Eclipse Foundation

Provenance and Licensing Considerations
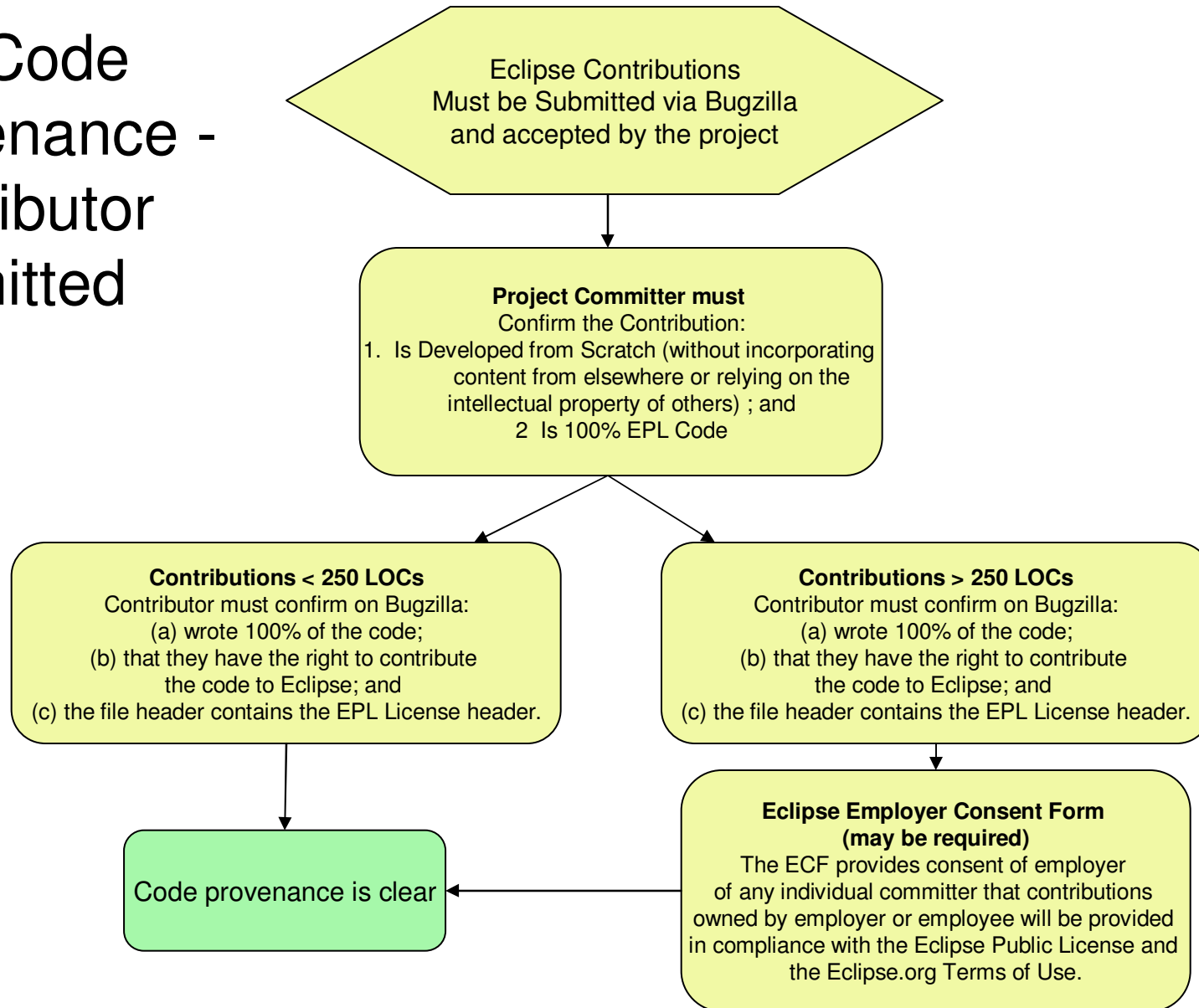
Eclipse IP Team
November 2008

