



In-Person Consultation Session About the NIRB's 2022 *Revised Draft* ROP

Nunavut Impact Review Board

April 28, 2023

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A photograph of a snowy landscape under a clear blue sky. In the foreground, a wide, flat, snow-covered area with some tire tracks leads towards a small, white, twin-engine aircraft parked on a runway. Several people in dark winter clothing are walking away from the camera towards the aircraft. In the background, there are snow-covered mountains and hills.

Today's Agenda

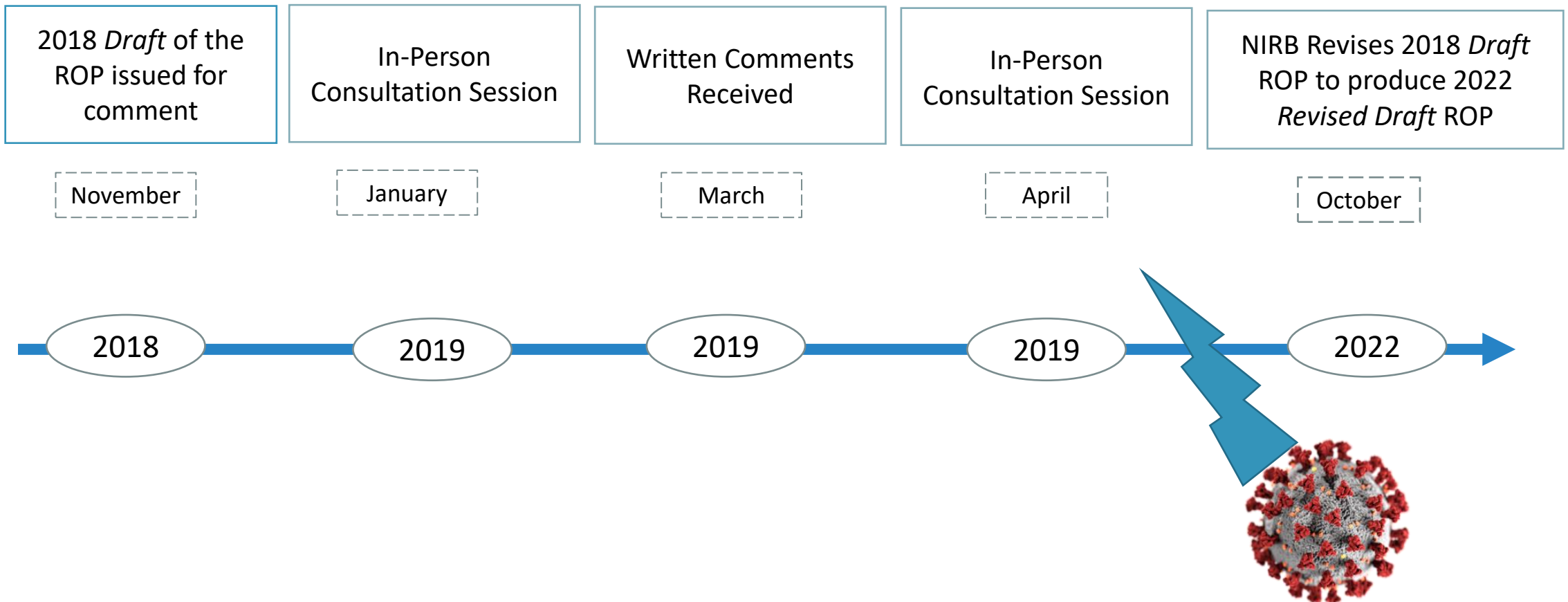
- Introductions
- The Board's objectives for today
- How did the Board get to this point?
 - Overview of the comment process on the 2018 *Draft*, leading to the 2022 *Revised Draft* of the NIRB's Rules of Procedure (ROP)
 - Summary of the substantive changes in the 2022 *Revised Draft* ROP
- Open discussion of issues/ questions/ comments on the 2022 *Revised Draft* ROP
- Next steps in the Board's current consultations
- Closing comments, questions and wrap up

