



Wildlife Act “Phase 2” Regulations and Guidelines:

What We Heard Report

Deuxième phase de modifications des règlements liés à la *Loi sur la faune*

Ce que nous avons entendu

Le présent document contient un résumé en français.



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1 Executive Summary

When the *Wildlife Act* (the Act) came into force on November 28, 2014, the intent was to develop regulations for the Act in three phases. The first phase included immediate changes needed to bring the Act into force. The second phase would consider new regulations discussed during the development of the Act, including the import of harmful species, Wildlife Management and Monitoring Plans for developers and hunter training requirements. The third phase would involve any ongoing changes to the regulations, as required.

Using the same collaborative approach used to develop the Act, the Department of Environment and Natural Resources (ENR) worked with a Wildlife Act Working Group (WAWG) and a Stakeholders Wildlife Act Advisory Group (SWAAG) from April 2015 to November 2017 to identify regulatory amendments under the *Wildlife Act*. These became the Phase 2 regulations and guidelines.

Between March and August 2018, ENR held engagement sessions and formal consultation meetings in several communities and met with 38 groups and agencies. ENR also received 61 formal submissions, which were reviewed with the WAWG and SWAAG in October 2018. Only minor modifications to the proposed regulations were needed after full consideration by WAWG, SWAAG and ENR.

ENR anticipates the Phase 2 regulations and guidelines will come into force July 1, 2019. The new regulations address the following:

- The import and possession of llamas, alpacas, domestic sheep, and domestic goats to protect wild sheep
- Possession restrictions for domestic sheep in wood bison areas
- Possession restrictions for live and specific parts of mule and/or white tailed deer harvested outside the Northwest Territories
- Any domestic, captive or feral “Suid” or pig (boar/swine/hogs) on the loose will be declared a pest and can be killed without a licence
- Wildlife Management and Monitoring Plan (WMMP)-related regulations to apply to new developments and ensure enforcement to protect wildlife
- Separating “woodland caribou” into “boreal caribou” and “northern mountain caribou” groups along with new restrictions limiting the harvest of individual boreal caribou
- Licensed non-resident young harvesters will now be able to go out on their own with a guide

- Known unoccupied winter raptor nests and occupied summer bat roost sites will be protected from intentional destruction
- All regulations with legal land descriptions are updated to align with land claim agreements in the NWT

Regulations were also proposed for the use and possession of drones while hunting. These regulations require additional collaborative work with our co-management partners before moving forward. ENR plans to follow a consensus-style decision-making approach with Indigenous governments and organizations to collaboratively pursue a prohibition of drone possession and use for all harvesters, as supported by feedback received as part of this engagement.

The Harvester Training Course sections of the Act (s.46-48) – which require anyone harvesting wildlife to take the course, with some exemptions – will come into force when ENR can ensure timely course delivery across the Northwest Territories (NWT). Enactment of the regulations describing who must take the course and who would be exempt from it will be postponed until then as well.

Although not in regulation, engagement sessions with developers and regulatory authorities were also held to refine WMMP process and guideline requirements. The WMMP guidelines will help developers demonstrate how they will minimize the impacts of their developments on wildlife and wildlife habitat. The finalized guidelines will be available when the regulations come into force.

Each Renewable Resources Board, as per their respective settled land claim agreement, will formally review the Phase 2 regulations. Once this review is complete, ENR will finalize the regulations to come into force for July 1, 2019.

2 Résumé

Il était prévu dès l'entrée en vigueur de la *Loi sur la faune* (la Loi), le 28 novembre 2014, qu'elle serait élaborée en trois phases. Durant la première phase, le ministère de l'Environnement et des Ressources naturelles (MERN) devait apporter des changements immédiats à la Loi pour la rendre exécutoire. Pendant la deuxième phase, il devait étudier certaines propositions de règlements déjà discutées durant l'élaboration de la Loi, p. ex. sur l'importation des espèces nuisibles, les plans de gestion et de surveillance de la faune pour les promoteurs, ainsi que les exigences de formation pour les chasseurs. Durant la troisième phase, il devait apporter, au fur à et mesure, les changements nécessaires à la Loi.

Le MERN a utilisé la même approche collaborative durant la deuxième phase de modifications des règlements que pendant l'élaboration de la Loi. D'avril 2015 à novembre 2017, il a travaillé de concert avec un groupe de travail de la *Loi sur la faune* (GTLF) et un groupe consultatif des parties concernées par la *Loi sur la faune* (GCPCLF) pour déterminer les modifications réglementaires qui devaient être effectuées et adoptées en vertu de la Loi.

Entre mars et août 2018, le MERN a tenu des séances publiques et des réunions de consultation officielles dans plusieurs collectivités et a rencontré 38 groupes et organismes. Le MERN a également reçu 61 documents officiels, qu'il a examinés avec le GTLF et le GPCCLF en octobre 2018. Une fois l'examen terminé par les trois parties, seules de légères modifications à la Loi, apportées par le MERN, ont été nécessaires.

