

Nunavut Land Claim Agreement - the Nunavut Wildlife Act - Inuit Rights

Nunavut Tunngavik Inc. has been working with the Government of Nunavut and the Nunavut Wildlife Management Board in the writing of a New Wildlife Act and regulations that implement Inuit Rights and reflect the authority of the NLCA in Nunavut. The new Wildlife Act and draft regulations are very different from the previous NWT Wildlife Act and regulations.

How are the New Act and draft regulations different?

- NWMB or Government may limit Inuit harvesting only to the extent necessary. (5.3.3 of NLCA)
- There are 13 *Inuit Qaujimagatuqanqit* principles and concepts defined and applied under the act and regulations. (Section 8 of Wildlife Act)
- The powers and functions of the RWOs and HTOs are included in the act and regulations. (5.7.6 and 5.7.3 of NLCA)
- Inuit do not need a license to hunt, you only need to prove that you are an Inuk; this is done with your NTI Beneficiary Card. (5.7.26 of NLCA)

The Principles of Conservation are defined in the NLCA 5.1.5. These principles are of the main purpose for limiting or restricting Inuit harvesting. NTI has tested all the quota and non-quota limitations on Inuit in the Wildlife Act and Regulations against the NLCA to ensure that the rights of Inuit are restricted or limited only to the extent necessary and that the principles and objectives of the NLCA are achieved.

A TAH is the total amount of wildlife that can be harvested. A TAH is a limit on Inuit harvesting and can only be set if necessary to meet the criteria in NLCA 5.3.3. Once a TAH is set, Basic Needs levels must be established by the NWMB. (NLCA 5.6.19)

A Working Group comprised of NWMB, Government of Nunavut, RWOs and NTI has been able to reach a consensus on most of the new regulations. There are regulations that are new and others that have not changed. The purpose of new regulations will be explained. However, there are a few issues that have not been fully resolved by the Working Group. It is these unresolved issues that will be presented in this consultation document for your review, consideration and comment.

This document is for consultation purposes only. We are looking forward to hearing any additional comments or concerns that the RWOs or HTOs may have and NTI will bring these concerns forward in the Working Group process.

For more detail on NTI's positions please speak with NTI's director of wildlife.

Assignment Regulations

- These draft regulations are new and have been written so that all assignments made in Nunavut are following the NLCA.
- The information required to make an assignment is listed in Section 1.
- The assignment is registered with a conservation officer and copies are given to RWOs and HTOs.
- An assignment can be removed if it has ended and the assignee is notified.

Birds of Prey Total Allowable Harvest Order

- All raptors, including owls (birds of prey) are listed as Inuit need all the TAH when established by the NWMB as per 5.6.5 of NLCA. NTI supports establishing a TAH on Gyrfalcons and Peregrine Falcons only as per 5.3.3 (b) of the NLCA. Gyrfalcon and Peregrine Falcon are considered to be of a high economic value and to ensure that this benefit will go to Inuit; NTI has supported a TAH for these birds only.
- The proposed TAH for Gyrfalcons is 5 for Kitikmeot, 5 for Kivalliq and 10 for the Baffin. The RWOs would be responsible for making allocations to the appropriate HTOs in their region. The HTO's allocate the tags between individuals.
- The TAH recommended for Peregrine Falcons is 0 at this time. If a RWO or HTO decided to harvest Peregrine Falcons a request can be made to the NWBM at any time.
- The draft regulations are recommending that Inuit can harvest Snowy Owls without a limit, but all Snowy Owls that are harvested will require a report prepared and submitted by the hunter with specimens, as soon as possible to a conservation officer (Reporting Regulations section 16 and 17(6)).
- The draft regulations also recommend a TAH of 0 for Short-eared Owl, Bald Eagle, Golden Eagle, Rough-legged Hawk, Harrier and Osprey. NTI has not supported the establishment of a TAH on these other Birds of Prey for the following reasons;
 - The Government has not identified a conservation, health or safety purpose for this limitation on Inuit harvest as required by 5.3.3 (a) or (c) of NLCA.
 - There is no allocation need for a TAH as per 5.3.3 (b) of NLCA for these other birds of prey.
- NTI is recommending that Snowy Owls, Short-eared Owls, Bald Eagles, Golden Eagles, Rough-legged Hawk, Harrier and Osprey can be harvested by Inuit without a limit.

