



Summary of Policy Intentions

A new Forest Act for the NWT



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English

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French

Kīspin ki nitawih̄tīn ē nīh̄yawih̄k ōma ācimōwin, tipwāsinān.

Cree

Tłjchq yatı k'èè. Dı wegodi newq dè, gots'o gonede.

Tłjchq

ʔerih̄tł'is Dēne Sų́łné yatı t'a huts'elkēr xa beyáyatı theʔə ʔat'e, nuwe ts'ēn yóftı.

Chipewyan

Edı gondı dehgáh got'je zhatié k'éé edatf'éh enahddhę nıde naxets'é edahfı.

South Slavey

K'áhshó got'jne xədə k'é hederı ʔedjhtf'é yerııwę nıde dúle.

North Slavey

Jii gwandak izhii ginjik vat'atr'ijáhch'uu zhit yınohthan jı', diıts'at ginohkhii.

Gwich'in

Uvanittuaq ilitchurisukupku Inuvialuktun, ququaqłuta.

Inuvialuktun

Ć^bđ< ħħ^{sb}Δ^c Λ<LJΔ^r Δ^bħD<^{sb}PL>ħ^b, Đ<ē^cħ^aĐ^c Đ^ıē<đ^aē^{sb}Đħ^c.

Inuktitut

Hapkua titiqqat pijumagupkit Inuinnaqtun, uvaptinnut hivajarłutit.

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Overview

The Government of the Northwest Territories intends to introduce a new Forest Act Bill in February 2023.

This document summarizes the key intentions of the Bill.

The Bill is being developed collaboratively with Indigenous governments, Indigenous organizations, and Renewable Resource Boards, in accordance with the [Intergovernmental Council on Land and Resource Management: Legislative Development Protocol](#).

It will combine existing forestry legislation under one set of laws and include necessary changes. Those existing laws are:

- [Forest Protection Act](#)
- [Forest Management Act](#)

The Act considers the importance of working together to manage forests, and the value of using local, community, traditional and scientific knowledge in making decisions. It recognizes that all people in the Northwest Territories (NWT) have an interest in making sure forests are used responsibly and remain healthy over time. This is important now more than ever, as the NWT is experiencing rates of climate warming up to four times faster than the rest of Canada.

The development of this new Bill has in part been informed by feedback received during public engagement on a proposed new Forest Act that was carried out in 2018. ENR released a [What We Heard Report](#) of that engagement in 2019.

Principles of the proposed legislation

- Land, resources and self-government agreements that set out provisions of co-management of forests must be followed.
- Aboriginal and Treaty rights must be respected and recognized.
- Forest management decision-making should use the best available information, including Indigenous and scientific knowledge.
- Forests are a natural resource and there should be responsible stewardship of forest ecosystems.
- An adaptive management approach is essential in understanding northern forests, including the effects of climate change.

Key themes of the proposed legislation

The proposed new Forest Act would seek to address the following key aspects:

- Roles and Responsibilities of Renewable Resource Boards,

co-management committees, the Minister, and officers;

- Sustainable forest management; and
- Wildfires and protection of forests.

The new Act would also set out provisions related to:

- Permits and licences;
- Appeals; and
- Investigation and Enforcement.

Important terms

Throughout this document, you will encounter terms which may be unfamiliar, but are important to understand. Here are some key terms and their definitions:

Biomass

- Renewable organic materials, such as wood, that can be used as a source of fuel or energy

Co-management committee

- *An agreed upon committee set up for the purposes of co-managing forests in a particular area of the NWT*

Forest ecosystem

- Trees, vegetation, other forest resources; wildfire and natural occurrences; and animals that rely on forests

Forest harvesting agreement

- An agreement between the GNWT and a government, corporation or organization for the harvesting of trees

Forest resources

- Any live or dead trees, fungi or other vegetation, that come from a forest

Industrial activity

- *Commercial extracting and processing of raw materials, including for infrastructure, mining and oil and gas exploration, operations and remediation, agriculture, and commercial timber harvesting*

Timber

- *Any wood from trees, in or derived from forests, alive or dead and standing or fallen*

Wildfire

- Any non-structural fire that occurs in a forest including a prescribed burn

Roles and Responsibilities

Renewable Resources Boards

The new Forest Act would recognize the role of Renewable Resources Boards as an essential instrument in co-managing forests in areas of the Northwest Territories with land, resources and self-government agreements.