Le MERN planifie instaurer les règlements et les directives de la deuxième phase le 1^{er} juillet 2019. Ces nouveaux règlements et nouvelles directives portent sur les thèmes suivants :

- Importation et possession de lamas, d'alpagas, de moutons et de chèvres domestiques pour protéger les populations de moutons sauvages.
- Restrictions de possession de moutons domestiques dans les régions où vivent les bisons des bois.
- Restrictions de possession de cerfs-mulets ou de cerfs de Virginie vivants ou de certaines parties de leur carcasse, s'ils ont été chassés à l'extérieur des TNO.
- Tous les sangliers, cochons ou porcs (appartenant à la famille des suidés) domestiques, captifs ou sauvages qui ne sont pas parqués dans un enclos ont été déclarés animaux nuisibles aux TNO, et pourront être abattus sans permis.
- Les règlements liés au plan de gestion et de surveillance de la faune (PGSF) s'appliqueront à tout nouveau projet de développement pour garantir la protection de la faune.
- Séparation des « caribous des bois » en deux groupes distincts : « le caribou boréal » et « le caribou des montagnes du Nord », accompagnée de nouvelles limites de prises pour chaque nouveau groupe.
- Les jeunes chasseurs non-résidents titulaires d'un permis pourront chasser accompagnés d'un guide.
- Protection des nids de rapaces inoccupés pendant l'hiver et des sites naturels estivaux où nichent les chauves-souris contre la destruction intentionnelle.
- Harmonisation de toutes les descriptions légales de zones apparaissant dans les règlements avec celles des ententes sur les revendications territoriales.

Dans les propositions de règlements, il était également question d'interdire l'utilisation ou la possession de drones pour la chasse. Avant d'aller de l'avant avec cette proposition, il fallait que les partenaires de cogestion en discutent davantage. Pour en arriver à une décision concernant l'interdiction des drones pour tous les chasseurs, le MERN souhaite obtenir le consensus avec les gouvernements et les organismes autochtones et recueillir des commentaires dans le cadre d'échanges avec le public.

Les articles (art. 46 à 48) de la Loi qui ont pour objet les cours de formation des chasseurs (que tous les chasseurs devront suivre, avec quelques exceptions) ainsi que les dispositions précisant qui devra ou ne devra pas suivre le cours entreront en vigueur lorsque le MERN pourra offrir des cours en temps utile à l'échelle des Territoires du Nord-Ouest.

Même si le MERN n'en avait pas l'obligation, des séances d'échanges avec les promoteurs et les organismes de réglementation ont également eu lieu pour peaufiner le processus d'élaboration des directives du PGSF. À l'aide de ces directives, les promoteurs pourront montrer de quelle façon ils minimiseront les répercussions de leurs développements sur la faune et ses habitats. La version définitive des directives entrera en vigueur en même temps que les règlements.

Tous les offices des ressources renouvelables, conformément à leur accord de revendications territoriales respectif, examineront officiellement la deuxième phase de modifications des règlements. Une fois cet examen terminé, le MERN finalisera les règlements pour qu'ils entrent en vigueur le 1^{er} juillet 2019.

3 The Public Engagement Process

The public engagement and consultation period began in March 2018 and all comments were received by the end of mid-August 2018. Between March and July 2018, ENR held engagement sessions in several communities and met with 38 groups and agencies.

In addition to comments received at these meetings, ENR received written or verbal submissions from eight private individuals and 53 organizations representing Indigenous governments and organizations, co-management boards, industry and non-governmental organizations.

This document summarizes the comments received during the engagement period and outlines how ENR will address and review the approaches with the WAWG and SWAAG. All perspectives have been summarized and specific comments are organized by the topic areas and described below.

4 What We Heard

4.1 Harvester training

Sections 46-48 of the *Wildlife Act* pertain to the development of a harvester training course, which would be mandatory for anyone harvesting wildlife, with certain exemptions. Phase 2 regulations set out a list of exemptions from taking the course, including rights holders. They also list the conditions under which a person who is exempted could be required to take the course. These regulations would not come into force until the course is ready for delivery across the NWT.

All proposed regulations regarding course exemptions and requirements were fully supported, and comments reflected appreciation that inherent, asserted and established Aboriginal or treaty rights in the NWT were respected and existing resident hunting licence holders were recognized.

There was only one proposed exemption where commenters took issue: *Any resident that has held a NWT resident hunting licence in the previous 5 years*. Some felt the wording was confusing, and could be interpreted as meaning five **continuous** years, rather than a hunting licence that was held in any of the previous 5 years.

ENR has committed to applying this provision such that any resident holding a hunting licence in any of the previous 5 years is exempted from taking the course.

The harvester training course itself generated significant discussion, mostly around how it will be implemented when it becomes a requirement. Most communities want ENR to ensure cultural traditions are respected in the NWT and reflected in course content, and for ENR to work with other Government of the Northwest Territories (GNWT) departments and schools to share the course with youth.

There were some comments that ENR should add the federal Possession/Acquisition Firearms Licence to the modules of the Harvester Training Course to help Indigenous people get their licence. ENR considered that approach during the development of the course materials but ultimately the responsibility remains with the

Proposed approach:

The following groups would be exempted from taking the course:

- People with Aboriginal rights to harvest wildlife in the NWT
- General Hunting Licence holders
- Residents holding a NWT resident hunting licence in the previous 5 years
- Residents proving they held a hunting licence in another Canadian jurisdiction in the previous 5 years
- Residents proving they passed a hunter training course from another Canadian jurisdiction
- Hunters using a guide or outfitter
- Any person that successfully challenges and passes the examination

Any person would be required to take the course if convicted of:

- Hunting out of season or in a closed zone; hunting without a required licence or tag; exceeding harvest limits; or poaching
- Disturbance or harassment of game
- Wounding or loss of game
- Wastage
- Improper harvesting methods
- Baiting
- Using prohibited substances
- Using dangerous harvesting methods
- Trafficking the meat of wildlife or other parts

Government of Canada. Adding a firearms licence component would also double the duration of the course to four days, and would potentially interfere with businesses already offering the course.

