



# Wildlife Act “Phase 2” Regulations and Guidelines:

Regulatory Amendments and Wildlife Management and Monitoring Plan (WMMP) Process and Guideline Requirements

Le présent document contient un résumé en français.



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## 1 Executive Summary

The Department of Environment and Natural Resources (ENR) is considering new government actions that involve NWT *Wildlife Act* regulatory amendments. ENR is now conducting public consultation and engagement with respect to what is called “Phase 2” amendments.

Using a collaborative approach that included a Wildlife Act Working Group (WAWG) with members from all wildlife co-management authorities and Indigenous governments in the NWT, a Stakeholders Wildlife Act Advisory Group (SWAAG) with members from industry-tourism-outfitters-resident hunters-at-large, ideas for new regulations were developed with input from WAWG and SWAAG that all parties feel are important steps in the continued conservation of wildlife in the NWT.

Ideas for new or amended regulations include the following topic areas: Harvester Training Course exemptions and requirements, prohibiting the use and possession of drones for general hunting licence/resident/non-resident/non-resident alien (GHL/RES/NR/NRA) hunters when hunting big game species, restricting import and controlling the possession of certain animal species, identifying and restricting movements of pest species, enabling process and content requirement guidelines for Wildlife Management and Monitoring Plans (WMMPs), replacing “Woodland Caribou” with “Boreal Caribou” + “Mountain Caribou” in the *Big Game Hunting Regulations*, an administrative change to the Non-resident Young Harvester license holder requirement, protecting raptor nests during the winter when they are unoccupied, protecting the natural summer roost sites for all species of bats, and making administrative boundary (metes and bounds) updates to be consistent with land claims areas.

The WAWG and SWAAG also had input into draft Wildlife Management and Monitoring Plan (WMMP) process and guideline requirements that are also out for public review. The draft WMMP process and content requirements were also done with input from land and water boards in the Mackenzie Valley, and the screening and review bodies in the Inuvialuit Settlement Region. WMMPs are an important tool for the protection and conservation of wildlife and wildlife habitat and are primarily targeted at large-scale projects. The public is welcome to comment on the process and guideline requirements however boards, regulatory agencies, and industry have been specifically solicited for feedback.

Everyone is invited to consider the proposed regulatory amendments and share their feedback before the public comment period closes June 30, 2018. ENR will continue to develop and refine the proposed regulatory amendments, and the WMMP process and guideline requirements, based on the feedback received with the assistance of the WAWG and SWAAG after that date.

## 1 Résumé

Le ministère de l’Environnement et des Ressources naturelles (MERN) envisage de mettre de nouvelles mesures gouvernementales en place qui entraînera des modifications réglementaires à la *Loi sur la faune* des TNO. Le MERN tient actuellement des séances de consultation et de participation du public sur ce qu’on appelle la deuxième phase de modifications.

Grâce à une collaboration entre le MERN, le groupe de travail sur la *Loi sur la faune* (composé de membres de tous les conseils de cogestion de la faune et des gouvernements autochtones des TNO) et le groupe consultatif des parties concernées par la *Loi sur la faune* (composé de membres représentant le secteur industriel, l’industrie touristique, les pourvoiries, le public et les chasseurs), de nouvelles idées, importantes à tous les partis, ont vu le jour concernant la conservation durable de la faune et de la flore sauvages aux TNO.

Voici les idées de modifications réglementaires proposées : modifier les exemptions et les exigences concernant les cours de formation des récoltants; interdire aux titulaires de permis de chasse général ainsi qu’aux chasseurs résidents, non-résidents et étrangers non résidents de posséder des drones et de les utiliser pour chasser; restreindre l’importation et contrôler la possession de certaines espèces animales; déterminer les espèces parasites et restreindre leurs déplacements; habiliter les procédures et les lignes directrices liées au plan de gestion et de surveillance de la faune; remplacer « caribou des bois » par « caribou boréal » et « caribou de montagne » dans le *Règlement sur la chasse au gros gibier*; effectuer un changement administratif aux exigences d’obtention d’un permis de jeune récoltant pour les non-résidents; protéger les nids de rapaces inoccupés pendant l’hiver, protéger les sites naturels estivaux où nichent les chauves-souris, et mettre à jour les limites administratives (bornes et limites) pour qu’elles respectent les revendications territoriales.