Co-Management Committees

Under the new Forest Act in an area of the Northwest Territories where there is no land, resources and self-government agreement in place, it is proposed that the Act set out that the Minister would be able to enter into establishment agreements with one or more Indigenous government or Indigenous organization with Aboriginal or treaty rights in the area for the purposes of co-managing forests through committees.

The Minister

Under the proposal for a new Forest Act, the Minister of Environment and Natural Resources (ENR) would be responsible for preventing and responding to wildfires, and for protecting and managing the use of forests.

If passed, the Minister would have the ability to develop policies and programs that encourage everyone to work together to manage and protect forests in the NWT for the benefit of people now and in the future. These policies and programs would need to be developed in a way that makes use of the best available Indigenous, local and scientific knowledge. The Minister would need to work with and consult any renewable resources boards, co-management committees, Indigenous Governments, and Indigenous Organizations when developing certain policies or programs.

The Minister would appoint a Forest Superintendent to:

- Create and carry out plans or programs to manage forests;
- Do research; and
- Approve permits, licences, applications, reports and/or notices used under the Act

The Forest Superintendent

Under the proposed Act, the Forest Superintendent would be responsible for managing forests and the use of forests so that all parts of the natural forest environment remain healthy through time.

This work would be carried out in a way that is consistent with land, resources and self-government agreements, and that considers any traditional, scientific, local or community knowledge that is available.

The Forest Superintendent's work could include:

- Describing clear goals for how forests should be managed;
- Monitoring different parts of the forest environment;
- Reporting on the health of the forests;
- Using lessons learned over time to improve how things are done; and
- Setting limits on the amount of forest products (e.g. trees or mushrooms) people can harvest.

The Forest Superintendent could make plans that describe how forests will be managed so they stay healthy through time. These plans would be called forest ecosystem management plans. The Forest Superintendent would make sure the forest ecosystem management plans are followed.

The Forest Superintendent would check on the health of forests by monitoring different parts of the forest environment over time. Monitoring would be used to understand changes in the growth of plants and trees, the number of wildfires, or the ways that forests are used, for example.

Protecting forests

Wildfire protection

One of the most significant factors that can impact forests is wildfire. The proposed Forest Act would include provisions to allow the government to take action to manage wildfire as a natural, necessary force in the landscape, and a threat to communities and people.

Wildfire season

In the NWT, the season when wildfires are most likely to occur is from May 1 to September 30 each year. This period of time is called the wildfire season. Under the proposed Forest Act, if there is danger of wildfires in a given year outside of that time period, the Minister can lengthen or change the dates of wildfire season. This would give the Forest Superintendent authorities necessary to take action to protect forests.

Industrial activities

Under the proposed Forest Act, anyone who wants to carry out industrial activities (such as land clearing, wood harvesting, oil and gas exploration, etc.) in or near a forest might need to submit a plan describing how they will prevent and prepare for wildfires.

The plan could be needed either before the start of wildfire season or before beginning the industrial activity.

Putting out and controlling fires

Under the proposed Forest Act:

- If someone or a group has started a fire, they would be required to make sure the fire is completely out before they can leave the area, unless the fire was started in a stove or furnace that was made to contain fires and will not cause a wildfire.
- If someone used an explosive or threw a burning object in or near a forest, they would be required to make sure there is no chance of a wildfire starting before they leave the area.
- Anyone who starts a fire outside would need to make sure they do everything they can to make sure their fire doesn't spread. For example, they need to choose an area that doesn't have material, like dry wood or plants, that would be easy to set on fire.

- Anyone working in or near a forest would be required to make sure any fire burning as part of their work is controlled and safely put out when the work is done.
- Anyone who is within or near a forest cannot use equipment that could release sparks or fire. This would include engines or equipment used to burn wood or other waste.