Preparations for the roll-out of the course when it becomes a requirement are still underway. ENR will only bring these regulations and sections 46-48 of the Act into force when all operational conditions are ready to ensure no delays in delivery.

4.2 Use of drones or unmanned aerial vehicles (UAVs)

ENR asked the public and all co-management partners if they agreed with an approach where the use of drones by Aboriginal or treaty rights holders in their traditional use area would be exempt from a potential prohibition restricting their possession or use while hunting. In essence, the proposal would only apply to people holding a General Hunting Licence, Resident Hunting Licence, Non-resident Hunting Licence or Non-resident Alien Hunting Licence.

Proposed approach:

All hunters with the exception of Aboriginal rights holders would not be able to be in possession of a drone or use it while hunting big game or small game species, upland birds, or migratory birds.

ENR received four times the number of comments on the use of drones compared to the amount of feedback on all the other proposed regulations. The formal feedback received through written submissions and meetings **overwhelmingly disagreed** with the proposed exemption.

ENR also received feedback that emphasized the regulations should not make it illegal to be in possession of a drone when out hunting, if the drone is not being used to hunt. It was mentioned many times that harvesters and others, including media, commonly use drones to capture video footage or photos while out on the land.

Summary of comments against the proposed approach:

- Drones represent a new technology that is still rapidly advancing with better cameras, longer range, easier use, and better battery life, and massively increases the ability to hunt and affect all populations of wildlife.
- Using drones makes hunting so easy it can only lead to population declines and overharvesting.
- Using drones is bad because it represents another loss of Indigenous culture in the NWT people as it does not represent a traditional way of hunting.
- Hunting is not a video game. Hunting is respectful and builds a relationship with the animal being harvested. Using drones shows a lack of respect for Indigenous culture and the wildlife, and it should be considered cheating.
- Many repeated statements from rights holders and non-rights holders alike said drones absolutely should not be used to help any hunter and should be prohibited for the entire harvester population of the NWT.
- Using drones is not fair to the wildlife and creates too much of a disadvantage for the game being hunted.

- Not only can drones be too easily used to spot game to hunt, they can be used to “herd” animals to a hunter – that is an even further remarkable disadvantage to the hunted.
- Confusion was expressed that the NWT would allow this type of activity when other jurisdictions in Canada already have made it against the law.
- The proposed exemption was not supported by the Wek’èezhìi Renewable Resources Board, Northwest Territory Métis Nation and K’at’l’odeeche First Nation. These groups formally supported a restriction applicable to all harvesters using a drone while hunting.

Summary of comments in favour of the proposed approach:

- In all the open house events it was only mentioned three times that the proposed exemptions should be put forward because Indigenous people have the right to hunt by any means, including with drones.
- The Inuvialuit Game Council, Wildlife Management Advisory Council (NWT) and the Fort Chipewyan Métis Local 125 shared similar opinions that rights holders should be exempt from the proposed regulations because of the potential infringement to Aboriginal harvesters exercising their rights within their traditional use areas. Also, if restrictions were to be put in place for rights holders, it was stated that it would be best to come from the individual rights-bearing groups themselves.
- The Tłıcho Government also expressed support for the proposed exemption for rights holders. However, they also acknowledged the discomfort heard from many of their citizens attending open house sessions. Many Tłıcho citizens expressed that all harvesters should be prohibited from using drones while hunting.

Proposed regulation approach

ENR has fully considered the voices heard through the engagement sessions and the further input from the WAWG and SWAAG. Significant concerns were raised regarding harvesting rights protected in the *Inuvialuit Final Agreement*, *Gwich’in Comprehensive Land Claim Agreement*, *Sahtú Dene and Métis Comprehensive Land Claim Agreement* and the *Tłıcho Agreement*. As such, there is currently no consensus for a restriction on the use of drones applying to all harvesters exercising their rights.

ENR remains committed to working collaboratively and bilaterally with Indigenous governments and organizations, along with Renewable Resources Boards as identified by land claim agreements, for further consultation and engagement on this issue in the NWT.

Collaboration regarding the use of drones is key for continued wildlife conservation. Moving forward, ENR plans to follow a consensus-style decision-making approach with Indigenous governments and organizations to collaboratively pursue a prohibition of drone possession and use for all harvesters, as supported by feedback received as part of this engagement.

Proposed approach:

ENR will hold an additional round of consultation with the intent of collaboratively developing a consensus-based regulation that bans the use of drones while hunting for all harvesters.

4.3 Import and possession of wildlife

All of the proposed regulations to help protect NWT wildlife and their habitat (regulations applying to alpacas, domestic goats, domestic sheep, llamas, mule or white-tailed deer, wild boar and bats) were supported with minor suggested refinements. These refinements ensure the continued conservation of the NWT's biodiversity.

Restrictions to llamas, alpacas, domestic sheep and domestic goats to protect wild sheep

There was full support for the prohibition of llamas, alpacas, domestic sheep and domestic goats in all currently existing Mackenzie Mountain Wildlife Management Areas.

Restrictions to domestic sheep to protect wood bison

It was raised that the threat of Malignant Catarrhal Fever (MCF) virus in domestic sheep to wild wood bison populations is actually greater than just preventing “nose-to-nose” contact. The MCF virus has been documented to have airborne transmissions from domestic sheep to domestic bison at a distance of up to 500 metres. In the future, ENR may require additional “buffer-zones” in addition to fences to prevent nose-to-nose contact.