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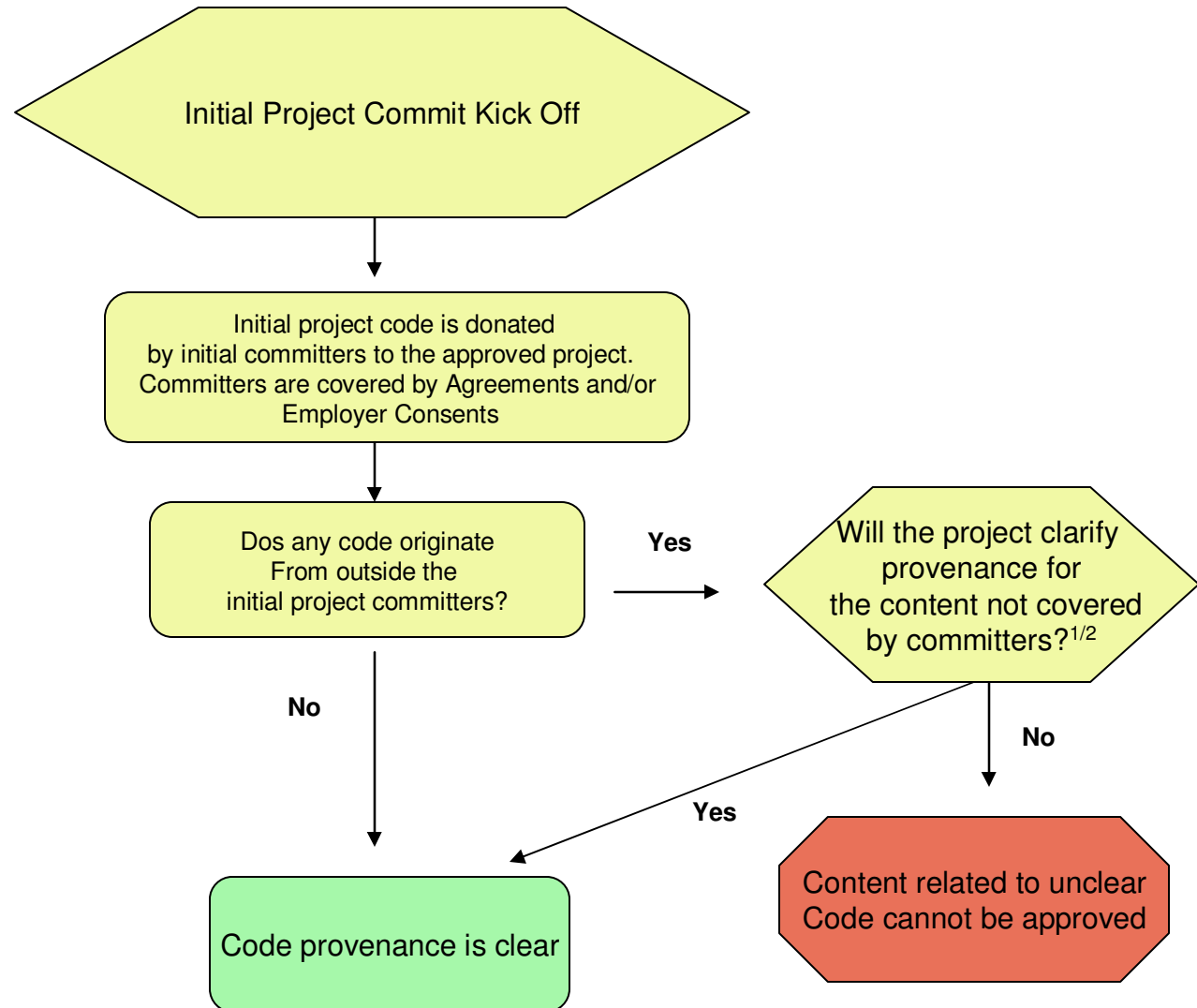 - Non-EPL Tips and Tricks

EPL Code Review

- Eclipse-licensed code can be
    - Contributed, or
    - Committed, or
    - Moved to Eclipse

- In any of these scenarios, Eclipse considers:

    - Code provenance
        - Purpose: to establish a reasonable comfort level that the content being proposed is being contributed rightfully by the copyright owners, authors and contributors under the EPL license. This exercise serves to mitigate risk to Eclipse projects, members and downstream consumers of becoming involved in a legal action, or having their use of the software disrupted by sudden removal of improperly contributed code.

