

GENERAL INSTRUCTIONS FOR EXCEL TEMPLATE:		
1. Do not leave blank rows above or between comments. 2. Do not modify or delete the instructions or the column headings (i.e. the grey areas). 3. Each comment must have an associated topic and recommendation. 4. All formatting (i.e. bullets) will be lost when this file is uploaded to the Online Comment Table. 5. If necessary, adjust the cell width and height in order to view all text. 6. Cutting and pasting comments from WORD documents cannot include hard returns (spaces between paragraphs). 7. If you would like to create paragraphs within a single cell, please use a proper carriage return (ALT & ENTER).		
TOPIC	COMMENT	RECOMMENDATION
<i>Be as specific as you think is appropriate; for example a section or page of the document, a recommendation #, general comment, etc.</i>	<i>Comments should contain all the information needed for the proponent and the Board to understand the rationale for the accompanying recommendation.</i>	<i>Recommendations can be for the proponent or for the Board. Recommendations should be as specific as possible, relating the issues raised in the "comment" column to an action that you believe is necessary.</i>
Section 1 - Guiding Principles	<p>Section 2.4.2 of the Draft Guidelines provides the only reference to an important overarching guiding principle, that closure costs at a site must never exceed the amount of security in place at that time:</p> <p>This rationale must include a discussion of how the proposed security deposit for each milestone ensures the estimated cost to close and reclaim the site never exceeds the security deposit held during any phase of the project.</p> <p>This principle should apply in all cases, whether a proponent provides security in a phased approach or a one-time submission. It is this principle that protects public government from incurring liability at mine sites. The requirement for proponents to propose and governments to hold sufficient security at any point in time to cover all of the costs that may be associated with closing and reclaiming a site at that time should be clearly stated in the introductory sections of the Guidelines. If there are existing policies that address this principle, those should be referenced.</p>	Add a statement of guiding principles to the Guidelines including that the estimated closure cost can never exceed the security deposit.
Prescriptive Requirements eg. Section 3, p.9, top; Table 1, p. 17, Buildings and Equipment row	<p>The Draft Guidelines generally indicate (e.g., Section 2.3, Section 3) that closure activities associated with prescriptive requirements and objectives will not require hold-backs of security. The Draft Guidelines argue that these straightforward, prescriptive activities and outcomes can be easily verified – for example that it is easy to verify that a building, or pipeline or powerline is removed. While the execution of the prescribed tasks can be verified, there could still be outstanding risks and requirements that require hold-back. For example, removal of a pipeline or building may require recontouring and re-vegetation to control erosion, or maybe a proponent expects that the land where a building is removed will naturally re-vegetate and be resistant to erosion. There are risks that erosion may still occur, and there are outstanding requirements (and costs) associated with monitoring for erosion. While the post clean-up costs for prescriptive requirements and activities may be less or may be more predictable, there should be no assumption that such costs are not relevant.</p>	<p>Ensure potential outstanding risks for all closure activities are assessed, along with appropriate holdbacks.</p> <p>Revise Section 3, p. 9, para. 1 and similar to reflect these potential costs</p>

<p>Potential for permanent risks eg. Section 3, p. 9 para 2 & 3</p>	<p>The Draft Guidelines explicitly recognize that achievement of closure objectives and criteria may not be immediately apparent upon completion of planned closure activities. They acknowledge the need for long-term monitoring and maintenance for some types of structures and facilities. This is an important concept for addressing and minimizing long-term risks for the environment and public government.</p> <p>It would be useful if the Draft Guideline also acknowledged that some facilities and sites may have permanent risks that require monitoring and maintenance. For example, site with tailings dams or water conveyance channels that present risks to waste storage facilities may require commitments for permanent monitoring and maintenance. In these cases, closure objectives may never be met, or require ongoing and permanent confirmation that they continue to be met. Even if the objectives are met, there may be outstanding and continuing liabilities. The Guidelines should be revised to recognize that it may not be possible to reduce liability and security to zero for many projects.</p>	<p>Acknowledge that some sites may have permanent risks that require permanent ongoing maintenance and monitoring.</p> <p>Revise Section 3, p. 9, para. 2 & 3 and similar to reflect potential for permanent risks.</p>
<p>Details about cost-estimation - Section 2 & Section 3</p>	<p>Section 3 addresses the Boards' expectations for security refunds. Section 3.1.1 provides details about the methods for estimating security – much more detail than contained in Section 2 that addresses the Boards' expectations for cost estimates. For example, Section 3.1.1 provides details about estimation of direct and indirect costs, mobilization/demobilization, post-closure monitoring and maintenance, etc. The content is valuable in the Guideline, but is relevant to all closure cost estimates, not just those associated with security refunds. Much of the content of Section 3.1.1 should likely be moved into Section 2. Section 3.1.1, which proposes a holistic re-evaluation when requesting a security refund (a good idea), could then refer to the requirements described in Section 2.</p>	<p>Move content of section 3.1.1 to section 2 as appropriate to provide detail applicable to all closure cost estimating, including security holdbacks.</p>