Objectives of The Meeting

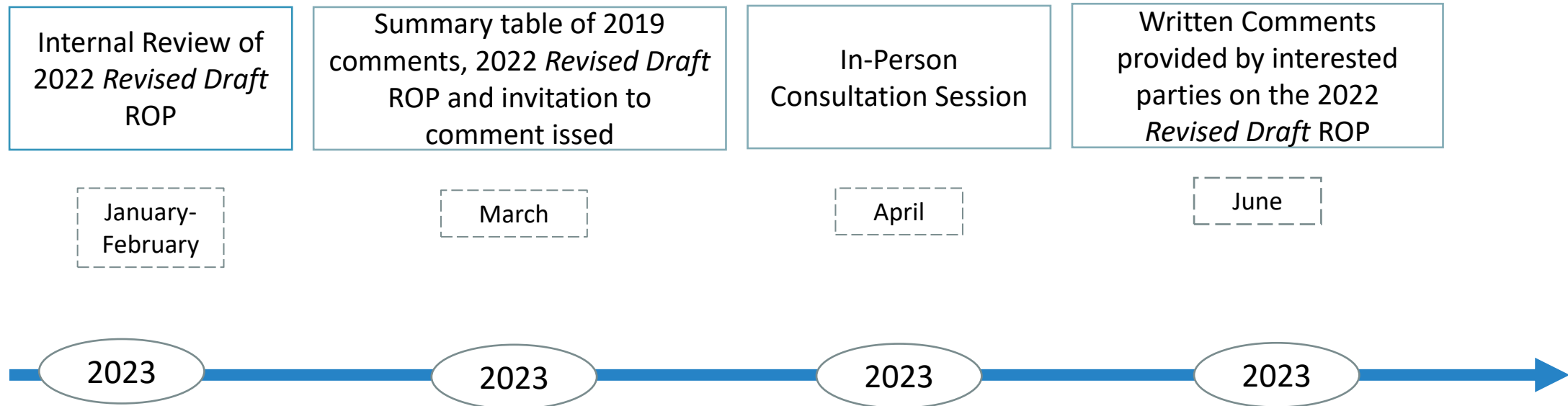
To gather feedback from attendees regarding additional revisions to the Board's 2022 *Revised Draft* Rules of Procedure to ensure the finalized ROP are:

- Clear
- Concise
- Comprehensive
- Current

Summary of the Rules of Procedure (ROP) Consultations to Date /1



Summary of the Rules of Procedure (ROP) Consultations to Date /2

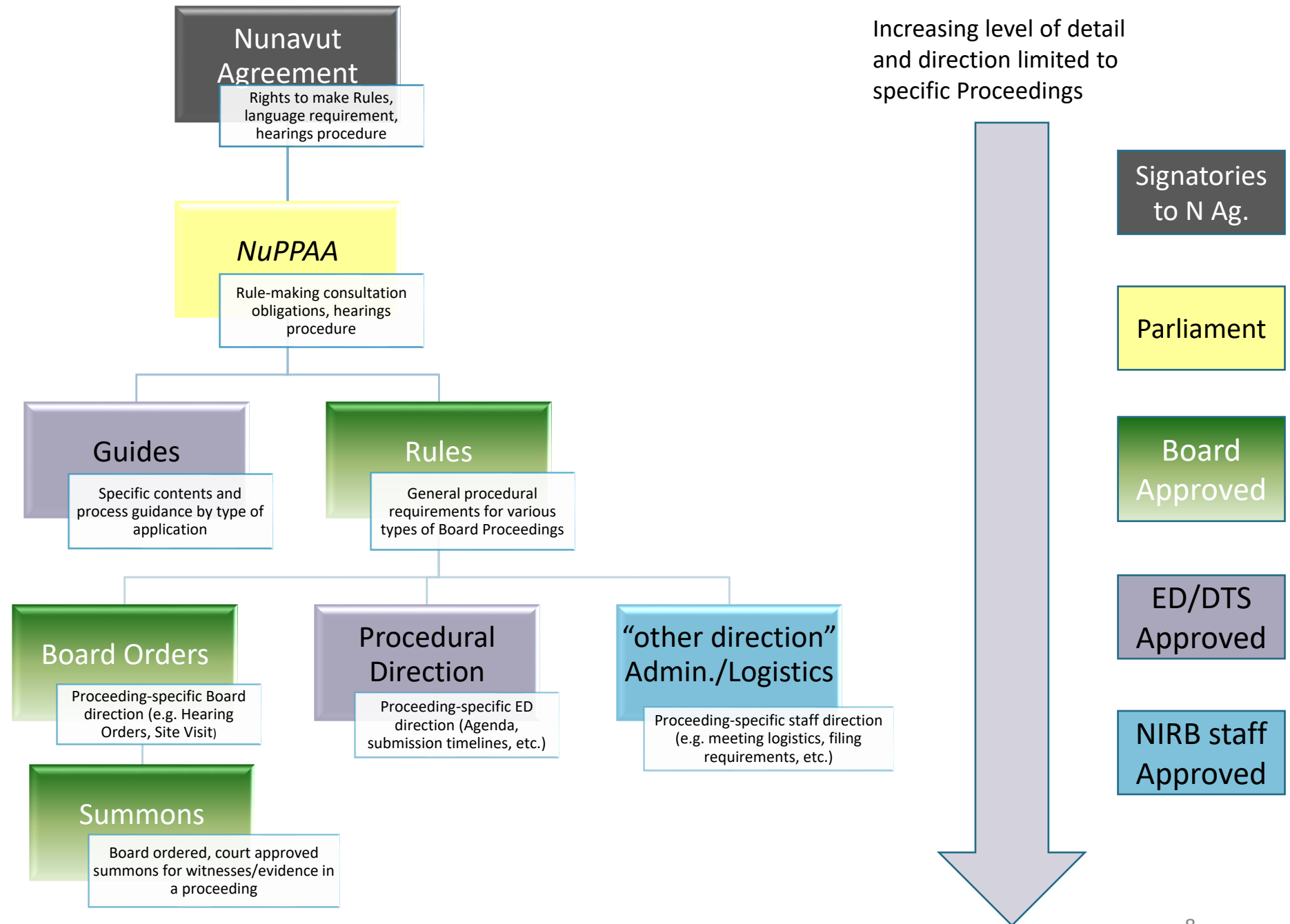




Key Changes in the 2018 *Draft* ROP

- In 2018, the revisions to the Board's 2009 version of the ROP were intended to reflect:
 - The implementation of the *Nunavut Planning and Project Assessment Act (NuPPAA)* in July, 2015;
 - NIRB's increasing experience with different types of assessments (e.g. phased development and SEA) and the resulting need for greater procedural flexibility and "scalability";
 - NIRB's emerging best practices with respect to community involvement;
 - Broadening the scope of the ROPs 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; and
 - Reorganization to better reflect distinctions between file administration/logistical direction (addressed by staff and Executive Director) and substantive procedural matters (addressed by the Board)

Underlying Template for Restructuring of 2018 *Draft* ROP



2019 Consultations and Comments

- Oral comments received during:
 - Round Up Consultations with NWT & Nunavut Chamber of Mines Members and consultants;
 - Nunavut Mining Symposium 2019:
 - Regulatory authorities session;
 - Project Proponent and consultants session; and
 - Designated Inuit Organizations session.
- 157 written comments from:
 - Nunavut Tunngavik Incorporated;
 - Kitikmeot Inuit Association,
 - Kivalliq Inuit Association;
 - the Qikiqtani Inuit Association;
 - Government of Canada;
 - Government of Nunavut;
 - Government of the Northwest Territories;
 - Agnico Eagle Mines Limited; and
 - TMAC Resources Inc.