Additional concerns were raised about the possibility of disease transmission through other sheep-related industries like home-spun wool. ENR has assessed those risks and deemed them to be manageable.

Proposed approach:

- Domestic sheep are transported in an ENR-approved containment system.
- Domestic sheep are kept in an approved containment system (i.e., a fence preventing nose-to-nose contact).
- Domestic sheep are tested for disease or conditions to the satisfaction of ENR.
- Domestic sheep are subject to quarantine or disease management measures are considered appropriate by ENR.

Overall, there was full support for the domestic sheep import, possession and transport licensing provisions and the approach as outlined by ENR where certain conditions must be met by all current and future sheep owners in the currently existing Wood Bison Wildlife Management Areas [zone U, areas D/WB/01-05 and R/WB/01-02].

Commenters did request if the GNWT decides to pursue NWT-wide guidelines to outline general fencing or other containment requirements for sheep, that relevant Indigenous governments and organizations be consulted before any guideline implementation.

Restrictions to help prevent Chronic Wasting Disease

ENR received positive feedback on this proposed restriction to make meaningful adjustments to the benefit of harvesters in the NWT, and keep the intent of the restrictions in place to help prevent occurrences of Chronic Wasting Disease (CWD) in NWT cervids.

Many rights holders living in the NWT hunt deer in northern Alberta and Saskatchewan, well outside known CWD areas. ENR is proposing to apply a 100km buffer to the southern NWT border allowing all parts of a deer harvested within the buffer to be brought back into the NWT.

Additionally, ENR commits to working with all groups to increase surveillance from deer harvested in the NWT and within the buffer zone. The onus will be on the harvester to prove to an officer the location of the deer harvested if requested.

One very important part was identified as missing from the prescribed list of parts: velvet-covered antlers. Shed antlers or antlers removed from the skull plates will be permitted.

Many jurisdictions, even those where CWD has not been detected, encourage harvesters to submit samples (usually the head) to an agency to confirm the harvested deer are free of the disease. In recognition of this testing, a regulation adjustment is needed to accept the lawful possession of these prohibited prescribed parts into the NWT if tested to the satisfaction ENR, and proof of such testing is provided by the harvester to the satisfaction of ENR.

Several questions were raised about existing taxidermy mounts of deer. Although the current possession of taxidermy mounts is not risk-free because the prion protein causing CWD cannot be destroyed or cleaned by conventional means, ENR believes the risk is low. Any person with an existing deer mount will be exempt from possession restrictions provided they are in possession of the mount before the regulation comes into effect. Only new deer mounts will be prohibited from entry into the NWT unless the owner can prove to the satisfaction of ENR that CWD was not detected in the animal.

Finally, given these disease-related concerns, we heard suggestions in multiple meetings and in one written submission to allow more harvesters to hunt mule and white-tailed deer in the NWT. While not formally part of the proposed Phase 2 regulatory amendments, prior discussions with the WAWG and SWAAG indicate support for this approach as a proactive measure to help keep CWD out of the NWT. ENR is pursuing regulation changes that would expand hunting opportunities for General Hunting Licence

Proposed approach:

- Prohibit any import of live captive mule or white-tailed deer
- Prescribe a list of harvested deer parts which cannot enter the NWT from another jurisdiction that includes:
 - brain matter
 - cranial nerves
 - spinal column and its parts
 - whole skulls or skull plates
 - hooves
 - bone-in meat
 - urine
 - mammary glands

Revised approach:

- Deer harvested within 100km of the NWT border will be exempt from any possession restrictions.
- Lawful possession of any prescribed parts of deer harvested outside the acceptable buffer zone, including taxidermy mounts, will only be accepted if tested to the satisfaction ENR, and proof of such testing is provided by the harvester/owner to the satisfaction of ENR.
- Current owners of deer taxidermy mounts in the NWT will be exempt from the possession restrictions.
- ENR commits to working on regulation changes to allow GHL and RES holders to harvest mule and white-tailed deer.
- Add to the prescribed list: velvet covered antlers.

and Resident Hunting Licence holders along with a requirement for a tag, mandatory reporting and mandatory sample submission for those licences.

Restrictions to protect bats

There was full support for the proposal to require a licence for the live import or release of bats in the NWT to protect all native bat species in the NWT.

White-nose Syndrome has caused massive mortalities in hibernating bat species elsewhere in North America. The disease has not yet been detected in the NWT, but as it is caused by a fungus that can easily be transmitted and survive in harsh environments, the risk of introduction is high.

A written submission suggested ENR should explore prohibiting or restricting recreational cavers, their equipment, and their access to known bat hibernacula sites to further reduce the continued spread of white-nose syndrome. This is done in some other jurisdictions, particularly through enforcement of disinfection protocols for researchers, cavers and other cave user groups. ENR commits to reviewing the application of such regulations in the NWT.

4.4 Actions to control pigs and wild boar

ENR received very positive feedback from experts and the public on the proposal to seek an Order for a 'Pest Declaration' and the associated regulations, which would allow any NWT resident to kill or capture, or attempt to kill or capture, wild boar. Only minor adjustments are needed to mirror regulatory efforts in some of our neighbouring jurisdictions and provide clarity around the intent of the approach needed in the NWT.

As any captive pig has the ability to thrive if released to the wild, ENR is confident that to protect against significant damage to habitat caused by loose (meaning outside a fenced facility) boar/pigs/swine/hogs, the regulation must apply to **any** free-ranging "Suid" (pig).