Certified Traps Order

- All traps need to be certified either in accordance with the International Agreement on Humane Trapping Standards or under the advice of a new Elders Committee.
- Fox trapping is not subject to the international agreement. So fox traps will need to be certified under the advice of the new Elder's committee. The Elders Committee has not been set up yet.
- The Elders Committee will also have the authority to certify traditional trapping or killing furbearers, for example stone traps.
- Trapping wolves is prohibited under the regulations, which makes Canada and Nunavut compliant with the international agreement.

Conservation Area Management Order

- A conservation area is defined in Article 9 of the NLCA and includes places such as wildlife sanctuaries and critical wildlife areas established by the territorial government.
- Territorial conservation areas need to be defined in this order so that it is clear which conservation areas within the meaning of the NLCA are covered by that Order.
- NTI has concerns about the restrictions on development activities as being proposed, particularly the caribou protection measures. The caribou calving grounds are huge, and sometimes include IOLs. (see Schedule 2 of the Conservation Areas Regulation)
- Caribou calving areas are not conservation areas within the meaning of the NLCA. The title could be confusing.
- Inuit have access to and can harvest in Conservation Areas.

Conservation Areas Regulations

- This regulation identifies the geographical location of conservation areas that are established by the territorial government in Nunavut.
- It also identifies the location of "existing" caribou calving areas. These are called special management areas. They are not conservation areas.

Fees Regulations

These draft regulations set out the costs for permits and licenses.

- Inuit may only require obtaining a license when harvesting from an established surplus, for example, a commercial license.
- Non-Inuit do require licenses or permits for any kind of hunting or fishing and all commercial activities.
- Inuit will be required to pay fees for licenses for some commercial activities. Examples are:

Dealer's License	\$ 50.00
Animal Husbandry License	\$100.00
Outfitting License	\$200.00

- There is no charge for import and export permits (moving meat and products into and out of the Nunavut). NLCA Section 5.7.30 gives Inuit the right to move the product of their harvest freely inside or outside the Nunavut Settlement Area and Section 5.7.31 says that if permits are needed for transport, they shall be free for Inuit unless the wildlife has been harvested from the surplus.
- NTI does not agree that Inuit should have to pay a fee for big game guide licenses or harvesting instruction licenses.
- Revenues from fees will now be paid to the Natural Resources Conservation Trust Fund which is a fund dedicated to wildlife research and conservation in Nunavut.

Game Possession Limits Order

This draft order applies only to non-Inuit resident and non-resident harvesters.

- It proposes that, at any one time, such harvesters may possess up to 5 caribou. This would replace the previous rule that resident hunters may only harvest up to 5 caribou in a year.
- However, NTI has received a letter from the Deputy Minister confirming that there will be no change to the previous rule for caribou.
- Once that change is made, the new possession limits would only be those that apply to deer (5 at any one time), grouse or ptarmigan (40), moose (2), muskox from the MX 10 population (2) and reindeer (5).
- In NTI's view grouse and ptarmigan should continue to be a possession limit but for all other species there should be an annual limit (to appear in the Harvesting Regulations) and no possession limit.

Grizzly Bear Total Allowable Harvest Order

This draft order is setting four TAHs on Grizzly Bear. NTI is opposed to this order for both policy and legal reasons.

- NTI's policy concern is that the GN has not consulted fully with the RWOs and HTOs that are affected. The GN and Inuit should first agree to the management objectives for Grizzly Bears in Nunavut, identify and share the scientific and IQ knowledge that is available, and develop a management plan for Grizzly Bears before establishing TAHs as currently being proposed by GN.
- NTI's legal concern is with Section 24 of the Nunavut Act. It is NTI's position that the GN does not have authority to regulate Inuit food harvest for Grizzly Bears in Nunavut. An amendment to the Nunavut Act can correct this problem.
- NTI is recommending that the Grizzly Bear TAH Order be removed until the GN has developed a management plan with RWOs and HTOs and the Nunavut Act has been amended.

Harvesting Regulations

These draft regulations contain most of the restrictions on harvesting wildlife by Inuit and non-Inuit.

This is a very long and complicated set of regulations. The following are unresolved issues from NTI's perspective.