NIRB Draft ROP (November 2018 version):

Summary of Written Comments and the Board's Responses

1.0 BACKGROUND

In November 2018, the Nunavut Impact Review Board (NIRB or Board) commenced the consultation process on the updated and substantively revised set of the Board's Rules of Procedure (ROP) to govern the Board's conduct of various types of proceedings. The Board invited comments on the November 2018 consultation draft of the ROP (the draft ROP), with a comment period that closed on March 13, 2019. In addition to the formal request for comment, both before and after the close of the comment period, the Board has provided opportunities for parties to provide feedback regarding the draft ROP.

The summary table that follows lists the comments received and identifies the Board's response. Where the comment resulted in a change to the draft ROP, the Board has identified the changes to the draft ROP made by the Board in response. Where the comment did not result in a change to the draft ROP, the Board has provided a brief statement of the Board's rationale for not making a change to the draft ROP.

During the comment period, the Board received:

- 157 written comments that are relevant to the ROPs
- Comments from 4 Inuit Organizations: Nunavut Tunngavik Incorporated; Kitikmeot Inuit Association, Kivalliq Inuit Association; and the Qikiqtaaluk Inuit Association
- Comments from 3 Governments: Government of Canada; Government of Nunavut; and Government of the Northwest Territories
- Comments from 2 Current Project Proponents: Agnico Eagle Mines Limited; and TMAC Resources Inc.

The Board thanks all parties for their thorough review of the draft ROP and the provision of extensive comments. The Board appreciates the efforts taken by all commenters to improve the quality of the Board's ROP by enhancing the clarity and completeness of the draft ROP. Reflecting both the written comments received and the Board's own internal review and revision process, the Board made over 200 substantive revisions to the draft ROP, including approximately 130 additions to the draft ROP and over 70 deletions from the draft ROP and has prepared a revised version of the ROP to reflect the feedback received. In March 2020, the global COVID-19 pandemic required the Board to modify the NIRB's processes to enhance the use of remote access technologies and incorporate public health measures into the Board's existing procedures for in-person proceedings. Select revisions to the draft ROP to reflect the Board's approach to these and future modifications were incorporated into the 2022 revised version of the draft ROP.

2.0 NEXT STEPS

The next steps for the finalization of the ROP are as follows:

Activity	Anticipated Date ¹
NIRB distributes the 2022 Revised Draft ROP for comments	March 29, 2023
In-person consultation on the 2022 Revised Draft ROP	April 28, 2023
NIRB receives written feedback on the 2022 Revised Draft ROP	June 30, 2023

Summary of Comments

- Accompanying the 2022 *Revised Draft* ROP, the Board prepared and circulated a table listing each written comment and providing a summary of the Board's actions and responses to the comment
- There were four main categories of comments:
 - Editorial (typos, corrections, circular references, etc.);
 - Seeking clarity in terms of process, timing and/or the role of parties and the Board;
 - Requesting the Board specify limits or describe the factors that must be considered by the Board when exercising discretion; and
 - Requesting participants be given additional opportunities to review and comment before the Board exercises discretion with respect to some matters.

Roundtable Discussion of 2019 Comment Submissions and the NLRB's Responses



After 2019 Additional Feedback Was Considered

Feedback on Board proceedings conducted in 2019-2022 identified further changes to the 2018 *Draft* ROP to reflect:

- The Board's increased use/reliance on remote participation technologies;
- The increased media interest/ access/ participation in Board proceedings;
- Lessons learned since the 2018 draft was released; and
- Emerging best practices in terms of the Board's application and consideration of Inuit Qaujimajatuqangit, community knowledge and Indigenous knowledge



Substantive Changes in the 2022 *Revised* *Draft ROP* */1*

Description of Inuit Qaujimajatuqangit, elimination of the term Inuit Qaujimaningit and the Board's Approach to applying Inuit Qaujimajatuqangit in Board proceedings