4.5 Wildlife Management and Monitoring Plans (WMMPs)

This section relates to the feedback received on proposed regulations to accompany the "Wildlife Management and Monitoring Plan" (WMMP) process and guideline requirements (see Section 4.0 for additional information).

There was general support for the proposed regulations. Several written submissions also contained recommendations to help clarify the wording of the regulations, including a submission

Proposed approach:

- Declare wild boar a pest.
- Allow any NWT resident to kill or capture wild boar.
- No licence, season or bag limit.
- Reporting a kill within 72 hours is necessary.

Revised approach:

- Recognizing the complex genetics, the pest declaration and regulations will apply to any "Suid" at large in the NWT.
- Any mention of "capture" in the regulation will be clarified that it must be capture for the immediate intent of killing.
- Wastage provisions of the *Wildlife Act* will not apply to this pest.

from the GNWT Standing Committee on Economic Development and Environment (SCEDE). These suggestions will be brought back to the WAWG and SWAAG for consideration.

They include:

- Acknowledging the Minister of ENR has the ultimate discretion regarding what should be included in a WMMP and who requires it, the Minister should also be required to provide reasons for rejecting an application or plan.
- Considerations that a formal public registry be used to store WMMP-related records as similarly adopted by current Land and Water Boards to ensure consistency.
- Developing a process outlining how a WMMP would or could apply to long-standing developments with Class A water licences, such as the Bluefish and Snare Hydro systems.

Proposed approach:

- The WMMP would apply to NWT-managed species at risk, whether legally listed or just assessed.
- Require the Minister of ENR to inform a person or body requiring a WMMP of the reasons why it is required.
- Prohibit development, proposed development or development activity until the WMMP is approved by the Minister.
- Compliance with the approved WMMP is mandatory.

Additionally, the potential penalties for violating these regulations need to be specified in the regulations. Specifically, the proposed provision that any development or development activity only proceed with an approved WMMP, if required by the Minister, and that compliance with the WMMP is mandatory will both be subject to a potential penalty not exceeding \$1 million if involving a listed or pre-listed species, as defined in subsection 1(1) of the *Species at Risk (NWT) Act*. WMMP regulatory penalties applying to other wildlife species will be subject to a potential penalty not exceeding \$250,000. ENR also notes that additional penalties can be applied at the discretion of a court under the Act, notably s. 149(4), for WMMP offences as well.

Revised approach:

- The Minister will provide reasons for rejecting an application or plan.
- ENR will continue processes for a formal WMMP public registry but will operationally continue to use current Land and Water Board registries.
- Add WMMP-related potential penalties not exceeding \$1 million for species at risk and not exceeding \$250,000 for other wildlife species.

4.6 Separating “woodland caribou” into “boreal caribou” and “northern mountain caribou”

ENR received positive feedback to proceed with the separation of “boreal caribou” from “northern mountain caribou” using existing Wildlife Management Zones and Areas currently in regulation. Most of the discussion and questions received were to clarify the intent of the proposed regulation change. However, the Kát’odeeche First Nation (KFN) specifically expressed concern that the

approach could lead to increases in both the boreal caribou and northern mountain caribou harvest by Resident Hunting Licence holders.

There were also several comments that ENR needs to address information gaps regarding the harvest of boreal caribou in the NWT, and that mandatory harvest reporting should be implemented for hunters – or at least some classes of licensed hunters.

ENR notes there are several ways to collect harvest information and mandatory reporting is just one way. However, while mandatory systems do increase hunter response rates, there have been several studies showing the additional responses can lead to unreliable results (for example, see www.enr.gov.nt.ca/sites/enr/files/218_manuscript.pdf). Regardless, ENR remains committed to working directly with Indigenous governments and organizations and other co-management partners to continue to discuss boreal caribou harvest issues. Leading by example are the Inuvialuit Game Council, Gwich'in Renewable Resources Board (GRRB), Tłıchǫ Government (TG) and KFN, all of which administer their own harvest reporting programs. Financial assistance and specific agreements between ENR and the GRRB, TG and KFN help collect and share information needed to make informed wildlife management decisions. ENR financial assistance and agreements to assist with the collection of harvest data on boreal caribou and other key harvested species remain a possibility with other Indigenous governments and organizations and co-management partners in the NWT.

ENR also specifically requested feedback on the possible implementation of immediate management actions to help protect individual boreal caribou. We received diverse, meaningful feedback from open houses, bilateral meetings and written submissions. The comments ranged from a complete ban on boreal caribou harvesting for anywhere from a 1 to 3 year period, to statements that ENR has too many information gaps on how boreal caribou are doing in the NWT to make sweeping management decisions.

There is no question that boreal caribou are a species at risk, as they are listed under both the *Species at Risk (NWT) Act* and the federal *Species at Risk Act* as a “threatened” species. With an estimated population of 6,000-7,000 animals, the best available information shows the average

Proposed approach:

- Separate “woodland caribou” in the *Big Game Hunting Regulations* into “boreal caribou” and “northern mountain caribou.”
- ENR will work with its partners to provide funding to help with the collection of harvest data on boreal caribou and other key harvested species to contribute to informed wildlife management decisions.