- GN is taking the position some of the *Inuit Qaujimagatuqangit* principles (Section 9 of the Act) stated in the Act should be changed into prohibitions. NTI strongly opposes this approach. Most of the principles were established as guidelines for management.
- An Inuk guide cannot use a snowmobile or boat to retrieve a polar bear. The necessity of transporting a hide from the hunting camp to the community has been identified to the GN and GN is working to correct this.
- Furthermore, there is a new rule saying that sport hunters cannot use motorized transport to hunt polar bears and also they have to wait 6 hours after arriving at a camp by motorized transport before hunting can begin. This includes snowmobiles and boats.
- The use of spears or any other type, method or technology of harvest has been recognized as part of the Inuit right to harvest. GN has chosen to extend this use to non-Inuit. NTI does not support that position.
- GN is proposing that .243 caliber weapons or larger should be used for bears, moose or muskox. Do you agree?
- There should be no restriction on harvesting ravens. GN has not justified a restriction on the harvesting of ravens under Section 5.3.3. There is no TAH on ravens and no conservation purpose for a restriction. NTI agrees, of course, that controls on harvesting are required inside municipal boundaries for safety reasons.
- There is no requirement to prohibit the harvesting of females with cubs or cubs alone. In NTI's view the restrictions on harvesting bears in dens, bears in family groups and cubs duplicate the protection that is already provided by the male selective harvest.
- NTI agrees that there should be rules for how to account for illegal or emergency kills for TAH species, such as polar bear. However, the RWOs should determine which community will allocate the tag for the illegal or emergency kill.
- There is a new rule being proposed to list Porsild's Bryum moss as a species at risk meaning that Inuit would not be able to gather it. Do Inuit have any concerns about this?

Licences and Tags Regulations

These draft regulations state what licences and tags are required and on what terms.

Under the NLCA, Inuit do not need a licence or any other type of permit in order to harvest except from the surplus remaining after the basic needs level when there is a total allowable harvest (s. 5.7.6).

The licences and tags in this regulation that an Inuk must have in order to carry out licensed activities are:

- live possession licence – except when keeping sik siks and some other small animals (s. 20(4)(a))
- dealer's licence - except where the Inuk is selling wildlife while carrying on business alone or with Inuit partners (s.22(4))
- tanning licence – except where 1) the method is traditional, 2) the hides are caribou and the yearly value is less than \$5000, or 3) the hides are not caribou and the yearly value is less than \$2000 (s. 25(3))
- taxidermy licence (s.26)
- animal husbandry licence (s. 27)
- big game guide licence (s.29)
- species at risk licence (s.30)
- import permit - live wildlife only (s. 31(1)(c))
- export permit - unless the person is exporting under a commercial harvesting licence (s.33(4))
- harvesting instruction licences - organized courses only (s.35)
- research permit (s.36)
- wildlife observation licence – organized activity for close observation or interaction only (s.37(1))
- big game outfitter licences (s.38)
- exemption permit - to use a prohibited method of harvesting; available only to certain expert or authorized individuals (s.41; s. 21(2) Act)

The only tags that this regulation requires an Inuk to use once an animal is harvested are:

- species authorization tag (new form of sticker) – only when harvesting furbearers from the surplus when there is a TAH (s.44(1);s.45(1)(c))
- fur tag (old form of metal band tag) – only for furbearers when there is a TAH

This regulation also identifies the commercial-type licences for which, under the NLCA, Designated Inuit Organization have the right of first refusal (s.11(2)). These are:

- animal husbandry licences
- dealer's licences
- tanning licences
- taxidermy licences

In NTI's view, live possession licences should be added to the above list of licences for which a DIO has the right of first refusal, where the purpose is marketing. (The NLCA gives DIO's a right of first refusal for all marketing of wildlife (s. 5.8.7, NLCA).

This regulation gives northern residents a preference for live possession licences that are to be used commercially (s. 10); but it does not give DIO's the right of first refusal.)

In NTI's view, HTO's/RWO's should receive the same treatment in the requirements for dealers' licences that Inuit businesses and partnerships receive. HTO's often purchase meat in order to make it available for sale to individuals and families in communities. As long as they do not do this on a commercial scale, they should not have to have a dealer's licence. (s. 22(4))

In NTI's view, for the same reason why HTO's/RWO's should not have to have a dealer's licences for non-commercial purchases, they should not have to get detailed receipts when buying large quantities of meat from people who are not dealers. When HTO's are only acting to help communities, they should receive the same exemption as any Inuk (s. 24(1))

The regulation appears to change the number of polar bear hunters that a big game guide can serve, from one to two. Was this intended? What do the HTO's/RWO's think of this change (s. 29(6))

The Act (s.111(5)) states that only Inuit may serve as big game guides. The regulation, however, does not say this (s.29(7)), and GN is suggesting that some big game licences should be given out based on Nunavut residency (note following s. 29(5)). That would be contrary to the Act. In NTI's view, the regulations should state clearly, for greater certainty, that only an Inuk may receive a big game guiding licence.