    - License terms
        - Purpose: to determine if the proposed content currently is or can be licensed under the Eclipse Public License (EPL).

EPL Code Provenance - Contributor Submitted

Eclipse Contributions
Must be Submitted via Bugzilla
and accepted by the project

↓

Project Committer must
Confirm the Contribution:
1. Is Developed from Scratch (without incorporating content from elsewhere or relying on the intellectual property of others) ; and
2 Is 100% EPL Code

Contributions < 250 LOCs
Contributor must confirm on Bugzilla:
(a) wrote 100% of the code;
(b) that they have the right to contribute the code to Eclipse; and
(c) the file header contains the EPL License header.

Contributions > 250 LOCs
Contributor must confirm on Bugzilla:
(a) wrote 100% of the code;
(b) that they have the right to contribute the code to Eclipse; and
(c) the file header contains the EPL License header.

Code provenance is clear

Eclipse Employer Consent Form
(may be required)
The ECF provides consent of employer of any individual committer that contributions owned by employer or employee will be provided in compliance with the Eclipse Public License and the Eclipse.org Terms of Use.

EPL Code Provenance - New Project Initial Commit

Initial Project Commit Kick Off

↓

Initial project code is donated
by initial committers to the approved project.
Committers are covered by Agreements and/or
Employer Consents

↓

Dos any code originate
From outside the
initial project committers? **Yes** → Will the project clarify
provenance for
the content not covered
by committers?[1/2]

