Project Alternatives*

This requirement includes, but goes well beyond, alternative means of carrying out the project that might be economically and technically feasible and the environmental effects of those alternative means. This assessment must include the "no-go" or "no-build" alternative, as well as the "preferred" alternative. The "no-go" alternative is not only a potentially stand-alone option; it also serves as a baseline for comparison with other development alternatives that might reasonably be proposed in the circumstances.

h) *Sustainability Analysis*

The EIS must contain an analysis of the ability of renewable resources affected by the project to sustain current and future generations in Nunavut and Canada.

i) *Monitoring or Post-Project Analysis (PPA)*

The purposes of a PPA are to:

- i. measure the relevant effects of projects on the ecosystemic and socio-economic environments of the Nunavut Settlement Area;
- ii. determine whether and to what extent the land or resource use in question is carried out within the predetermined terms and conditions;
- iii. provide the information base necessary for agencies to enforce terms and conditions of land or resource use approvals; and
- iv. assess the accuracy of the predictions contained in the project impact statements.

j) *Trans-Boundary Effects Analysis*

Where relevant, an EIS must include an assessment of all significant adverse ecosystemic or socio-economic trans-boundary effects.

k) *Any Other Matter Deemed Necessary*

NIRB will always review each project proposal on a case-by-case basis including instructions from the Minister, and may add other requirements as per s. 12.5.2(j) of the NLCA.

l) *Submission of Draft and Final EIS*

The procedure required by the Board for filing an EIS is as follows:

- i. Submission of a Draft EIS to the Board. The filing of a Draft EIS will be followed by a 60-90 day public comment period.
- ii. Submission of a Final EIS to the Board. The final document must identify and incorporate those parties' comments regarding preferred alternatives, which in the judgment of the NIRB, should be reflected in the Final EIS.

9. Documents to be filed on Public Register

- 9.1 A party who intends to rely on a document in a hearing shall file the document on the NIRB Public Register at least fifteen days before the date of the hearing in order that it may be distributed to other parties.
- 9.2 At least 15 days prior to the commencement of a hearing on a proposal, the Board will make best efforts to ensure that a copy of the Public Register is available for review in a public location in the community or communities most convenient to the parties and close to the location of the project proposal in question. The Public Register will contain all documents filed by a proponent in support of a proposal as well as written submissions and replies by any party, subject to the time period in 9.1.
- 9.3 The public will have access to all documents contained in the Public Register during the course of a hearing.

10. Service of Documents to Parties

- 10.1 Documents may be filed with the Board in person, by mail, by electronic transmission, or otherwise as the Board may direct.
- 10.2 Documents to be filed with the Board must be translated into Inuktitut by the party filing the document, within the time period set out in 10.3. This requirement does not apply to private citizens.
- 10.3 A party who intends to rely upon a document in a hearing or meeting shall, 30 days before a Board initiated public meeting or, 60 days before a hearing, file a set number of copies, as determined by the Board, with the NIRB office, distribute copies of the document to other parties, and provide the Board with a list of recipients and confirmation of the distribution.
- 10.4 Documents to be filed with the Board in advance of a hearing or at a hearing are deemed to have been delivered on the day of actual receipt by the Board.

11. Publicly Available Documents

- 11.1 The following documentation is available at the NIRB Head Office:
 - a) NIRB Rules of Practice for Public Meetings and Hearings
 - b) Map of Nunavut Settlement Area and Outer Land Fast Ice Zones
 - c) Map of Inuit Owned Lands: Surface and Subsurface
 - d) Map of Regions in Nunavut
 - e) List of Inuit Associations in Nunavut by Region
 - f) Guide to the Nunavut Impact Review Board
 - g) Guide to the Filing of Project Proposals
 - h) Guide to types of Project Proposals exempt from Screening
 - i) Guide to the NIRB Review Process
 - j) Guide to the Preparation of Environmental Impact Statements
 - k) Guide to Public Participation in the NIRB Review Process
 - l) Guide to NIRB's Terminology and Definitions

12. Public Submissions

- 12.1 A citizen or elder may make a submission to the Board by telephone by calling the NIRB office. A designated NIRB staff member will make a record of the conversation and transcribe a written submission from the individual. To ensure accuracy, this statement will be read back to the individual and then filed as a submission at the Hearing. The Board will distribute copies of the submission to all other parties.
- 12.2 All submissions, unless privileged, are publicly available.

13. Contents of Submissions

- 13.1 A submission must contain:
- a) A summary of the facts and evidence to be submitted on behalf of the party;
 - b) A list of witnesses to be called upon by the party and a summary of each witness's evidence;
 - c) The name, address, telephone and fax numbers of a lawyer or agent acting on behalf of the party, if applicable.