The Act states that it applies to the federal and territorial government (s. 7(a)(b)(c)). NTI suggests that a 'for greater certainty' clause be added to this regulation, stating that the requirement of a research permit applies to government researchers. In the past there has been concern that some government wildlife researchers may carry out their work without the necessary permits. (s. 36)

Under the Act, non-Inuit harvesting of furbearers may not take place without HTO approval (s. 24(b)). This regulation requires that every licenced harvester must obtain a species authorization tag in order to harvest a furbearer. (s. 44(1)(a)) Is it necessary to require this for rabbit hunting? Should there be an exemption for rabbits instead, or a way for the HTO to approve rabbit hunting on a blanket rather than tag-by-tag basis? Otherwise, the administrative burden on HTO's might be heavy.

Muskoxen Management Areas Regulations

These draft regulations sets out the geographic description of each new muskox management area. Harvesting is restricted to the number of animals stated in the regulation in each area. There are areas for four of the thirteen populations of muskox recognized by GN biologists.

- GN's biologists developed these areas. There has been limited input from Inuit and *Inuit Qaujimagatuqangit* needs to be brought into the discussion. (see comments on Muskox TAH Order on next page)
- As with the TAH order for muskox, NTI is recommending that this regulation be set aside until a joint wolverine management plan is developed with the RWOs and HTOs.
- Also, in NTI's view some areas would force the harvesters from certain communities to go farther than is necessary to harvest muskox.

Musk Ox Total Allowable Harvest Order

This draft order is setting thirteen TAHs on Musk Ox.

Of concern to NTI are the following:

- NTI's concern is that the GN has not consulted fully with the RWOs and HTOs that are affected. The GN and Inuit should first agree to the management objectives for Musk Ox in Nunavut, identify and share the scientific and IQ knowledge that is available and develop a management plan for Musk Ox before establishing TAHs as currently being proposed by GN.
- The GN's current management objective is to ensure that Musk Ox continue to increase in numbers and expand their range. Inuit have raised concerns with this management objective for some populations.
- NTI is recommending that the Musk Ox TAH Order be removed until the GN has developed a joint Musk Ox management plan with RWOs and HTOs that reflects the needs of Inuit. Until such time as these plans are developed current rules governing the harvesting of musk ox would continue to apply.

Open Seasons Order

This draft order sets out the hunting seasons for various animals.

Of concern to NTI are the following:

- There will be a TAH for gyrfalcon. There is no need to also create a season. A 2- month season in the fall would mean that only passage birds would be captured. This limits the economic opportunities for Inuit.
- In Muskox areas 11, 12 and 13, NTI feels there is no scientific evidence to support the establishment of seasons. *Inuit Qaujimagatuqangit* needs to be brought into the discussion.
- Any season for Arctic Wolf also needs to be thoroughly discussed with the effected communities, HTOs and RWOs.
- For wolverine, again *Inuit Qaujimagatuqangit* needs to be brought into the discussion before any seasons can be considered.

Peary Caribou Total Allowable Harvest Order

This draft order is setting five TAHs on Peary Caribou.

Of concern to NTI are the following:

- NTI's concern is that Peary Caribou have been recommended to be listed in Species At Risk Act as "Endangered" to the NWMB for a decision.
- The GN has presented a management plan with TAHs for Peary Caribou to the NWMB for a decision as well. The HTOs in Grise Fiord and Resolute Bay have expressed concern with the listing of Peary Caribou in SARA and to the recommended TAHs in the proposed management plan.
- NTI is recommending that the Peary Caribou TAH Order be removed until the NWMB has made the decisions on SARA listing and the GN's proposed management plan.

Polar Bear Total Allowable Harvest Order

This draft order is setting twelve TAHs on Polar Bear.

- This order is consistent with the MOUs that were developed with HTOs and RWOs. These signed MOUs were reviewed and approved by the NWMB, including a management plan that addressed IQ and issues of concern to Inuit.

Prescribed Matters Regulations

The Wildlife Act has many places where it simply says something like ... no person shall harvest for example, caribou, over a *prescribed* amount. These draft regulations provide the details of what *prescribed* means for each place it appears in the Wildlife Act.

- The only unresolved issue for NTI is that we don't agree large scale harvesting should be defined by "500 animals or more per year". The provision should be dropped and the limit left undefined.

Repealed Regulations

These draft regulations list all of the old regulations that are being discontinued and replaced. It will have to be rewritten so that the interim regulations that came into effect when the new Act became law on July 9, 2005 are also replaced.