<p>Contingency Costs - Section 3.1.1</p>	<p>Section 3.1.1 provides a general description of the rationale for including contingency costs is a cost estimate. The Draft Guideline refers to the RECLAIM User Manual, identifying contingency to address two types of uncertainty that affect costs:</p> <ul style="list-style-type: none"> •Scope uncertainty related to what specific activities may be required, or what may be involved in in doing the activities, and •Bid or Cost uncertainty that relates to the actual costs for construction and implementation of the project. <p>The Draft Guideline notes that contingency amounts in cost estimates may drop as the mine develops and closure planning progresses and there is a better understanding of the closure plan. The Guidelines should also point out that contingencies are never expected to reach zero because there is still uncertainty about costs even when projects are under construction. The Yukon's "Reclamation and Closure Planning for Quartz Mining Projects: Plan requirements and closure costing guidance" is informative in the area of contingencies:</p>	<p>Guidelines should state that contingencies are never expected to reach zero due to inherent uncertainties in cost estimation.</p>

<p>Contingency Costs (cont.)</p>	<p>“The Association for the Advancement of Cost Engineering (AACE) defines contingency as “An amount added to an estimate to allow for items, conditions, or events for which the state, occurrence, or effect is uncertain and that experience shows will likely result, in aggregate, in additional costs” (AACE International Certified Cost Technician Primer, Supporting Skills And Knowledge Of A Cost Engineer. 1st Edition – January 2011).</p> <p>Estimates should include contingency costs that are intended to address the errors arising from the use of assumptions and conceptual information during project design and planning. This type of contingency is intended to address uncertainty in the cost estimates, not uncertainty about the adequacy of proposed measures, or uncertainty related to worst-case outcomes. It is a contingency that should be expected to be expended. If there is significant uncertainty about performance of proposed reclamation and closure measures, such costs should be addressed separately as risk contingencies.</p> <p>Uncertainty about cost estimates arises primarily from two areas; scope and bid uncertainties. Scope uncertainties relate to the level of understanding of what specific activities will be required, while bid uncertainty relates to the actual costs for construction and implementation of the project.</p> <p>For schematic or feasibility level designs which are typical for early versions of RCPs, accuracy ranges can be 30% or more on the high side, indicating that contingencies up to 30% of direct project costs would be warranted to address cost uncertainties. As the level of design progresses, the contingency percentages may be reduced, but such reductions should be supported by demonstrated achievement of greater detail in designs.</p> <p>Contingencies should never be removed entirely because cost estimate uncertainties continue even once the project is under construction. However, once detailed designs for construction are in place, contingency costs may be reduced to as low as 5% to 10%.”</p>	
<p>Performance Uncertainty - Section 3.1.2</p>	<p>Section 3.1.2 describes consideration of performance uncertainty and correctly distinguishes this type of uncertainty from that addressed by the contingency amount in the RECLAIM model. This is an important distinction. Contingencies like those addressed in the RECLAIM model should be considered as costs that are likely to be incurred in carrying out the project. Performance uncertainty, on the other hand, leads to costs that may be incurred. There are, of course, different levels of performance uncertainty, depending on many factors like precedents for similar activities, level of design, research outcomes, certainty of investigation results, etc. While the Draft Guideline includes the content about performance uncertainty in a section about performance holdbacks, the text suggests that the MVLWB may be intending to include performance uncertainty in cost estimates (and associated security amounts) in a more general way:</p> <p>“It is anticipated that for existing water licences this concept will be added into the security evaluation as part of future security adjustments and refund requests.”</p> <p>The inclusion of performance uncertainty costs for planned closure activities is quite different from retaining a holdback of security for completed activities. Nonetheless it may be beneficial in some cases and will help to reduce liability risks for public government. If the Boards are intending to include contingency amounts for performance uncertainties, this should likely be addressed in Section 2 on closure cost estimates, not solely in relation to holdbacks.</p>	<p>Include discussion of contingency amounts for performance uncertainty in Section 2 on closure cost estimates as well as in relation to holdbacks</p>

RECLAIM Model	The Draft Guidelines identify the RECLAIM model as the preferred method for estimating closure costs in the NWT. The Guidelines note that the RECLAIM model is maintained by CIRNAC and GNWT, with periodic updates to address changes in unit costs, etc. Given that the governments have and are implementing mine closure projects in NWT, have there ever been comparisons of actual reclamation costs incurred by government in comparison to those estimated for the same activities as those conducted by government at abandoned mines. If not, this may be a useful exercise to validate and calibrate the model.	none
Definitions - Landowner	The definition of Landowner includes the title holder of private lands. The use of the term Landowner in other definitions and in the Guidelines should be checked to confirm applicability with respect to this type of landowner. For example, the definition of "Security Deposit" refers to funds held by a landowner. However, it seems unlikely that any private landowner would be able to hold such funds.	If the use of the term landowner in the Guidelines is never relevant to private landowners, the portion of the definition related to private landowners could be removed.