No ↓   **No** ↓

Yes

Code provenance is clear   Content related to unclear
Code cannot be approved

1.   For each individual, seek the following information (replacing X with the project's name, and Y with the EPL License):
a] Did you agree to contribute the code to the X project, to be licensed as open source under the EPL license agreement?
b] Did you [yourself] write the code you contributed to the X project?
c] Does anyone else have rights to the code you contributed? [For example, did you have an agreement with an employer giving the employer rights to all code you wrote during that time?]
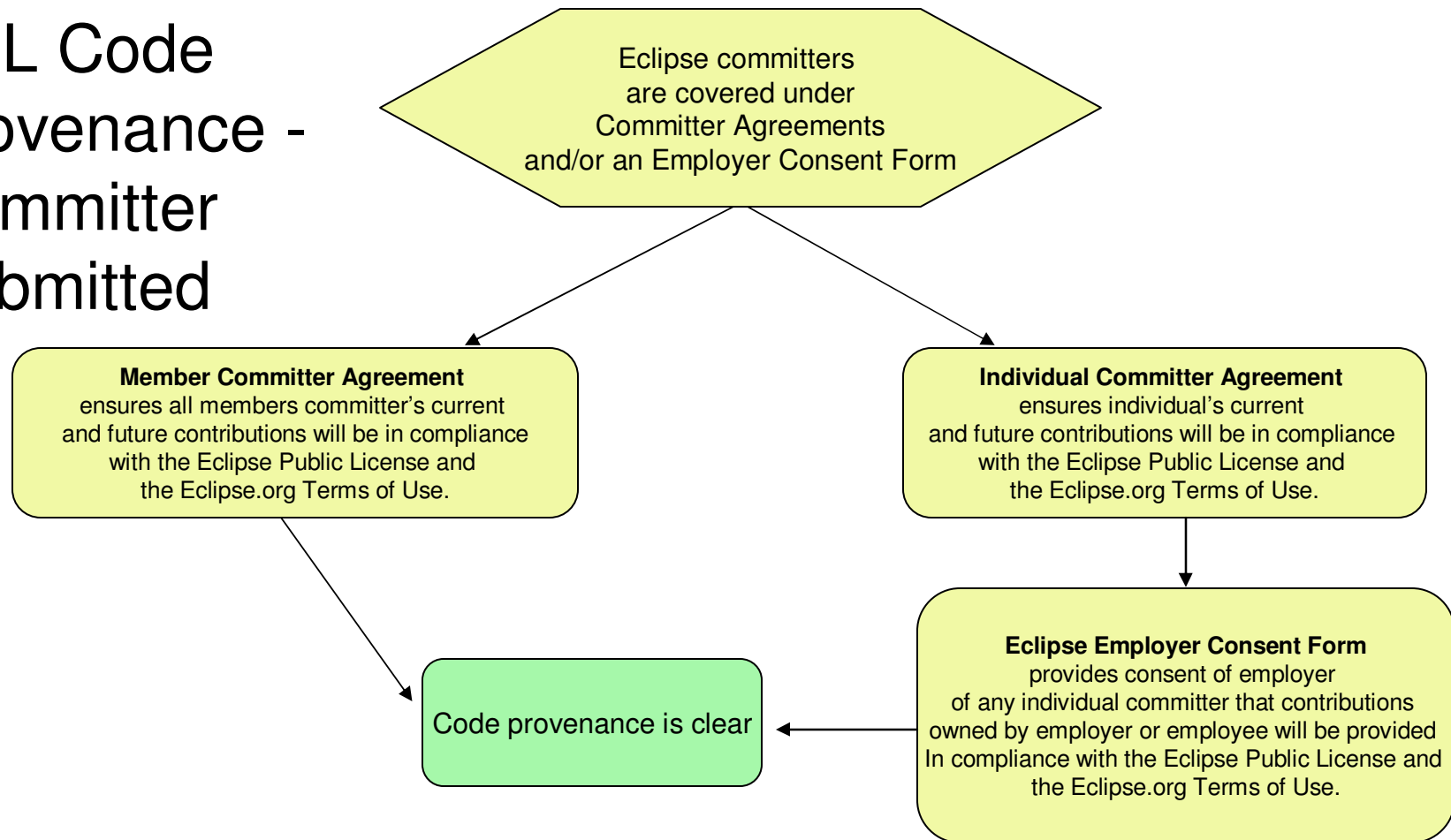d] Can you estimate how much code you contributed to the X project?
*Optional: e] Do you know of any contributions to the X projects which were improperly copied from someone else?
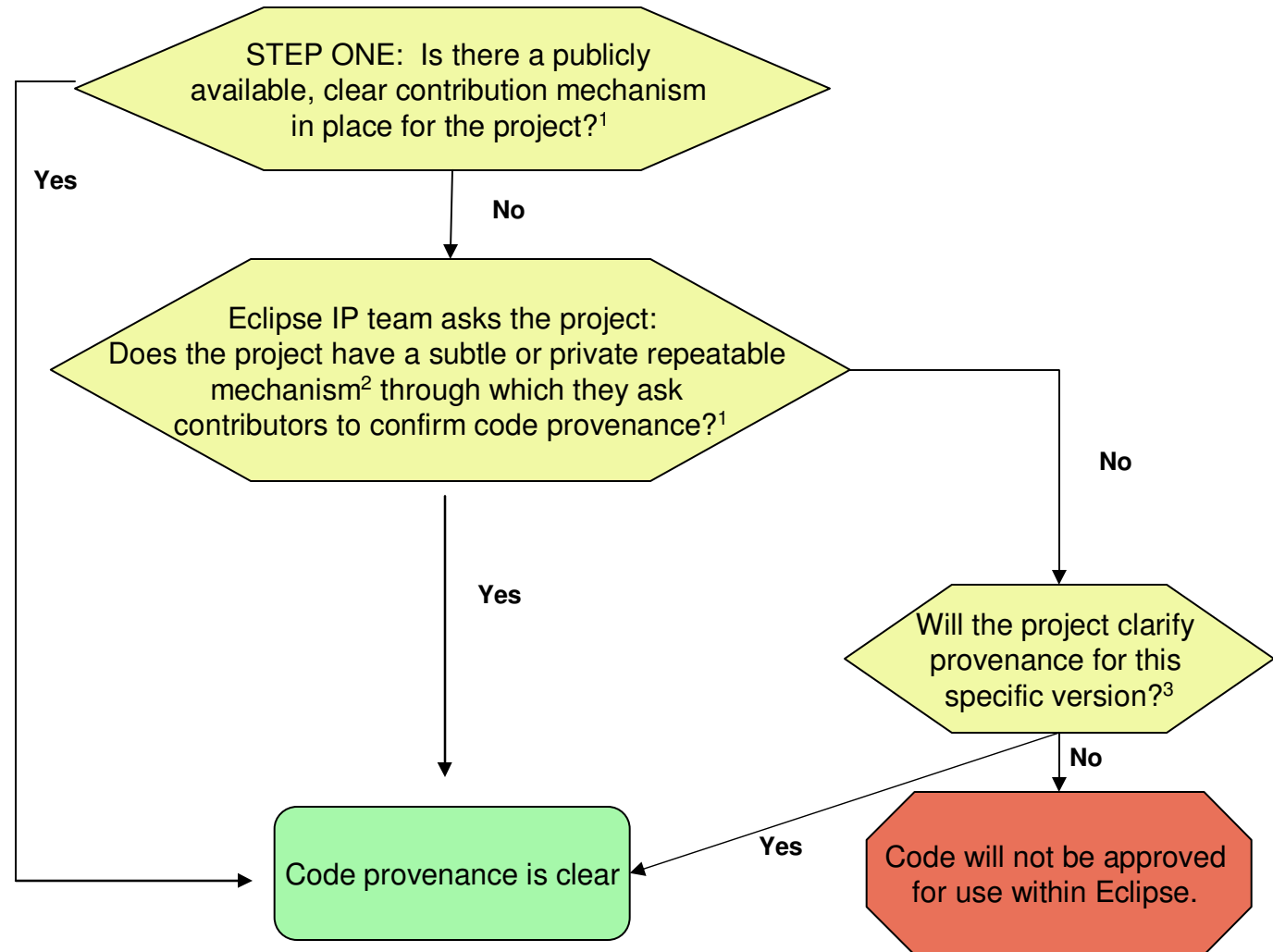*Optional: f] Do you know of any code in X to which a third party has rights inconsistent with the EPL license?
2. Employer Consent Form may be required - http://www.eclipse.org/legal/committer_process/employer_consent.pdf

