

**Draft Environmental Protection Act (EPA) Bill**  
**What We Heard Document**

Reviewer/Organization	How & When Received	Comment/Context	Responder's Recommendations	ENR Response	#
<b>General</b>					
Inuvialuit Regional Corporation	Email, March 31/17	<ul style="list-style-type: none"> <li>In proposed subsection 5(3)(a.1) there is a typo. It should be: "under <u>one</u> of those <u>Acts</u>".</li> </ul>	<ul style="list-style-type: none"> <li>It should be: "under <u>one</u> of those <u>Acts</u>".</li> </ul>	<ul style="list-style-type: none"> <li>The edit has been incorporated into the draft Bill.</li> </ul>	<b>1</b>
<b>Exemption Clause</b>					
Wek'eezhii Land and Water Board	Email, April 24/17	<ul style="list-style-type: none"> <li>We would note however that the proposed section 2.2.1, that allows the Minister to exempt persons, classes of persons, equipment or contaminants from any or all of the provisions of the EPA or its regulations, is quite unusual. Extremely broad discretion with no limitations on the exercise of the Minister's power, no requirement for notice, no specified process, and no reasons for any resultant decision is disconcerting in the interest of transparent public policy.</li> </ul>	<ul style="list-style-type: none"> <li>The Board would be interested in learning more about the rationale for inclusion of such a clause.</li> </ul>	<ul style="list-style-type: none"> <li>Specific uses of exemptions will be detailed in any regulations developed under the EPA, and would be subject to public input, or consultation if required, at the time of creation.</li> </ul> <p>For example, the proposed air regulatory framework includes two instances of the use of exemptions:</p> <ul style="list-style-type: none"> <li>Emergency releases are exempt from the ambient air quality standards; however there are requirements that must be undertaken during emergency releases to qualify as an emergency release and therefore be subject to the exemption; and,</li> <li>Exemptions may be granted for a follow-up incinerator stack test, based on criteria stipulated in the regulations.</li> </ul> <p>These examples demonstrate that set criteria must be met in order to qualify for an exemption, and leaves no room for exemptions to be granted that are not consistent with what would be laid out in the regulations.</p> <p>As indicated in section 2.2.1, the Minister's discretion would have to be exercised in accordance with the regulations, which will address process, notice, and reasons. Until regulations are in place, there are no persons, classes of persons, equipment or contaminants that would be subject to exemptions.</p>	<b>2</b>
West Point First Nation	Email, formal letter, April 25/17	<ul style="list-style-type: none"> <li>The draft interim Dehcho Land Use Plan has not yet been approved and therefore does not apply in this circumstance. However, the proposed changes to the GNWT Environmental Protection Act appear to encompass the traditional lands of the West Point First Nation. We do not want to create a situation that is bad for the environment or the health of our people. The Dehcho Process is ongoing, and while a final agreement has not been signed, we believe that through community government, our communities have both the legislative power and are in the best position to assess potential environmental nuisances.</li> </ul>	<ul style="list-style-type: none"> <li>We ask that the GNWT recognize our Community Governments' abilities to work with our people to manage situations that may arise and we would like to be included in the exemptions process.</li> </ul>	<ul style="list-style-type: none"> <li>As noted in Response #2, specific uses of exemptions will be detailed in any regulations developed under the EPA, and would be subject to public input, or consultation if required, at the time of creation.</li> </ul> <p>With respect to the air regulations process, ENR will be conducting another round of comprehensive engagement and consultation on proposed draft air regulations, intended to commence in late 2017.</p>	<b>3</b>