Addition/Refinement of Defined Terms e.g. Community Knowledge, Community Representatives, Exhibit, Indigenous Knowledge in place of "Traditional Knowledge", Public Hearing Record

More detail regarding the process that applies to parties seeking to exclude Documents from posting on the public registry on the basis of privacy and confidentiality concerns

Addition of "Materiality" to the Board's discussion of "Relevance and Weight of Information" (New Rules 40-42)

Substantive Changes in the 2022 *Revised* *Draft ROP* */2*

Addition of rules addressing Media Participation in Board Proceedings (New Rules 61-62)

Addition of rules addressing recording, rebroadcasting and retransmission of Board Proceedings (New Rules 63-64)

Addition of rules addressing modifications to In-Person Proceedings to reflect Health, Safety or other Regulatory Directions (New Rules 73-75)

Changes to existing Rules to add flexibility for the Board to combine in-person and teleconference/videoconference proceedings into “hybrid Proceedings”

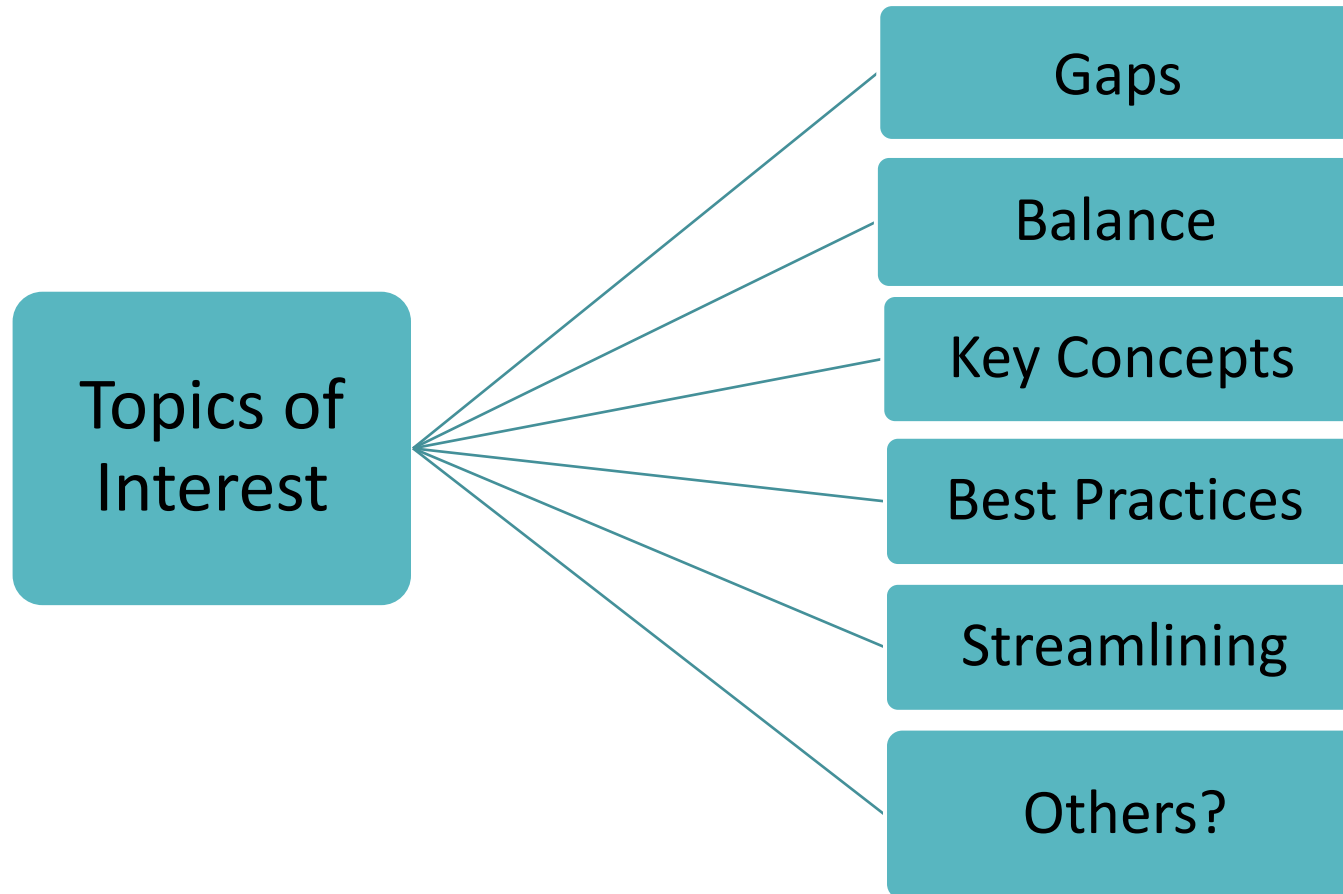
Changes to address the limited circumstances when the Board may close all or part of a Hearing to the public under ss. 102(5) and 102(6) of the *NuPPAA* (New Rules 133-134)