EPL Code Provenance - Committer Submitted

Eclipse committers are covered under Committer Agreements and/or an Employer Consent Form

Member Committer Agreement
ensures all members committer's current and future contributions will be in compliance with the Eclipse Public License and the Eclipse.org Terms of Use.

Individual Committer Agreement
ensures individual's current and future contributions will be in compliance with the Eclipse Public License and the Eclipse.org Terms of Use.

Eclipse Employer Consent Form
provides consent of employer of any individual committer that contributions owned by employer or employee will be provided In compliance with the Eclipse Public License and the Eclipse.org Terms of Use.

Code provenance is clear

1. Eclipse Member Committer Agreement - http://www.eclipse.org/legal/EclipseMemberCommitterAgreementFinal.pdf
2. Eclipse Individual Committer Agreement - http://www.eclipse.org/legal/committer_process/EclipseIndividualCommitterAgreementFinal.pdf
3. Eclipse Employer Consent Form - http://www.eclipse.org/legal/committer_process/employer_consent.pdf
4. Eclipse Public License - http://www.eclipse.org/org/documents/epl-v10.php
5. Eclipse Terms of Use - http://www.eclipse.org/legal/termsofuse.php

EPL Code Provenance - Move of Code To Eclipse

STEP ONE: Is there a publicly available, clear contribution mechanism in place for the project?[1]

Yes

No

Eclipse IP team asks the project: Does the project have a subtle or private repeatable mechanism[2] through which they ask contributors to confirm code provenance?[1]

No

Yes

Will the project clarify provenance for this specific version?[3]

No

Yes

Code provenance is clear

Code will not be approved for use within Eclipse.

1. Were contributors asked to acknowledge in writing via CLA or some other standardized medium that (a) they authored the code; and (b) nobody else has an interest in or claim to the intellectual property rights (an employer, for instance) and; (c) the intellectual property owner consents to release it as open source under the EPL license.

2. E.g. All contributors confirm answers to these questions via email, or all contributors are asked to submit bugs through a portal which requires the submitter to confirm they own the code, have the rights to contribute it, and consent to its release under the project's license.