Interfering with firefighting

Under the proposed Forest Act:

- Any person or company working in or near a forest where there is a fire burning out of control must allow an officer to use their equipment or employees to help control or put out the fire.
- All work would need to stop until the fire is controlled and an officer says it is okay to start working again. The GNWT may pay the person or company for helping with a fire, unless they caused the fire.
- No one would be allowed to damage or move any tools or equipment in a forest that were put there for the purpose of preventing or fighting a fire. Similarly, no one would be allowed to get in the way of or block any firefighting activities through the use of some kind of equipment or vehicle (including drones).

Reporting a wildfire

Under the proposed Forest Act:

- If someone came across an unattended fire in or near a forest, they would be required to report it as soon as possible to an officer by phone or in-person, or at the nearest GNWT office.
- Anyone with information about a wildfire must give it to an officer when asked.

Helping to fight a wildfire

Under the proposed Forest Act:

- In the event of a wildfire, an officer could ask another person to help them carry out their duties to manage the fire.
- The GNWT would be required to pay for that person's time as long as they did not cause the fire.
- The rate of pay would be based on the type of work done as well as the amount of experience or training required.

Removing flammable materials

Under the proposed Forest Act:

- If the Forest Superintendent decided there are flammable materials or debris in an area (such as dead wood) that could cause harm to the forest environment, he or she can order the person responsible to safely get rid of the material.
- When someone is clearing an area of land, they are not allowed to leave trees, branches or other materials that can easily catch fire on the land unless:

- They have a legal right to occupy that land
- An officer allows it
- The land-holder allows it

Wildfire management actions and the Forest Superintendent

Under the proposed Forest Act, the Forest Superintendent could take the actions needed to manage a wildfire with the goals of:

- Public safety
- Protecting life, property or the environment
- Protecting or improving cultural benefits or forest health
- Improving regrowth in the forest
- Research
- Taking care of things of value in the forest including cultural values
- Anything else the Forest Superintendent believes is important for forest protection and management

These actions could include the use of prescribed burns to fight wildfires.

The Forest Superintendent could close off an area of the NWT where there is a wildfire or where he or she believes a wildfire is likely to start and decide what activities will be allowed in the closed area. He or she could also stop people from entering the closed area.

The Forest Superintendent could also ban people from lighting or using any kind of fire in any area of the NWT.

Protecting forests from pests and disease

Under the proposed Act, when insects, disease or an invasive species threatens to cause serious or irreparable harm to a forest, the Forest Superintendent could take interim actions necessary to manage, control or dispose of the threat. If this were to occur, the Forest Superintendent would need to as soon as reasonably possible notify any applicable renewable resource boards, co-management committees, renewable resource councils, Indigenous governments, and Indigenous organizations. It is expected that this situation would be rare, and the Forest Superintendent would work with the above-mentioned partners ahead of time to collaboratively determine the best course of action should the forest in a particular area be threatened.

Permits and licences

Under the proposed Forest Act, there would be the ability to require permits and issue licences for forest activities in the NWT.

Permits and licences for those with Aboriginal or Treaty rights

Under the proposed Forest Act, anyone who has an Aboriginal or treaty right to harvest forest resources in an area of the Northwest Territories would no longer require a permit to exercise that right – subject to regulations regarding commercial activities to be developed if passed.

Forest harvesting agreements with communities, governments, and organizations

Under the proposed Act, the GNWT could enter into agreements with Indigenous governments, Indigenous organizations, other governments, corporations or organizations related to harvesting forest products. This could include entering into agreements with Indigenous governments and Indigenous organizations for the management of community wood lots.

Harvesting under an agreement could not begin in an area until there is a forest ecosystem management plan in place for how to make sure the forest environment in that area will stay healthy.

An entity that has a forest harvesting agreement with the GNWT could still need permits and licences to carry out some activities.

Permits and licences which could be issued

Under the proposed Forest Act, the Forest Superintendent could issue permits or licences that allow someone to:

- Cut timber
- Clear forest
- Transport timber
- Bring timber into or out of the NWT
- Burn
- Harvest or use forest resources
- Do research related to forests
- Manage forests
- Run a mill (such as a sawmill)
- Measure the amount and quality of timber
- Do any other activity listed in a regulation under the Act

Permits or licences would be required for all the above activities unless the regulations under this Act say a permit or licence is not necessary for a specific activity.