Revised approach:

- Change the season requirement for Resident Hunting Licence holders to July 15 to December 15 (currently July 15 to January 31).
- Change season requirement for GHL holders to July 15 to December 15 (currently July 1 to June 30).
- Harvest for General Hunting Licence and Resident Hunting Licence holders will be male-only.
- General Hunting Licence holders will require a tag.
- Commit to work with Indigenous governments and organizations and co-management partners to review additional conservation measures.

number of boreal caribou harvested each year in the NWT could be as low as 80 (about 1% of the estimated population) or as high as 200 (more than 3% of the estimated population), with the overwhelming majority of that harvest coming from Aboriginal rights holders. Regardless, given legitimate conservation concerns and meaningful input heard through the engagement sessions, ENR will be adding restrictions to General Hunting Licence and Resident Hunting Licence holders and their boreal caribou harvest requirements to the Phase 2 package of regulations. Additionally, ENR commits to continue working with Indigenous governments and organizations and co-management partners to explore additional possible conservation measures.

KFN expressed concerns that the harvest of boreal caribou by Resident Hunting Licence holders has increased, or will increase, with this regulation change. However, analysis of known harvest data shows no increase of boreal caribou harvest. Specifically, between 2001 and 2015, the average resident harvest of boreal caribou in the NWT was estimated to be 22 animals per year. During this time, the resident harvest was predominantly bulls and the average reported male-to-female ratio of the boreal caribou harvest was 0.79. An average resident harvest of 22 animals per year represents about 0.3% of the estimated population (using a population estimate of 6,500 caribou). Although concerns were raised in the NWT Recovery Strategy that estimated harvest of woodland (boreal and northern mountain) caribou by resident hunters was increasing, analysis of the 2001-2015 data by ENR in 2017 indicated the increase is due to increased harvest of the northern mountain ecotype. The data indicates there has been no increase in boreal caribou harvest by Resident Hunting Licence holders.

Once the new regulations are in force, a Resident Hunting Licence holder will be able to purchase a tag for one northern mountain and one boreal caribou. In theory, a resident hunter previously only interested in mountain areas might now attempt to harvest a boreal caribou because they can have both. However, given the low level of resident harvest and the new conservation measures being implemented, along with compliance monitoring from ENR officers, harvest pressures will be mitigated and ENR believes there will be no population impacts from the number of boreal caribou harvested by Resident Hunting Licence holders. Also, having separate tags will enable better monitoring of boreal caribou harvest levels so that harvest management can be adapted, as needed, to any possible future increase in resident harvest.

ENR commits to conduct and publicly release an evaluation of sustainable harvest levels for boreal caribou in the NWT based on the best available harvest and demographic data. This commitment reflects the approach taken by the Conference of Management Authorities under the *Species at Risk (NWT) Act* and the boreal caribou NWT Recovery Strategy. This Recovery Strategy's conservation and recovery goal is to ensure a healthy and sustainable boreal caribou population that offers harvesting opportunities for present and future generations. The GNWT's vision is for boreal caribou harvesting to be able to continue, now and in the future, by managing boreal caribou at a level that can sustain harvesting.

For northern mountain caribou, the best available information shows that, while there are localized concerns immediately adjacent to the Canol Road areas, there is a stable population overall. The remoteness of most of the northern mountain range further contributes to the stable status of these

caribou. ENR analysis of known harvest data between 2001 and 2015 showed the average resident harvest of northern mountain caribou in the NWT is 29 animals per year. There are approximately 45,000 adult caribou within the range of northern mountain caribou in the NWT, Yukon and northern British Columbia combined. The harvest of northern mountain caribou by Resident Hunting Licence holders, even if slightly increased, is currently sustainable.

With the assistance of our co-management partners, ENR will consider further conservation actions should the publicly-released evaluation of sustainable boreal caribou harvest levels indicate harvest levels are unsustainable, or if the ongoing harvest monitoring of Resident Hunting Licence holders of boreal and mountain caribou show any negative effects on population levels.

4.7 Non-resident young harvesters

Currently, licensed non-resident (NR) and non-resident alien (NRA) young harvesters must be accompanied by a licensed adult and a guide when hunting big game. There was full support for the proposed regulation change to accommodate instances where a parent (or guardian) and child come up to hunt in the NWT and allow for the youth to go out hunting on their own with a guide.

Proposed approach:

- Allow licensed non-resident young harvesters to go out hunting on their own with a guide.

ENR has committed to following up with licensed outfitters in the NWT and their organizations about a suggestion to add a requirement for a Criminal Records Check (CRC). This supported regulation change would allow instances where adults would be working with youth in a vulnerable age group (12+). While requiring a CRC is outside the scope and purpose of the *Wildlife Act*, the onus is certainly on the licensed outfitters and their licensed guides to ensure the safety of these licensed young harvesters.

4.8 Winter raptor nests

Protecting unoccupied nests of birds of prey (raptors) from intentional destruction was widely supported at most of the NWT meetings and in written submissions. Many people expressed a desire to see these birds respected, and indeed fully protected.

Proposed approach:

- Protect unoccupied raptor nests from intentional destruction.

However, the Inuvialuit Game Council (IGC) noted it did not support the proposed regulation. The IGC shared with ENR that destruction of raptor nests is a traditional Inuvialuit practice that should not be infringed upon by government regulation.

The NWT Chamber of Mines described the proposed regulations as excessive and unnecessary. The Chamber indicated it may be too expensive for winter exploration programs and development companies to determine and report every unoccupied raptor nest. Delaying exploration programs for this purpose would not be acceptable, given that raptors can construct new nests and that habitat may not be limited.

ENR's preference is for this regulation to be equitably applied through the whole of the NWT. Destruction or removal of nests will still be permissible under a *Wildlife General Permit*. These permits are available at no cost, and are available to industry or any person on an as-needed basis. ENR will continue to work with the IGC with a goal to enable this regulation in the Inuvialuit Settlement Region along with all other areas of the NWT as soon as practicable.