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				West Point First Nation will be party to that process and will therefore have input into any proposed exemption clauses.	
<b>Nuisance</b>					
Gwich'in Tribal Council	Email, formal letter April 21/17	<ul style="list-style-type: none"> <li>The GTC is quite concerned about the amendment to include the concept of nuisance in sections 2.2 and 5(4)(b). GTC notes that 'nuisance' is not a defined term under these amendments. The concern is that introducing concept of nuisance into the <i>Act</i> in this manner could result in it being read broadly in the future by the Minister or courts and in a way that inhibits activities of the Gwich'in, such as the use of vehicles for the purposes of traditional activities, including harvesting country food, or the burning of wood for heat in domestic or traditional camp settings. Put another way, including nuisance in this manner refreshes our concerns around removal of exemptions for vehicle sources and wood burning appliances, among other things.</li> </ul>	<ul style="list-style-type: none"> <li>The GTC strongly suggest that further consultation take place on the specific point of nuisance and that consideration be given to including a definition of nuisance in the amendments. We seek detailed information and assurances on this.</li> </ul>	<ul style="list-style-type: none"> <li>Given that "nuisance" is not defined, it will be interpreted in its ordinary sense - to mean interference in the use and enjoyment of property. As such, the threshold required for a discharge to be determined to be a nuisance would be quite high and would have to involve a property right of another person being adversely impacted.</li> </ul> <p>This will allow for persons affected by poor air quality associated with emissions from those exempted activities set out in section 5(3), that are negatively affecting their use or enjoyment of their property, to seek recourse through the EPA rather than through a court action or some other means. As stated in the "What We Heard Document" distributed in March 2017, ENR is not, at this time, intending to regulate emissions from personal vehicles, or wood burning appliances.</p>	<b>4</b>
<b>Registration be person intending to discharge</b>					
Gwich'in Tribal Council	Email, formal letter April 21/17	<ul style="list-style-type: none"> <li>The GTC remains concerned about the potential undue burden that these amendments may place on small business owners and individuals. We recognize this may be managed by careful design of the regulations to be established, and we encourage careful attention to this as the regulatory framework continues to be fleshed out.</li> <li>The GTC also submits that any regulations to be made under this power (<i>Minister s. 34 regulation making power re s.10.01 registering requirements</i>) must protect sensitive information of Gwich'in businesses.</li> </ul>		<ul style="list-style-type: none"> <li>These EPA amendments will give authority to the proposed air regulations to collect emission information from certain (defined) emitters. ENR intends to compile an emission inventory/registry of the territory. There is not a plan for ongoing, mandatory emission registration requirements of all emitters in the proposed air regulations, but rather, select classes of emitters, upon request by ENR. The EPA amendments and proposed air regulations will ensure that emitters are required to provide emission information upon request, within a certain timeframe. ENR further intends that this emission inventory/registry will be for the use of ENR decision-making, and only limited information will be made publicly available.</li> </ul> <p>ENR anticipates this will not be overly cumbersome or place undue burden on small business owners or individuals.</p> <p>Any details associated with emission information collection for the purposes of populating an</p>	<b>5</b>

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				emission inventory/registry, making publicly available, and limiting the disclosure of any contents will be detailed in the proposed air regulations, which will undergo a second round of comprehensive engagement and consultation, anticipated to commence at the end of 2017.	
<b>Relationship to Broader EPA Amendments</b>					
Inuvialuit Regional Corporation	Email, March 31/17	<ul style="list-style-type: none"> <li>The Department of Environment and Natural Resources has embarked on a process to amend the existing EPA. IRC is a part of the Intergovernmental Council and IGC Secretariat through which much of this work is being done. One of ENR's proposed EPA amendments includes authority to regulate emissions from all vehicle types. This contradicts to a certain extent what is stated in the "What We Heard Document".</li> </ul>	<ul style="list-style-type: none"> <li>IRC would simply like to ensure that there is a coordinated approach between this EPA amendment process and the parallel EPA amendment process now underway.</li> </ul>	<ul style="list-style-type: none"> <li>The EPA amendments associated with the air regulations are briefly crossing over with the timeframe for the broader proposed amendments to the EPA. Therefore it has temporarily become a parallel process. The current draft Bill is intended to be passed through the required three readings in the Legislative Assembly via the spring and fall sessions of 2017, whereas the broader proposed EPA amendments have a longer timeframe for implementation.</li> </ul>	<b>6</b>
Tlicho Government	Email, April 21/17	<ul style="list-style-type: none"> <li>Being that ENR is establishing a Technical Working Group to review the EPA, how is this consultation tying into the work that GNWT and Indigenous Governments are about to undertake on revisions to the EPA (and there Acts) under that process.</li> </ul>	<ul style="list-style-type: none"> <li>Some clarity on the process for this set of proposed amendments alongside other proposed amendments would be helpful.</li> </ul>	<p>The current draft EPA Bill is bound by the specific components being proposed in the air regulations at this time, whereas the broader proposed EPA amendments are focusing on possible future initiatives. Therefore the draft EPA Bill does not include changes to the current vehicle exception clause, whereas the larger EPA amendments do include a proposed removal of that exception - that is because the components of the air regulations that include vehicle emission considerations (such as BATEA for heavy-duty vehicles) are now being pursued with the Land and Water Boards, and will likely fall under separate legislation. Therefore, ENR did not proceed with a modification or removal to the vehicle exception clause in the EPA amendments for the air regulations at this time. However, the long-term objective is still to consider emission management or technology requirements of heavy-duty or commercial vehicles, and as such, the broader EPA amendments are proposing to remove the vehicle exception clause. Any details associated with application of proposed EPA amendments will be detailed within associated regulations, which would undergo appropriate engagement and consultation as necessary.</p> <p>ENR is working to ensure that the current draft EPA Bill technical content, associated with the proposed</p>	

Continuing Consultation Period:  
From Mar 21 to Apr 24, 2017

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				air regulations, is coordinated with the broader EPA amendments initiative.	