Permits for burning

Under the proposed Forest Act, a permit to burn would be required by anyone who wants to set a fire to clear land or get rid of waste if it is wildfire season and the fire will be in or near a forest.

Permits to burn **would not be needed** by communities or Indigenous governments and organizations that have laws or bylaws related to open air burning.

A permit to burn **would not be needed** for burning things in a stove or furnace that is specially made to contain fires and that will not cause a wildfire.

Appeals

Under the proposed Forest Act, if someone's application for a permit or licence were refused, they could appeal the decision by to the Minister.

Any renewable resources board, renewable resources council, co-management committee, Indigenous government, or Indigenous organization with Aboriginal or treaty rights within that area could appeal the issuance or refusal of a permit or licence to the Minister.

People could not appeal to the Minister in situations where they needed, but could not get, consent for an activity from a Renewable Resources Board or Council, or from an Indigenous government or organization.

If someone's permit or licence has been cancelled or suspended, they could appeal the decision.

If someone believes that any of the requirements in their permit or licence are unfair, they could appeal.

If someone has had their forest resources seized by an officer and believes a mistake was made in the amount of fees or charges they owe, they could appeal the amount owed.

Investigation and Enforcement

Responsibilities

Under the proposed Forest Act, the Minister would appoint officers to enforce this Act and specify or limit what powers those officers have. These forest officers are peace officers under the *Criminal Code* and common law.

The Minister can designate people in certain jobs or positions as forest officers. For example, the Minister could make Renewable Resource Officers under the *Wildlife Act*, forest officers under this Act.

If a group of people work for a different government, the Minister must first get approval from their employing government before making them forest officers.

Officer authorities

An officer can give an order to someone if the officer believes that they are doing something that could harm the forest environment or that is against any of the rules in this Act, a permit or a licence.

An officer can give orders if he or she believes that a forest may be harmed by wildfire, insects, disease or the growth of certain plants.

An officer can order anyone to:

- Put in place something to avoid harming any part of a forest
- Take actions to control insects, diseases or the growth of certain plants that could harm the forest environment
- Carry, at all times, whatever is needed to reduce damage to the forest environment
- Stop doing anything that could harm the forest environment
- Do anything else the officer believes is needed to avoid harm to the forest environment

All orders from an officer must be followed. An officer can arrest someone who is committing an offence or has committed an offense. The officer can use as much force as necessary and reasonable to arrest someone.

Inspections

Under the proposed Forest Act:

- An officer could stop any vehicle to inspect it as part of an investigation. When anyone sees red and blue flashing lights, hears a siren, or sees an officer directing them to pull over, they must pull over, stop their vehicle, and remain stopped until the officer says they can leave.
- At any reasonable time, an officer can enter and inspect a place where there might be things related to the Act. An officer can only enter a place where someone lives if the person says it is okay or the officer has a warrant, or if evidence would be destroyed in the time it takes to get a warrant.
- While an officer is carrying out an inspection, a person must show anything the officer asks for and give any information or help the officer needs. If someone has a permit or licence that relates to this Act, they must show it to an officer if asked. This includes permits or licences issued under other Acts.
- If someone has combined forest products that were taken illegally with products taken legally, an officer can seize all the mixed forest products as part of an inspection. If someone is required by an officer to move any forest products they obtained legally, the GNWT will pay for the costs of transportation.

- If someone is doing something that needs a permit or licence and they don't show their permit or licence to an officer, the officer can tell them to immediately stop doing what they are doing, and they must stop.

Punishments for offenses

ENR is proposing the following punishments for offences under the Act:

- In the case of a corporation: a maximum of \$1,000,000 for each offence.
- In the case of an individual: a maximum of \$100,000, up to one year jail time, or both.

Total fines can be more if the person commits several or repeat offences or commits the same offence on more than one day, for example. They may also be required to pay back any money they made by committing an offence.

If someone works for a corporation that commits an offence, they can be charged with the offence if they were involved or knew about it, even if the corporation isn't charged. Similarly, someone can be charged with an offence if it is committed by someone who works for them, even if their employee is not charged, unless they can show they did not know about it.

Instead of going through the normal court system, other measures can be taken to deal with someone who has committed an offence under this Act through an alternative measures program approved by the Minister of Justice.