14. Affidavits

- 14.1 An affidavit intended for use in a proceeding must be confined to those facts within the knowledge of the person making the affidavit or based on the information and belief of the person making the affidavit.
- 14.2 If a statement is made in an affidavit on information and belief, the source of the information and the grounds on which the belief is based must be set out in the affidavit.
- 14.3 If an affidavit refers to an exhibit, the exhibit must be marked as such by the person making the affidavit and attached to the affidavit.

15. Summoning Witnesses: Subpoena

- 15.1 The Board may serve an individual with a summons or a notice to attend, requiring him or her to attend a hearing at the time and place stated in the summons. The summons may also require the individual to produce at the hearing any documents or other things in his or her possession, control or power that relate to the matters in question and that are specified in the summons.
- 15.2 A witness summoned by the Board shall have expenses paid according to the applicable law.

DRAFT

PART III - PRE-HEARING

16. Pre-Hearing Conferences

- 16.1 In order to facilitate the hearing process, the Board may hold a pre-hearing conference with the parties, either in writing, by teleconference, or in person, in order to deal with any of the following matters:
- a) To set a timetable for the pre-hearing exchange of information;
 - b) To finalize the list of issues to be dealt with at the hearing;
 - c) To identify interveners, if possible;
 - d) To prepare a clear statement of the issues;
 - e) To adjust the dates for the orderly exchange of documents and information requests;
 - f) To finalize procedures to be followed in the hearing;
 - g) To register interveners, if appropriate; and
 - h) To consider any other matters that may aid in the simplification of the hearing.

17. Public Consultation

- 17.1 When reviewing a project proposal, the Board may hold public hearings or such other procedures as it deems appropriate, having regard to the nature of the project and the range of impacts.
- 17.2 When scoping a project, the Board may solicit advice it considers appropriate by means of written submissions or public meetings.
- 17.3 When screening a project proposal, the Board will consult with, and expects that the proponent will consult with, the people or representatives of the people, most affected by the proposal.

18. Mediation Meetings

- 18.1 Prior to a review, the Board may schedule a mediation meeting to simplify and clarify issues, and to resolve conflicts where possible. The Board will set the terms of reference for the mediation in advance and will assign a Board member and staff to assist parties. In order to resolve procedural issues and to agree on procedural requirements for the public hearing, parties may make representations to this end. Mediation meetings are open to the public.

19. Additional Information

- 19.1 If the Board determines that it does not have adequate information to proceed to a hearing, the Board shall advise the proponent in writing of the additional information required.
- 19.2 For scheduling purposes of all participants, the proponent will provide the Board with a written schedule of the time it will take to prepare the additional information.
- 19.3 Upon receipt of the additional information, the Board will ensure that it is made available to the public for review and comment.

20. Written Questions

- 20.1 The Board may direct written questions to the proponent on any issue relevant to the hearing and shall provide copies of these questions and any answers to all parties.
- 20.2 Subsequent to receipt of the Board's written questions, any interested party may direct a written question to the proponent on any issue relevant to the hearing and shall provide a copy of the question to the Board and other parties.
- 20.3 The Board may disallow any written question that, in its opinion, is frivolous or vexatious.

21. Formulation of Issues

- 21.1 The Board may decide which issues it shall consider in a hearing.
- 21.2 The Board may request from any party information in deciding which issues should be included in the hearing.

22. Meeting of Technical Experts

- 22.1 The Board strongly encourages technical experts to meet before the formal hearing. NIRB staff will be available to assist technical experts both in arranging this joint meeting, and in providing information any relevant information in the Board's possession. This conference is expected to take place before the public hearing of the project application.

23. Site Visit

- 23.1 Prior to proceeding to a hearing, or during a hearing, the Board may, at the request of a party or on its own motion, schedule a site visit. The Board will set the terms of reference for the site visit in advance and will notify all parties in writing of the site visit and terms of reference for it. The Board may request that representatives from a community accompany the NIRB Panel on a site visit in order to gain a better understanding of the project.

PART IV - HEARINGS (UNDER PART V OF THE AGREEMENT)

24. Notice

- 24.1 The Board shall give notice normally as follows:
- a) 15 days for a community meeting, pre-hearing conference or mediation meeting;
 - b) 90 days for a hearing.
- 24.2 In communicating with the parties regarding the location and schedule of hearings, all efforts will be made to reach as many people affected by the project activity as possible in Inuktitut, Innuinaqtun and any other languages deemed necessary by the Board. The Board will use various methods to distribute information to the affected parties and residents, having regard for the nature, location and size of the project, and the affected community.