3. For each individual, seek the following information (replacing X with the project's name, and Y with the EPL license):
a] Did you agree to contribute the code to the X project, to be licensed as open source under the EPL license agreement?
b] Did you [yourself] write the code you contributed to the X project?
c] Does anyone else have rights to the code you contributed? [For example, did you have an agreement with an employer giving the employer rights to all code you wrote during that time?]
d] Can you estimate how much code you contributed to the X project?
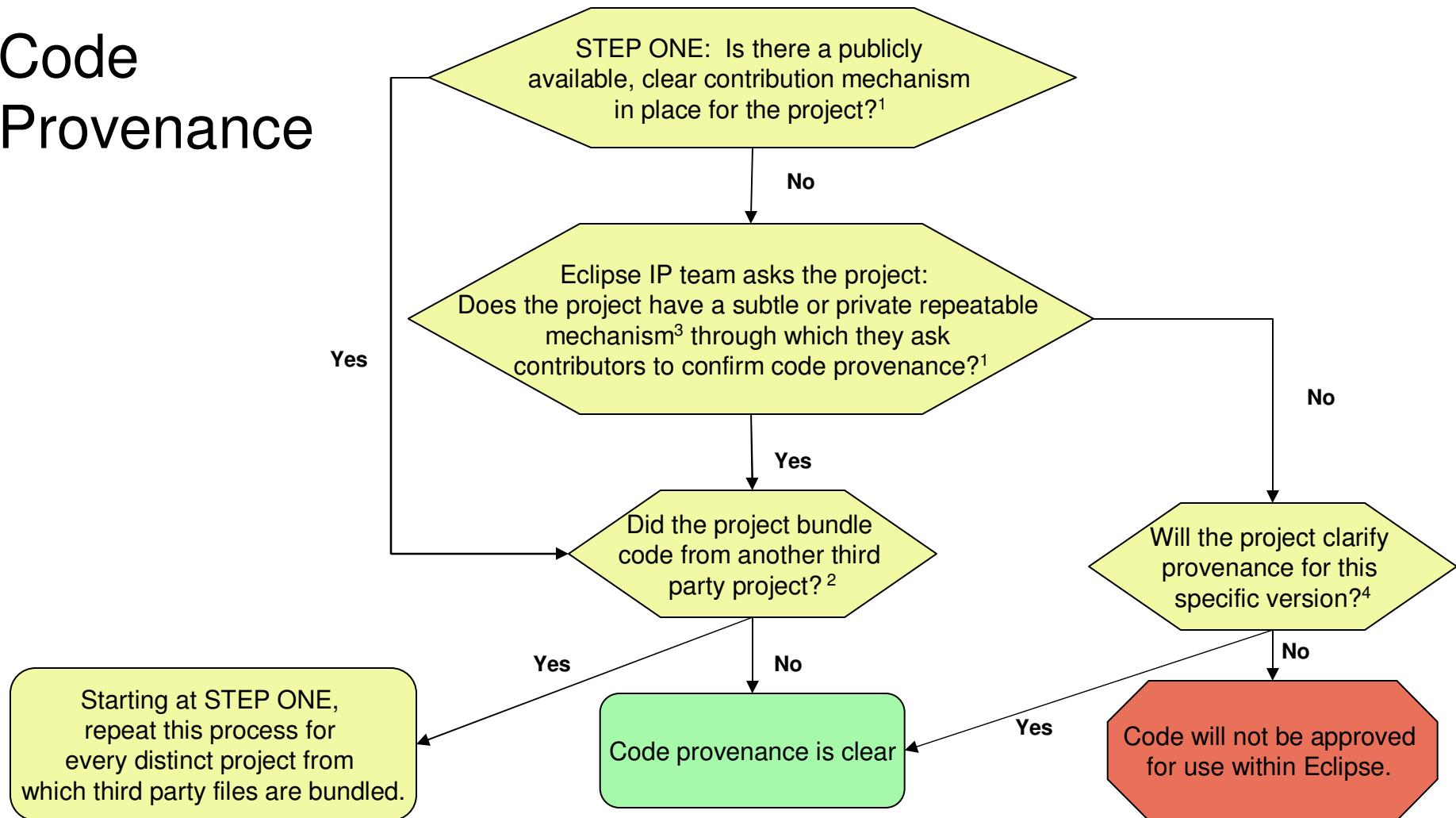*Optional: e] Do you know of any contributions to the X projects which were improperly copied from someone else?
*Optional: f] Do you know of any code in X to which a third party has rights inconsistent with the EPL license?