Definitions - Progressive Reclamation	The definition of progressive reclamation states that it is reclamation that "takes advantage of cost and operating efficiencies by using the resources available from an operation to reduce the overall reclamation costs incurred." While this encompasses some progressive reclamation, it seems to narrow the interpretation too much. Progressive reclamation could be undertaken (and in fact necessary) for many reasons, whether it takes advantage of cost and operating efficiencies or not. For example, progressive reclamation of acid-rock drainage conditions may be needed to avoid continued oxidation while mining continues in other areas of a site. Similarly, reclamation of disturbed areas may be needed to reduce erosion once activities in a certain area are complete.	The concept of progressive reclamation is accurately portrayed by the opening and closing sentences of the definition. The middle sentence narrows the definition too much and should be removed.
Definitions - Security Adjustment	The definition refers to changes in the closure plan or progressive reclamation as reasons for security adjustment. While the list is not intended to cover all potential reasons for adjustment, it should be expanded to at least include changes in the estimated closure cost. This is potentially the most common reason for making adjustments in security, simply that unit costs or some other cost factors have changed, even if the closure plan status remains the same. Similar comments apply in related sections of the Draft Guidelines where security adjustment is discussed (e.g., Section 2.4)	Expand list of reasons for security adjustment to include changes to unit costs. Apply to other sections of Guidelines as relevant.
Definitions - Security Deposit	The proposed revision to the definition includes reference to the potential use of security deposits "to take measures to address situations of non-compliance at the site." While the legislation provides for use of security for this purpose, it does not provide for the maximum amount of security to include the cost of such measures (See Section 1.2 of the Draft Guidelines re: Authority). As such, it may be useful for the definition to further clarify that if security is used for such purposes, there would be an expectation for a proponent to restore any funds to the security bond.	Clarify that if security is used to address non-compliance issues, the proponent would be required to restore those funds to the security bond.
Section 2.2 - Engagement about estimates	The Draft Guidelines propose that any reviewers who propose a closure cost estimate should collaborate with the proponent and GNWT. While such collaboration may be advantageous for the Boards, it may not always be appropriate. Reviewers may have objectives and goals that are fundamentally different from proponents and governments, for example they may be opposed to a project and may wish to propose cost estimates as rationales for specific positions. These types of situations are ones in which reviewers should genuinely expect that the Boards would hear and decide about different perspectives.	Reconsider proposal to require reviewers to collaborate with the proponent and GNWT.
Section 2.3 - Develop cost estimates	Section 2.3 describes three types of regulatory compliance costs that are not included in RECLAIM. It notes that these costs may not be well refined at the initial licensing phase. The Guideline should also include a clear expectation that in instances of uncertainty about cost estimates conservative values should be included. If future work improves the understanding, then cost estimates can be refined. The overall expectation should be that early costs estimates may over-estimate the reclamation costs due to uncertainty, while refinements will generally lead to reductions in estimates as understanding of requirements and costs improves. This should be a general expectation, not just related to the three types of regulatory compliance costs referenced.	Address comment in guidelines where relevant.

Section 3.1.1	Section 3.1.1 states that contingency amounts may drop “when the mine moves from construction into operation or when the operational phase transitions to closure and the ore deposit gradually becomes mined out.” The reason for reduction in contingency amounts is not related to the status of mining activities. Instead, it is related to the level of understanding of closure activities – how much engineering, design and investigation has been done to support the closure plan, for example. The text should be clarified to identify a more appropriate rationale for reducing contingency amounts.	Address comment in guidelines where relevant.
Section 3.1.2	Section 3.1.2 refers to Table 1 that “identifies holdbacks related to performance uncertainty by the main components of the RECLAIM model.” While the percentages in Table 1 provide guidance for typical examples, there will be circumstances in which more conservative numbers will be needed.	The Guideline should be revised to clarify that proponents may apply the stated numbers only if they demonstrate that the conditions and the status of their planning is consistent with the descriptions in the table. If conditions are different than those described in the table (e.g., a pit with concerns related to rock stability performance, not just overburden stability) then alternative numbers should be applied and justified.
Table 1	Some of the recommended performance uncertainty holdback ranges in Table 1 have a minimum holdback value of 20% - for example “tailings” and “waste rock”. There does not appear to be guidance on if/how this holdback would ever be released and it could be inferred that it is intended as a permanent holdback.	LWB/GNWT clarify if the minimum holdbacks in Table 1 are intended to be permanent and if not what would be required to have these minimum holdbacks released. The clarification should be made available for review/comment prior to finalizing the Guidance Document.