Vous pouvez également consulter les observations du groupe de travail sur la *Loi sur la faune* et du groupe consultatif des parties concernées par la *Loi sur la faune* sur les exigences liées aux procédures et aux lignes directrices du plan de gestion et de surveillance de la faune. Les offices des terres et des eaux de la vallée du Mackenzie ainsi que les organismes d’examen de la région désignée des Inuvialuits ont aussi participé à l’élaboration de ces exigences. Les plans de gestion et de surveillance de la faune sont d’excellents outils pour protéger et conserver la faune et ses habitats et ils ciblent essentiellement les projets de grande envergure. Bien que le public soit invité à faire part de leurs commentaires sur ces exigences, nous invitons plus particulièrement les conseils, les organismes de réglementation et le secteur industriel à le faire.

Tous sont invités à donner leur avis sur les modifications réglementaires proposées avant la fin de la période de commentaires, le 30 juin 2018. Le MERN continuera d’améliorer les procédures, les lignes directrices et les exigences liées au plan de gestion et de surveillance de la faune grâce aux commentaires reçus et à l’aide du groupe de travail sur la *Loi sur la faune* et du groupe consultatif des parties concernées par la *Loi sur la faune*.

## 2 Wildlife Act “Phase 2” related regulatory amendments

### 2.1 Why are regulation amendments needed?

After 15 years of consultation and engagement sessions, the *Wildlife Act* (the Act) and its first phase of regulations came into force on November 28, 2014. The Act and regulations were developed using a collaborative approach with the Wildlife Act Working Group (WAWG has representatives from Aboriginal governments and renewable resources boards) and Stakeholders Wildlife Act Advisory Group (SWAAG). Following implementation of the new Act, ENR committed to develop future regulations under the *Wildlife Act* in a similar collaborative manner.

Some of the ideas for new regulations started before November 2014, and other topic areas required more research before regulation concepts could be considered. These new or deferred initiatives are now considered the “Phase 2” amendments, and were developed with input from WAWG and SWAAG between April 2015 and November 2017.

#### 2.1.1 Harvester training

Regulations are needed to help bring the Harvester Training Course sections (s.46-48) of the Act into force. It is important to note that these proposed regulations recognize asserted or established Aboriginal or treaty rights regarding the harvesting of wildlife in the NWT, and as such the course will not be a legislated requirement for any person exercising those rights in areas where they have rights. The GNWT cannot justifiably infringe on those rights by making the course a requirement unless it is Court ordered.

However, ENR recognizes the strong desire to work directly with local harvesting committees for regional delivery of this course across the NWT.

Proposed exemptions to the Harvester Training Course:

- Any person exercising an established or asserted Aboriginal right to harvest in the NWT in areas where they have harvesting rights
- General Hunting License holders
- Any resident that has held a NWT resident hunting license in the previous 5 years
- Any resident that can prove they held a hunting license in another Canadian jurisdiction in the previous 5 years

- Any resident that provides proof they have passed a hunter training course from another Canadian jurisdiction
- Any hunter using a licensed guide or outfitter
- Any person that successfully challenges and passed the examination without taking the course

Along with exemptions come requirements if a person is convicted or ticketed for an offense. This means that if a person is convicted (and otherwise not Court ordered) of these offenses, he/she would be required to take the Harvester Trainer Course before lawfully hunting again with a license – even with a General Hunting License:

- Hunting out of season or in a closed zone / hunting without a required license or tag / exceeding harvest limits / poaching (provisions related to s.38, or the Big Game Hunting Regs s.8, or the Small Game Hunting Regs s.2)
- Disturbance or harassment of game (provisions related to s.52)
- Wounding or loss of game or (provisions related to s.53)
- Wastage (provisions related to s.54)
- Improper harvesting methods (provisions related to s.60)
- Baiting (provisions related to s.62)
- Using prohibited substances (provisions related to s.69)
- Using dangerous harvesting methods (provisions related to s.70)
- Trafficking in the meat of wildlife or other parts (provisions related to s.75(b) and (c))

### **2.1.2 Use of drones or unmanned aerial vehicles (UAVs)**

This proposed regulation recognizes asserted or established Aboriginal or treaty rights regarding the harvesting of wildlife in the NWT. So this prohibition would not apply to Aboriginal harvesters exercising their Aboriginal or treaty rights within their traditional use areas.

- Do you agree with this approach? Let us know why or why not.

The proposed use and possession prohibitions for drones for the holders of a General Hunting Licence, Resident Hunting Licence, Non-resident Hunting Licence, and Non-resident Alien Hunting Licence include:



- No person while harvesting big game or small game species (like moose or hare), upland birds (like ptarmigan or grouse), or migratory birds (like geese or ducks) would be able to be in possession of a drone or use it while hunting.
- Any person exercising an established or asserted Aboriginal right to harvest in the NWT in areas where they have harvesting rights would be exempt from this prohibition.