25. Venue and Schedule

- 25.1 Hearings will normally be held in a community most convenient to the parties and close to the location of the project proposal in question.
- 25.2 The Board will make every effort to schedule hearings at the appropriate time, in the proper location and with the proper notice in order to provide fairness to parties and promote public awareness and participation at the hearing.

26. Informal and Formal Hearing Venues

- 26.1 A hearing is a forum for presenting information to the NIRB Panel. The Board may choose to hold two types of hearings as part of the hearing process:
- a) the informal hearing venue is an open forum community meeting which is held to allow individuals and hopefully Elders the opportunity to communicate their concerns about the project proposal in an informal environment, and
 - b) the formal hearing venue is a meeting for the presentation of technical evidence. In this case, individuals file to intervene 45 days in advance of the hearing date.
- 26.2 Regardless of the type of hearing venue, all information presented to the NIRB Panel during a hearing may be considered in the Panel's decision

27. Hearing Notice or Order

- 27.1 The Board will issue a hearing order outlining the time table for the exchange of written questions and the filing of the evidence of interested parties at the same time that it orders a hearing and sets a date and place for the hearing.

28. Change of Venue

- 28.1 If a change of venue becomes necessary, the Board will make every effort to re-schedule the hearing in the best alternative location and with reasonable notice to all parties planning to participate in the hearing.

29. Failure to Attend Proceedings

- 29.1 Where the Board in accordance with these rules and/or statutory requirements has given publication or notice of a hearing and a party does not attend the proceeding, the Board may proceed in that party's absence and that party may not be entitled to any further notice of that portion of the hearing.
- 29.2 Unless excused by the Board for good cause shown, failure of a party to attend a proceeding after being served with reasonable notice of the time and place shall constitute a waiver of all objections to the agreements, orders or rulings reached in the proceeding.

30. Transcripts and Record of Proceedings

- 30.1 The Board may supply written transcripts of its hearings as needed. These transcripts will be available to the public on a cost recovery basis. Parties requiring their own transcripts shall make arrangements with NIRB as early as possible.
- 30.2 The Board shall make available for consultation at its Head Office, in the Public Register, a copy of the record of its proceedings.

31. Motions and Requests

- 31.1 Any person or party can file a motion or request with the Board in order to seek help. All motions and requests shall clearly state the specifics requested. All parties must file motions or objections in writing and are responsible for giving notice to all other parties. A list of parties can be obtained from the Board.

32. Translation

- 32.1 The Board shall conduct its hearings in Canada's official languages as required by legislation or policy. Upon request of any member of the Board, the proponent or any intervener, the Board will arrange for interpretation/translation services in Inuktitut, and where appropriate Innuinaqtun, or any other languages deemed necessary by the Board.

33. Evidence: General

- 33.1 The Board is not bound by the technical rules of evidence.
- 33.2 The Board has the power to subpoena witnesses, documents and things in carrying out its responsibilities.
- 33.3 All Parties giving evidence shall do so under oath or affirmation, to be administered by a person authorized by law to administer oaths.
- 33.4 The Chair will admit any relevant oral or documentary evidence that is not protected by law from disclosure. Relevant evidence means evidence having any tendency to prove or disprove a fact in issue. The fact that the Board deems evidence admissible does not mean that it will determine any fact in issue. The Chair may, however, exclude evidence if any of the following substantially outweigh its value:
 - a) the danger of unfair prejudice;
 - b) confusion of the issues,
 - c) considerations of waste of time;
 - d) duplication; or
 - e) presentation of repetitious evidence.
- 33.5 The Chair of the Board, in keeping with the Charter of Rights and Freedoms, relevant Evidence Acts, and legislation dealing with privilege, may limit introduction of evidence or issue such protective or other orders deemed necessary to prevent undue disclosure of classified, confidential or sensitive matters. Such matters include, but are not limited to, matters of national security, business or personal matters, or those of a proprietary nature. Where the Chair determines that specific information in documents containing classified, confidential or sensitive matters should be made available to another party, the Chair may direct the party to prepare an unclassified or non-sensitive summary or extract of the original. The summary or extract may be admitted as evidence in the record.
- 33.6 The Chair may accept and enter into the record direct testimony of a witness made by a sworn written statement or verified tape recording, rather than by oral presentation at the hearing. A witness whose testimony is presented by a sworn written statement or verified recording shall be available for cross-examination at the hearing.

34. Evidence: Inuit Traditional Knowledge

- 34.1 The Board shall give due regard to Inuit traditional knowledge in all of its proceedings. The Board may, in a hearing, receive evidence from Elders, and shall give them the opportunity to speak at the beginning of a hearing, during a hearing, or at the conclusion of a hearing, and to make submissions or repeat submissions at a time convenient to them.
- 34.2 At any time, the Board staff may meet with any Elder or other persons respected for their knowledge of Inuit culture, customs and knowledge, for the purpose of giving due regard and weight to the tradition of Inuit oral communication and decision-making, both in the hearing and in the general review process.
- 34.3 The Board may dispense with, or vary any procedural rule at the request of an Elder.