4.9 Summer use bat roosts

Summer roost sites are an important habitat requirement for bats and currently do not have protection under the *Wildlife Act*. During the summer, reproductive female bats form maternity colonies in these roosts, which are often used repeatedly over many years. There was full support at every meeting, and in all but one written submission, for enabling protection of summer roosting sites for bats from intentional destruction.

The draft regulation uses the wording “summer abode or roosting habitats,” but further analysis by ENR suggests the term “roosting habitats” should be removed. The intent of protection for known naturally occurring summer abodes will still remain because the term “roosting habitats” could be interpreted very broadly (for example, the entire forest could contain trees a bat may roost in). A summer residence for a bat is adequately captured by “summer abode.”

Additionally, upon further internal analysis, the proposed regulation requiring landowners to inform an officer if bats are located on their private property will be removed. There is no need to create a positive legal obligation to report known instances to ENR.

And finally, it was proposed to extend the protection from intentional destruction of naturally occurring summer abodes to intentionally built bat-houses on private property. ENR does not want to discourage any person from building bat-houses and believes the risk of intentional bat-house destruction is relatively low. There is more conservation value in encouraging people to build bat-houses than in prohibiting their destruction.

The NWT Chamber of Mines provided a written submission indicating that roost protection is not required, as habitat in the NWT is not as restricted as it is outside the NWT. As there are noted conservation concerns for bats in the NWT (the little brown myotis and northern myotis are listed under both the federal *Species at Risk Act* and the *Species at Risk (NWT) Act*), the fact that they are at the northern limit of their range in North America, and that there can still be authorized removal of

Proposed approach:

- Protect summer abodes or roosting habitats from intentional destruction.
- Inform ENR if bats are roosting on personal property.
- Human built bat-houses on private property would be protected when occupied.

Revised approach:

- Keep the application to summer abodes but remove the condition of roosting habitats.
- Remove the requirement for mandatory reporting to ENR if bats are on personal property.
- Remove the requirement specifically protecting intentionally built bat-houses on private property.

roosts where required through a free *Wildlife General Permit* issued by an ENR Officer, ENR's preference is for this regulation to be equitably applied across the whole of the NWT.

4.10 Administrative metes and bounds (border) corrections

The legal descriptions of borders are called metes and bounds.

ENR is committed to adjusting the *Wildlife Management Zones and Areas Regulations* to follow land claim agreements in the NWT. This topic and proposed approach, while supported, resulted in some confusion and questions at many community meetings.

Proposed approach:

Update all legal boundary descriptions in the *Wildlife Act* regulations to match the descriptions in the land claim agreements.

The confusion was mostly tied to the application of how and where rights holders can harvest wildlife in the NWT. When the Act came into force in 2014, people with an Aboriginal or treaty right to harvest in a particular area of the NWT no longer needed a licence from the government in the area where they have harvesting rights. However, rights holders must now carry proper identification to show they can harvest in their area, in case an officer asks for it.

The existing wildlife management areas are reflective of ENR administrative units, settled land claim areas and sometimes specific smaller areas within those larger units/areas. Often these areas may reflect a season, tag, bag limit or other conditional requirement (such as bull-only harvest or mandatory sample submission) for conservation or other species specific management purposes. Nothing in the *Wildlife Management Zones and Areas Regulations* can take away from the protection provided to Aboriginal and treaty rights holders to harvest wildlife under section 35 of the *Canadian Constitution Act, 1982*. Additionally, the *Wildlife Act* continues to recognize and respect the wildlife harvesting rights of Aboriginal peoples.

5 Wildlife Management and Monitoring Plan (WMMP) Process and Guidelines

Wildlife Management and Monitoring Plans, or WMMPs, are a tool in the *Wildlife Act* for the protection and conservation of wildlife and wildlife habitat. They are prepared by developers to demonstrate how they will minimize the impacts of their developments on wildlife and wildlife habitat.

5.1 Process for requiring, reviewing and approving WMMPs

ENR received much more feedback about the process for requiring, reviewing and approving WMMPs than we did about the guidelines for the contents of a WMMP. Feedback from many organizations said the guidelines provided clear criteria for which types of projects would likely require a WMMP, as well as the types of questions the Minister would ask when determining

whether a project satisfies one or more of the criteria for requiring a WMMP outlined in subsection 95(1) of the *Wildlife Act*. There was some disagreement with the thresholds used to distinguish between projects that “Might” require a WMMP, versus those that were “Likely” to require a WMMP, but no alternate thresholds were recommended. The template for producing a basic (Tier 1) WMMP and sample standard operating procedures and data sheets were also identified as useful resources for developers.

Most organizations supported integration of the process and timelines for submitting, reviewing and approving WMMPs with the existing project screening and environmental assessment regimes in the NWT. One organization felt review and approval of a WMMP should be an entirely independent and parallel process conducted by ENR, so as not to confuse the role of ENR as regulator versus reviewer of development applications; however, ENR also heard concerns that an independent process could lack transparency, place a burden on reviewers and would not respect the existing land and water co-management regime in the NWT. There were also concerns that WMMP requirements could add uncertainty, delays and unnecessary costs for developers, which might weaken the investment appeal of the NWT. These same organizations suggested all grassroots and advanced exploration projects should be exempted from requiring a WMMP.