### **2.1.3 Import and possession of wildlife**

Some animals have the potential to seriously negatively affect our native plants and animals. If anyone plans to bring, or already possess, any of the following animals - depending on the area - you may be subject to new rules: alpacas, domestic goats, domestic sheep, llamas, mule or white-tailed deer, wild boar, or bats.

#### ***2.1.3.1 Llamas, alpacas, domestic sheep, and domestic goats restrictions to protect wild sheep***

A prohibition is needed to help protect the NWT’s wild sheep populations in the currently existing Mackenzie Mountain Wildlife Management Areas.

Llamas, alpacas, domestic sheep, and domestic goats in wild sheep range pose a real and significant threat of disease to our wild sheep population. There is a respiratory disease caused by bacteria (it is like *Mannheimia*) that has caused significant declines of wild sheep in North America.

These domestic species are carriers of this bacteria and contact with NWT wild sheep could be devastating as they have never been exposed to this pneumonia-causing bacteria.

#### ***2.1.3.2 Domestic sheep restrictions to protect wood bison***

A prohibition is needed to help protect the NWT’s wild wood bison populations.

Domestic sheep are symptomless carriers of the Malignant Catarrhal Fever (MCF) virus. This virus can have exceptionally high mortality rates in wood bison if sheep come in “nose-to-nose” contact with them.

These prohibitions are proposed to apply in the currently existing Wood Bison Wildlife Management Areas [zone U, areas D/WB/01-05 and R/WB/01-02], and would apply to all current domestic sheep owners.

The future import, possession, or transport of domestic sheep will be allowed, but only through a licence, and only when certain conditions are met. These conditions are proposed as:

- Domestic sheep are transported in an ENR-approved containment system.
- Domestic sheep are kept in an approved containment system (i.e., fencing that prevents nose-to-nose contact between domestic sheep and wood bison).
- Domestic sheep are tested for disease or conditions to the satisfaction of ENR.
- Domestic sheep will be subject to quarantine or disease management measures are considered appropriate by ENR.

The specific details about the types, standards and details for animal health management, transport, and containment approaches that may be considered to support the proposed regulations will be based on the many well developed specific standards and guidelines used in other jurisdictions. When the time comes to consider and adopt NWT standards, the Department of Environment and Natural Resources commits to working closely with wildlife and agriculture managers, and regulators to adopt standards that meet the needs of the agriculture sector and mitigate wildlife/domestic animal risks.

All the costs associated with implementing these proposed measures would be with the licence holder and livestock owner.

#### **2.1.3.3 Deer restrictions to protect caribou**

Chronic Wasting Disease (CWD) is a significant wildlife health issue. CWD is a disease that can impact all cervid species, like caribou, and can and has resulted in significant mortality elsewhere. For this reason import restrictions on live mule and white-tailed deer, or their harvested parts which can carry CWD, are proposed to protect NWT caribou.

To prevent disease transmission this practically means that only boned-out meat from lawfully harvested deer can be brought into the NWT. This would apply to any person, regardless of asserted or established Aboriginal or treaty rights. The restriction would apply to:

- brain matter
- cranial nerves
- spinal column and its parts
- whole skulls or skull plates

- hooves
- boned-in meat
- urine
- mammary glands

These parts can carry a protein call a “prion” that transmits this disease. This restriction would also apply to parts professionally or commercially prepared, because this disease cannot be eliminated.

It is important to note that there are Treaty 8 areas in Saskatchewan and Alberta that have deer that have potentially been exposed to CWD. This proposed regulation, even though it is an infringement of asserted or established Aboriginal or treaty rights, is a necessary measure to ensure the conservation of wildlife, and especially caribou, in the NWT.

#### **2.1.3.4 Restrictions to protect bats**

Live bats have also been included as a species for which live import or release should be prohibited to protect all native bat species in the NWT.

White-Nose Syndrome (WNS) is a devastating health issue affecting eastern North American bat populations since its discovery in 2006. WNS is believed to be caused by *Pseudogymnoascus destructans*, a fungus that grows on the skin of the bat and is easily transmissible between regions, caves, and bat species.

#### **2.1.4 Actions to control European wild boar, or feral wild boar**

European wild boar, or feral wild boar, are carriers of brucella or tuberculosis which are significant threats to wildlife populations in the NWT. These animals can also cause significant and vast damage to habitat – they have been called an ecological train wreck where they are out of control in North America.