Table 1	Tailings: Table 1 proposes that the lower end of uncertainty applies at sites with favourable geology, related to acid rock drainage and metal leaching. The level of performance uncertainty for tailings facilities could also be influenced by the choice of design criteria. For example, if a proponent chooses to design and build water conveyance and containment facilities to withstand 1:100-year return-period events, there is greater performance uncertainty than for facilities designed and built to withstand 1:1000-year return-period events. Similar comments apply for “Water Management” in Table 1.	Address comment in guidelines where relevant.
Table 1	Chemicals: The Draft Guideline proposes that there is some uncertainty related to landfarming of contaminated soils and that holdbacks would be required. There is definitely uncertainty about performance of landfarming. However, the outcomes can be measured with effective monitoring – and typically are. For landfarming, there should be no consideration of security refund simply for placing material in a landfarm. Instead, refund should only be considered once the material is remediated according to monitoring. In this case, there would be little need for holdbacks associated with landfarming. On the other hand, there may be a need for holdbacks to address contaminated soil that is not identified at the time of a request for security release.	Address comment in guidelines where relevant.
Definition of Application		The final portion of the application should be revised to clarify that the reference to “any step required to advance a Board proceeding” is referring to any step taken by an applicant. Otherwise, the definition could encompass steps taken by other parties.

Definition of "Indigenous government and organization"	The term "Indigenous government and organization" is somewhat confusing. Is the definition intended to apply for both Indigenous Governments and Indigenous Organizations? If so, then the term may be better named "Indigenous Government or Indigenous Organization." Could the two definitions be separated? Also, the definition itself could be improved. In one reading of the definition, it defines and "Indigenous organization" as an "Aboriginal organization representing ... a Métis or Inuit organization." Is this referring to a separate Aboriginal organization that represents the Métis or Inuit organization, or is it referring to the Métis or Inuit organization itself?	Address comment in guidelines where relevant.
Definition of "Landowner"	The definition of Landowner refers to settlement lands, Tłı̨chų lands, Délı̨ne lands, or other private lands. This implies that settlement lands, Tłı̨chų lands, Délı̨ne lands are "private" lands. Is this interpretation intended?	Address comment in guidelines where relevant.
Section 1	The first paragraph states that security deposits are required to cover costs "should the proponent become insolvent and not meet [closure] obligations." Insolvency may be one reason for proponents failing to meet obligations, but it may not be the only one. The statement should be more general, for example, "should the proponent be unable or unwilling to meet closure obligations."	Broaden reasons for proponent failing to meet closure obligations (see comment).
Section 3.1.1 - Re-evaluation of cost estimate	The list of "Direct Components" should be revised to provide for other components that are not specifically listed. The current list does not include all components that mines include or may include. For example, the current list does not address roads, laydown areas, overburden/soil piles or landfills. Also, potential other facilities like heap leach pads are not included.	Revise list of Direct Components as per comment.
Section 3.1.1 - Re-evaluation of cost estimate	Section 3.1.1 refers to "security adjustments associated with progressive reclamation during or after operations." Security adjustments could be associated with any reclamation, whether considered "progressive reclamation" or not.	Revise Guideline as per comment
Section 3.1.1 - Re-evaluation of cost estimate	Section 3.1.1 states that submissions related to security refunds must "provide clear and tangible evidence of the completion of closure and/or reclamation activities." This should be revised to refer to completion and satisfactory performance of activities.	Revise Guideline as per comment
Section 3.1.1 - Re-evaluation of cost estimate	Section 3.1.1 addresses costing for post closure monitoring and maintenance and notes that liabilities associated with performance uncertainty are "typically ... associated with tailings containment areas and waste rock storage facilities where metal leaching and other acid rock drainage concerns may not come to light until well after the reclamation and closure activities have been completed." It would be preferable to refer to these circumstances as examples rather than "typical." There are many other scenarios that present long-term risk and uncertainty, for example any water conveyance facility is subject to failure due to long return-period events that may not happen for many decades or even centuries.	Revise Guideline as per comment
Section 3.1.1 - Re-evaluation of cost estimate	Section 3.1.1 refers to security hold back to "ensure all monitoring work can be achieved." This should be revised to include monitoring and maintenance.	Revise Guideline as per comment
Background and Rationale for calculating security holdback	The Guidance Document does not provide any information on the options considered for calculating security holdback nor the rationale for the option selected. It is noted that other methods would be considered by the LWB/GNWT but it would be helpful for all parties if information was provided on possible calculation options and LWB/GNWT rationale for preferences/concerns.	LWB/GNWT to provide information on holdback calculations considered and rationale for option selected. The information should be made available for review/comment prior to finalizing the Guidance Document.