What You Won't See

- A snapshot of regulatory boards and tribunals across Canada in 2023 indicates some regulators are maintaining on-line proceedings as the default, hosting in-person proceedings only if there are special circumstances
- This will not be the approach for the NIRB, as the Board's preference for in-person proceedings remains due to many factors, such as respect for Inuit oral traditions, recognizing the role of elders, the significant logistical, technological, financial, human resource and other practical constraints in Nunavut



Open Discussion of Issues, Questions, Comments on the 2022 *Revised Draft* ROP



Next Steps for the 2022 *Revised Draft* ROP

Activity	Anticipated Date
Interested Parties provide comment on the 2022 <i>Revised Draft</i> ROP	June 30, 2023
NIRB reviews comments received, revises the 2022 <i>Revised Draft</i> ROP and approves the final version of the ROP	July-October 2023
NIRB publishes final ROP, issues required Notice of adoption in the Gazette and implements the finalized version of the ROP	October 2023
Note: All dates may be changed by the Board reflecting circumstances	

NIRB Guidance on ROP Comment Submissions

Comment Number:	Each specific comment, revision, or recommendation should be numbered to allow for effective cross-referencing of the submission
Subject:	Identify the general subject or topic associated with the comment, revision, or recommendation (e.g., 'Filing of Motions').
Reference:	Provide a clear reference to the applicable document, section, and/or page number where the text associated with comment, revision or recommendation may be found.
Priority:	Identify the relative importance of the comment, revision, or recommendation to you/your organization/agency.
Background/ Rationale:	Provide background information and any rationale supporting the comment, revision, or recommendation.
Recommendation to Address Issues:	If possible, provide recommendations regarding the best means of addressing the issue(s) identified, including, but not limited to, providing suggested changes to the text of the draft, identifying additions or deletions required, and discussing whether the NIRB should address the issue(s) outside the current draft document.

Next Steps for the Standard IS Guidelines

Activity	Anticipated Date
Regional community consultation	April 2023
NIRB distributes updated Revised Draft Standard IS Guidelines for comment	June 2023 Tentative
NIRB distributes Finalized Standard IS Guidelines	October 2023 Tentative
Note: All dates may be changed by the Board reflecting circumstances	

Closing Comments

- Any additional comments, questions or final thoughts to be considered by the Board?
- Wrap up.



Contacts for Follow Up



2022 Revised Draft ROP

- Copies of all relevant documentation available from the NIRB's website at: www.nirb.ca/rules-of-procedure
- Direct questions and comment submissions to:
Karen Costello, Executive Director
Nunavut Impact Review Board
P.O. Box 1360, 29 Mitik St.
Cambridge Bay, NU X0B 0C0
Fax: 1-867-983-2594 Email: info@nirb.ca

IS Guidelines

- Direct questions to:
Heather Rasmussen, Senior Policy Advisor
Phone: 867-983-4606
Email: hrasmussen@nirb.ca

Thank you, Quana,
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