There are feral wild boar in British Columbia, Alberta, and Saskatchewan and they are confirmed as moving northward – as close as Liard River Hot Springs Provincial Park in BC and about 300km south of the Alberta border along the highway.

The proposal is to create an Order of a ‘Pest Declaration’. Associated regulations will allow any person that is a resident to kill or capture, or attempt to kill or capture, wild boar.

There will be no license, season, or bag limits that would apply to any person harvesting wild boar. However, any person that kills a wild boar must report it within 72 hours to an officer and report the sex of the boar.

### 2.1.5 Wildlife Management and Monitoring Plans (WMMPs)

Because some development projects can result in significant disturbance or pose a threat of harm to wildlife, cause substantial damage to wildlife habitat or significantly contribute to cumulative impacts on wildlife or habitat, section 95 of the Act requires these types of projects to have a “Wildlife Management and Monitoring Plan” or WMMP. WMMP related regulations are needed to enable the process and guideline requirements that are associated with section 95 of the Act.

The new proposed WMMP-related regulations will:

- Include application to NWT-managed species at risk, whether legally listed or just assessed (this is in addition to big game but would not include migratory birds or fish).
- Require the Minister of ENR to inform a person or body requiring a WMMP of their reasons for triggering section 95.
- Prohibit development, proposed development, or development activity until the WMMP is approved by the Minister.
- Require compliance with the approved WMMP or the developer could face penalties of up to \$1,000,000.

### 2.1.6 Splitting “woodland caribou” into “boreal caribou” and “northern mountain”

Woodland caribou have two biologically distinct units, or “ecotypes”. One group is considered “boreal” and the other “northern mountain”. This is based on the habitat where they typically reside (mountains vs forests) and how they live (in large vs small groups). Separating them in the regulations will facilitate better possible future management actions.

The separation of ‘boreal caribou’ from ‘northern mountain caribou’ will use existing Wildlife Management Zones and Areas currently in regulation – no new zones are needed. The only regulation change to enable this approach will be a change in the Schedule of the *Big Game Hunting Regulations*: “Part 6”. This Schedule would be replaced with new tables for each caribou ecotype.

The northern mountain caribou areas would follow the existing woodland caribou tag types, seasons, limits, conditions, and fees that currently apply for D/OT/01, D/OT/02, G/OT/01, S/OT/01, S/OT/02, S/OT/03, S/OT/04, and S/OT/05. The boreal caribou areas would follow the existing woodland caribou tag types, seasons, limits, conditions, and fees that currently apply in D, G, I, R, S, U.

There are no implications or changes for asserted or established Aboriginal or treaty rights holders or General Hunting Licence holders. Currently, Resident

Hunting Licence (RES) holder can get one “woodland caribou” tag FOR EITHER the mountain or boreal areas. This regulation change would mean RES hunters could now get a tag for both the new mountain and boreal areas.

ENR has already heard about concerns that the estimated harvest of boreal caribou by resident hunters was increasing. However, analysis of the 2017 data showed that the increase is due to harvest of the northern mountain ecotype only. There has been no increase in boreal caribou harvest by RES hunters. ENR believes there will be no change in the number of animals harvested by RES hunters due to this regulation change.

However, boreal caribou are a listed threatened species at risk nationally and within the NWT as well. ENR wants your feedback if there should be any possible future regulatory changes that could be pursued to help protect individuals.

Please note that boreal caribou harvest levels in the NWT are believed to be low. The NWT Recovery Strategy summarized the harvest based on the NWT resident hunter harvest survey, regional harvest studies, and traditional knowledge reports. The average 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).

Our current understanding of local and traditional knowledge is that Indigenous people tend to only harvest this type of caribou opportunistically; most communities rely more on barren-ground caribou, moose, or other wildlife. However, some concerns have been raised that harvest of boreal caribou may have been underestimated in the southern NWT and that harvest levels may be increasing.

Regarding harvest by resident hunting licence holders, only about 22 boreal caribou per year are harvested, which represents less than 0.5% of the estimated population. This harvest is tracked through the annual NWT Resident Hunting Survey.

There is a certainly a need for more reliable harvest data, but could there be more protection for individuals? Do YOU have ideas to help conserve boreal caribou in the NWT, like:

- Mandatory harvest reporting by everyone?
- Require tags for everyone?
- Limit the areas available to harvest?

- Close any harvest of female boreal caribou?
- Apply a limited entry draw to resident hunting licence holders?
- Change the season currently available to harvesters?