Non-EPL Code Review

- High level: Eclipse considers
  - Code provenance
    - Purpose: to establish a reasonable comfort level that the project has taken measures to ensure that the code was rightfully contributed to the project under its chosen license. This exercise serves to mitigate risk to committers, members and downstream consumers of becoming involved in a legal action, or having their use of the software disrupted by sudden removal of improperly contributed code.
  - License terms
    - Purpose: to determine whether the Non-EPL project is compatible with the Eclipse Public License (EPL) and the objectives of the Eclipse community.

Code Provenance

STEP ONE: Is there a publicly available, clear contribution mechanism in place for the project?[1]

No ↓

Eclipse IP team asks the project: Does the project have a subtle or private repeatable mechanism[3] through which they ask contributors to confirm code provenance?[1]

Yes (to the left, back to STEP ONE area)

No →

Yes ↓

Did the project bundle code from another third party project? [2]

No →

Will the project clarify provenance for this specific version?[4]

No ↓

Yes (to "Code provenance is clear")

Yes → Starting at STEP ONE, repeat this process for every distinct project from which third party files are bundled.

Code provenance is clear

Code will not be approved for use within Eclipse.

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1.   Are contributors asked to acknowledge in writing via CLA or some other standardized medium that (a) they authored the code; and (b) nobody else has an interest in or claim to the intellectual property rights (an employer, for instance) and; (c) the intellectual property owner consents to release it as open source under the project's license.

2.   Provenance checks must be performed on **each project** from which Non-EPL code originates. Many open source projects pull / bundle code from other projects, so this step may be repeated many times.

3.   E.g. All contributors confirm answers to these questions via email, or all contributors are asked to submit bugs through a portal which requires the submitter to confirm they own the code, have the rights to contribute it, and consent to its release under the project's license.

4.   For each individual, seek the following information (replacing X with the project's name, and Y with the license used by the project):

a] Did you agree to contribute the code to the X project, to be licensed as open source under the Y license agreement?

b] Did you [yourself] write the code you contributed to the X project?

c] Does anyone else have rights to the code you contributed? [For example, did you have an agreement with an employer giving the employer rights to all code you wrote during that time?]

d] Can you estimate how much code you contributed to the X project?

*Optional: e] Do you know of any contributions to the X projects which were improperly copied from someone else?

*Optional: f] Do you know of any code in X to which a third party has rights inconsistent with the Y license?

Non-EPL License Terms

- Projects hosted at Eclipse are provided under the EPL, unless the Board unanimously approves another licensing model.
  - If the project is hosted under another license, re-licensing may be possible. For more information contact emo-ip-team@eclipse.org.
- Inclusion of non-EPL material in the Project is permitted if the license has been approved for use at Eclipse.
  - Please see a subset of approved licenses posted in a note leading from Figure 19 on page 2 of the Eclipse Due Diligence poster.
  - Note many third party licenses are customized versions of popular open source licenses. Some customizations may introduce restrictions which render a license incompatible for use within Eclipse.
    - E.g. The BSD is approved for use within Eclipse. However, if a copyright owner modifies the BSD such that it excludes a license for the development of nuclear devices, that renders the license incompatible for use within Eclipse.
- One license or many?
  - Many Non-EPL packages declare the code is provided under one license. Further examination may reveal that files from other third party packages with distinct license terms may be bundled.

Non-EPL Tips and tricks

- Can you use a subset?
  - Provenance
    - Sometimes the lack of clarity on provenance is limited to a set of files that are bundled with the package, but originate from another third party.
  - License
    - Sometimes the license concerns are limited to a set of files carrying a distinct license that are bundled with the package, but originate from another third party.
  - Where the removal of the bundled files may effectively resolve provenance and/or licensing concerns, the IP team will ask if the use of a subset is viable from a technical perspective.
- Do you know anyone working on the Non-EPL project?
  - If you do, please let us know! We may ask for your help in clarifying provenance or license concerns, to the extent any arise.
    - E.g. In the event there is a licensing incompatibility, there may be instances where the Non-EPL project would be both willing and able to offer the package under another license that has been approved for use within Eclipse.