NWT Land and Water Boards (LWBs) recommended ENR work with them to further integrate the two processes to ensure efficient and effective co-management. They also recommended a section be added to the guidelines to clarify the GNWT’s roles under Section 95 of the *Wildlife Act* versus its role as a reviewer during the preliminary screening process, and that there be a process to ensure there are no conflicts between the requirements of a WMMP and the LWB’s authorizations. The LWBs were also concerned about duplication of information required in the WMMP screening questionnaire and the content required in applications to a LWB. Renewable Resources Boards requested clarification of their role in the development, review and implementation of WMMPs. The GNWT’s process for requiring, reviewing and approving a WMMP when the GNWT is a developer also needs to be described in the guidelines.

Some organizations felt the suggested best practice of submitting a draft WMMP at the project screening stage is too early in the process, as too few details about a project would be known at this stage to produce a plan of much quality or detail. Instead, it was suggested that WMMPs should not be required until after other authorizations are issued.

There was concern that the Minister of ENR may have power to stop a project that had already been reviewed and approved by regulatory boards on the basis of not having an approved WMMP in place. ENR has determined it cannot “stop” a project, but can pursue a prosecution and issue monetary penalties, as noted in section 3.5 above, if a project that requires an approved WMMP proceeds without one or does not comply with the WMMP. It was also recommended that approval of WMMPs should be delegated appropriately from the Minister to other staff within ENR to speed up the approval process.

5.2 Guidelines for the contents of a WMMP

ENR heard concerns that although the WMMP content guidelines emphasize the importance of adaptive management, it may be very difficult to pre-determine adaptive management measures. This is because wildlife monitoring results are often slow to show change, and are difficult to tie directly to project impacts. It was suggested that the term “adaptive management” be replaced with “A Response Framework using Tiered Mitigation”.

It was also felt by some that requiring developers to contribute to the monitoring of cumulative effects beyond the regional study area is beyond the scope of a development project. However, other organizations responsible for conducting environmental impact assessments expressed support for adaptive management, and cumulative effects and regional scale monitoring.

Some organizations were concerned that some sections of the content guidelines suggested wildlife sightings were equivalent to wildlife incidents and required immediate reporting. It was recommended that Wildlife Research Permits should be granted for more than one year to match the five-year review and re-approval cycle for WMMPs. Renewable Resources Boards requested that data collected as part of WMMP be shared with them in addition to the other organizations mentioned in the guidelines.

Federal government departments also questioned how ENR would consult with other agencies on aspects of WMMPs that deal with wildlife species for which ENR does not have management authority (e.g. migratory birds), and how ENR would monitor implementation and compliance with any such aspects of a WMMP. ENR does not have jurisdictional authority to have WMMPs apply to species that are not managed by the GNWT.

5.3 How the WMMP comments will be addressed

The WMMP guidelines will be updated to provide further clarity and address many of the concerns outlined above and reviewed with the SWAAG and WAWG before final implementation. In particular, wording will be added to clarify where Renewable Resources Boards fit into the process, to acknowledge some of the limitations in applying adaptive management in WMMPs, and to ensure that language regarding the mitigation hierarchy is more consistently applied throughout the document.

ENR also met with the NWT’s Land and Water Boards to further refine how to integrate the requirement, review and approval of WMMPs with their preliminary screening process and the post-Environmental Assessment (EA) permitting process.

As a result, ENR will modify the proposed process for public review of WMMPs. Now the post-EA permitting and licensing process will align with the Land and Water Board public review, instead of ENR conducting its own review process. This and other clarifying changes to the proposed process for submission, review and approval of WMMPs is better reflected in the text. In addition, process diagrams for WMMP submission, review and approval in the Mackenzie Valley and Inuvialuit Settlement Region will be added to the guidelines.

These new approaches will help address some concerns regarding uncertainty related to process and timelines. ENR will also address concerns regarding the difficulty these new requirements and processes may present for smaller, grassroots developers. The supporting resources referred to in the WMMP guidelines have been improved, and plain-language communication materials will accompany the final roll-out of the guidelines.

While ENR believes the thresholds proposed to distinguish the requirement for WMMPs among the different types of development (“always”, “likely”, etc.) may need to be refined over time, ENR did increase the threshold between “might” and “likely” for all-season roads, haul roads, access roads and electrical/communications transmission lines to 25 km from 10 km. This provides more flexibility for smaller operations.

To further address concerns surrounding timelines associated with the review and approval of WMMPs, ENR will delegate the approval authority from the Minister similar to other delegations made under s.13 of the Act. No changes will need to be made to the regulations or guidelines to operationally make this happen.

6 Next Steps

The *Wildlife Act* remains a powerful, modern and enabling tool that respects Aboriginal and treaty wildlife harvesting rights and land claim processes.

ENR reviewed all the proposed regulatory refinements with the WAWG and SWAAG in October 2018. By June 1, 2019 each Renewable Resources Board, as per the settled land claim agreements, will be given time to formally review and recommend the final regulations before they are enabled.

The preparations for the implementation of the Harvester Training Course to become a requirement are still underway. In the meantime, the course materials are now available, and ENR will continue working with the Department of Education, Culture and Employment to offer the course in NWT schools. As noted earlier, ENR will only bring these regulations and sections 46-48 of the Act into force when all operational conditions are ready to ensure there are no delays in delivery.

Additional collaborative work between ENR and its co-management partners is needed before a possible territory-wide drone ban for all harvesters can be put in place. ENR will work on a consensus-style approach directly with Indigenous governments and organizations to pursue a drone possession and use prohibition for all harvesters outside of the timelines committed to for the rest of the regulations.

As for the remaining Phase 2 regulations, they are expected to come into force as of July 1, 2019, along with the implementation of WMMP guideline requirements.