#### **2.1.7 Non-resident young harvesters**

Currently, non-resident (NR) and non-resident alien (NRA) harvesters must be accompanied by a guide when hunting big game. Young harvester (at least 12 years of age) NR and NRA hunters are eligible to get their own hunting license, but must be accompanied at all times by a person who is at least 18 years old and entitled or authorized to hunt wildlife in the NWT. However, not all guides are licensed to hunt in the NWT (because they may not be NWT residents) so the requirement means a young harvester needs to be accompanied by a licensed hunter and a licensed guide.

This proposed regulation change would accommodate instances where a parent and son/daughter come up to hunt in the NWT and allow for the son/daughter to go out hunting on his/her own with a guide. There are many times where young harvesters come up and a parent gets sick or otherwise unable to accompany the youth, but this change would still allow the youth to hunt.

An exemption in regulation is needed to allow young NR and NRA harvesters to be accompanied by a licensed guide only.

#### **2.1.8 Winter raptor nests**

Birds of prey (raptors) and their nests (when in use) are protected by the Act in several ways: harvesting, disturbance, harassment, possession of eggs or the nest itself when occupied. However, many raptors return to the same nest year after year and unoccupied nests are not afforded any protection.

The proposed regulation would protect these unoccupied nests from intentional destruction.

#### **2.1.9 Summer use bat roosts**

There is a conservation concern for bats in the NWT because some species are at risk (little brown myotis and northern myotis have been emergency listed federally and are also being considered for listing territorially).

Summer roost sites are an important habitat requirement for bats. During summer, reproductive females form summer maternity colonies. These roosts are used repeatedly over many years.

Although the Act protects bat winter hibernation sites, it does not protect these important summer roost sites. The proposed regulation would protect these summer roosting sites from intentional destruction.

Bats roosting in man-made structures (except intentionally built structures like bat-houses) would be exempt from this proposed protection.

Protecting natural roosting sites of bats will help conserve the NWT’s biodiversity.

#### **2.1.10 Administrative metes and bounds (border) corrections**

The legal descriptions of borders (called metes and bounds) in the *Wildlife Management Zones and Areas Regulations* needs to be changed to reflect metes and bounds in the land claim agreements in the NWT.

Specifically, this regulation change would fix the differences between the legal descriptions of zones and areas in the Act’s regulations, and the legal descriptions in the land claim agreements regarding the:

- Gwich’in Settlement Area (GSA) along the Yukon border
- southern Sahtu Settlement Area (SSA) boundary and the Dehcho
- Sahtu and Tlicho boundary lines
- Tlicho boundary with the Dehcho

### **3 Wildlife Management and Monitoring Plan (WMMP) process and guideline requirements**

Wildlife Management and Monitoring Plans, or WMMPs, are an important tool for the protection and conservation of wildlife and wildlife habitat. WMMPs are prepared by developers to demonstrate how they will minimize the impacts of their proposed or existing developments on wildlife and wildlife habitat, remain in compliance with regulatory requirements and address public concern. WMMPs are not intended to apply to small scale developments with little potential for significant environmental effects.

WMMPs outlining how impacts to wildlife and wildlife habitat will be minimized are already considered best practice for development projects in the NWT. The preparation of the draft WMMP process and content requirements were done with input from land and water boards in the Mackenzie Valley, and the screening and review bodies in the Inuvialuit Settlement Region. Now the draft WMMP process and guideline requirements provide better clarity for industry and flexibility, depending on the scale of development. They are primarily targeted at large-scale projects, many of which are already developing similar plans, proactively.

The public is welcome to comment on the process and guideline requirements however boards, regulatory agencies, and industry have been specifically solicited for feedback during the comment period.

## **4 Next Steps**

The *Wildlife Act* is a powerful, modern, and enabling tool that also respects Aboriginal and treaty wildlife harvesting rights and land claim processes, now and well into the future.

We invite everyone to consider the proposed regulatory amendments and share their feedback.

Additional documents and information are available on the ENR “Have Your Say” page:

<http://www.enr.gov.nt.ca/en/services/have-your-say-wildlife-act-regulatory-amendments-phase-2>

Also, department staff is available for additional discussions on the content of the regulation amendments, or any other related concerns you may have. People can also always talk to their local Renewable Resource Officer, or visit an ENR Regional Office.

The public comment period is closing June 30, 2018. ENR will continue to develop and refine the proposed regulatory amendments based on the feedback received with the assistance of the WAWG and SWAAG after that date. Additionally each renewable resources board, as per the settled land claim agreements, will need to formally approve the final regulations before they are enabled.