- In NTI's view, the old regulations governing muskox should be continued, possibly with modifications to reflect population boundaries. This is necessary to enable a management plan to be developed and so that the NWMB can make a considered decision whether there should be a TAH on muskox populations and, if so, on what terms.
- In NTI's view, that is a more desirable and practical way to recognize the requirements of the land claims agreement than to rush into TAH's for muskox where they may not be based on real populations and, in some cases, may not be justified by a valid conservation purpose.

Reporting Regulations

These draft regulations set out what Inuit and non-Inuit harvesters and commercial operators must report.

Section 5.7.43 of the NLCA says that an Inuk may be obliged to supply information regarding harvesting that laws of general application (the Wildlife Act is a law of general application) would require harvesters other than Inuit to supply in similar circumstances.

Information can be important for all wildlife managers, (GN, NWMB, HTOs, RWOs). NTI worked on these regulations from the perspective of making sure that there was not undue burden put on Inuit harvesters.

From this perspective, NTI suggests the communities discuss the following:

- It is being proposed that everyone who harvests a TAH species or a snowy owl would have to submit a written report containing a list of required information, as well as samples. NTI considers this to be an unreasonable burden on Inuit. Inuit Elders, for example, would have to prepare written reports or face a penalty. Any reporting of this type should be part of a management plan (as is the case with polar bear) and not be a punishable offence.
- Is it necessary and practical to require that Inuit make copies of any report made and keep it for 3 years?
- Should Inuit be required to keep records of selling the products from their own harvest?
- NTI sees a difference between the idea of supplying information under Section 5.7.43 of the NLCA and a requirement to supply specimens. The GN is moving to a system when TAH species are harvested, by Inuit or non-Inuit, that specimens will be required. Making Inuit supply samples and specimens could be a burden. This needs to be thoroughly discussed during the consultations. Where Inuit agree to provide samples, there should be compensation.

Summary Conviction Regulations (amendment)

These draft regulations list the wildlife-related offences that, for the first time, would be eligible for a ticketing procedure instead of going to court.

- In general, NTI believes that this is a good idea. Ticketed individuals can still fight the charge in court if they choose.
- There is, however, some risk that a wildlife officer could be seen to be acting as both judge and jury. Some Inuit may feel they have to pay the ticket, even if they do not feel they are guilty. Also, some offences are so serious that they should always be handled publicly, in court.
- More than 100 offences are itemized in the regulation. NTI proposes that the following 13 items be dropped:

Failing to produce licence or document on officer's request – officer could be seen as judge and jury (Item 10)

Getting or having a licence when knowing you are ineligible – officer could be seen as judge and jury; and too serious. Should be dealt with by the courts. (Item 13)

Acting under a cancelled, void or suspended licence – officer has too much discretion over which charge to lay and therefore how much must be paid (overlaps with item 27 harvesting without a licence). (Item 28)

Offences involving protected species or protected habitat - too serious. Should be dealt with by the courts. (Items 32-36)

Failing to respect the principles of *Ilijjaqsuittailiniq/Kimaitailinik* and *Sirligsaagtittittailiniq/Naklihaaktitihuiluhi* - so open to differences of interpretation that a guilty plea should only be accepted by a court (Item 46)

Releasing an invasive species - too serious. Should be dealt with by the courts. (Item 74)

Contravening orders; failing to surrender weapons or other articles on an officer's request – officer could be seen as judge and jury (76-78)

Failing to provide harvesting information to an officer – officer could be seen as judge and jury. (Item 82 (in part re s. 102(1) only)

Wolverine Management Areas Regulations

These draft regulations set out the geographic description of each wolverine management area. (see map).

Of concern to NTI are the following:

- GN's biologists developed these areas. There has been limited input from Inuit and *Inuit Qaujimagatuqangit* needs to be brought into the discussion. (see comments on Wolverine TAH Order on next page)
- As with the TAH order for wolverine, NTI is recommending that this regulation be set aside until a joint wolverine management plan is developed with the RWOs and HTOs.

Wolverine Total Allowable Harvest Order

This draft order is setting two TAHs on Wolverine.

Of concern to NTI are the following:

- NTI's concern is that the GN has not consulted fully with the RWOs and HTOs that are affected. The GN and Inuit should first agree to the management objectives for Wolverine in Nunavut, identify and share the scientific and IQ knowledge that is available and develop a management plan for Wolverine before establishing TAHs as currently being proposed by GN.
- NTI's view is that no conservation justification as per NLCA 5.3.3 for these TAHs.
- NTI is recommending that the Wolverine TAH Order be removed until the GN has developed a joint Wolverine management plan with RWOs and HTOs.