35. Evidence: Burden of Proof

35.1 In cases where the Board accepts evidence, any party offering such evidence shall have the burden of introducing appropriate evidence to support its position. Where there is conflicting evidence, the Board will decide which evidence to accept and will generally act on a balancing of the evidence.

36. Evidence: Questioning

36.1 Questioning shall be limited to the scope of the direct evidence and, subject to the discretion of the Chair, shall be limited to witnesses whose testimony is adverse to the party desiring to question. Questioning will be permitted to the extent necessary for full and true disclosure of the facts. The Chair may, in the exercise of his/her discretion, permit inquiry into additional matters if helpful to the Board in reaching its decision.

37. Evidence: Cross Examination

37.1 Cross-examination shall be limited to the scope of the direct evidence and, subject to the discretion of the Chair, shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. The Chair will permit open and direct cross-examination to the extent necessary for full and true disclosure of the facts.

37.2 If a party is unable to respond to a question raised at the hearing, the Board may direct that written submissions, and replies to those written submissions, be filed with the Board by a specific date.

38. Evidence: Expert Witnesses

38.1 Any witness with technical and scientific, Inuit, or ecological knowledge shall provide to the Board prior to a hearing an oral or translated summary of his/her background, including qualifications and/or experience where appropriate. During the hearing, the Board will not normally qualify these witnesses as experts, but such witnesses should be prepared to reference their knowledge. This rule does not apply to Elders.

39. Closing Arguments and Briefs

39.1 At the close of a formal hearing and upon such terms as the Board directs, any party to the proceedings is entitled to file a written brief, to propose findings of fact and conclusions of law, or to do both.

40. Closing of the Record

40.1 At the conclusion of a formal hearing, the record shall be closed unless the Chair directs otherwise. Once the record is closed, no additional evidence shall be accepted unless the

Board decides the evidence is material and that there was good cause for the failure to produce it in a timely fashion. The Chair shall reflect in the record, however, any correction to the transcript approved by the Panel.

41. Order of Events at a Hearing

- 41.1 The order of events that will be followed at a hearing is generally as follows:
- a) Opening Prayer;
 - b) Opening remarks by the Chairperson, which shall include the purpose of the hearing and the scope of matters to be considered by the Board;
 - c) Introduction of the Board Members and staff;
 - d) Identification and introduction of the parties;
 - e) Introduction of the Elders and their role in the hearing;
 - f) Introduction and identification of any individuals or groups who have not submitted interventions but who have expressed a desire to speak at the hearing;
 - g) Identification of any motions or any objections;
 - h) Presentation by the proponent;
 - i) Questioning of the proponent by parties opposite in interest;
 - j) Presentation by interveners;
 - k) Questioning of interveners by parties opposite in interest;
 - l) Presentation by any individuals or groups who have advised the Chairperson that they wish to speak;
 - m) Reply by proponent;
 - n) Final closing statements by all parties;
 - o) Closing remarks by the Chairperson; and
 - p) Closing Prayer.

42. Intervener Status and Public Participation

- 42.1 Hearings are held to encourage the full and open participation of people living in, or adjacent to, the area potentially affected by a proposal.
- 42.2 Any interested person may intervene in the hearing proceedings by filing with the Board, 45 days in advance of the formal hearing, a written or audio/video taped request that:
- a) states whether the person intends to appear at the hearing, whether they will be represented by counsel or an agent, and the official language in which the person wishes to be heard;
 - b) sets out the name, address, telephone number and any other telecommunications numbers of the person submitting the request, as well as those of their authorized representative; and
 - c) sets out a brief summary of the person's interest in the hearing with reasons clearly stated.
- 42.3 The Board reserves the right to deny intervener status to a person who fails to seek intervener status in a timely fashion.
- 42.4 With respect to the classification of interveners, the Board will allow full standing to any Designated Inuit Organization (DIO).

43. Funding

- 43.1 Unless the Minister directs otherwise, the Board will not normally provide funding to any proponent to prepare a proposal or Environmental Impact Statement or to any party to prepare a submission or a reply on a proposal or on other parties' submissions or replies.
- 43.2 Costs incurred by the proponent and any intervener to attend a hearing shall normally be borne by that party.
- 43.3 Notwithstanding 26.2, the Board may arrange for citizens from a community close to the location or affected by a proposal to attend a hearing when, in the Board's opinion, it is necessary to give due regard and weight to the tradition of Inuit oral communication and decision-making.

DRAFT