

RULES OF PRACTICE FOR PUBLIC HEARINGS OF THE NUNAVUT WILDLIFE MANAGEMENT BOARD

Introduction and Purpose

Subject to Government's ultimate responsibility for wildlife management, the Nunavut Wildlife Management Board (NWMB) is the main instrument of wildlife management and the main regulator of access to wildlife in the Nunavut Settlement Area. Pursuant to Section 5.2.26 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (the *Nunavut Land Claims Agreement*), the Board may hold public hearings into any issue requiring a decision on its part.

The purpose of these Rules is to provide a fair, open, and understandable process for parties and interested persons, to enable appropriate public participation, and to ensure efficiency and timeliness, with respect to NWMB public hearings.

An audio-recorded Inuktitut summary of these Rules is available from the NWMB.

Rule 1: GENERAL MATTERS

1.1 Waiver/Amendment of the Rules

The NWMB may waive or amend any of these Rules, if the Board considers it to be in the interests of fairness. Where any matter arises that is not envisioned by these Rules, the Board shall do whatever it considers necessary, to enable it to deal with the issue in a just manner.

1.2 Non-Compliance with the Rules

Where a party or interested person fails to comply with these Rules, the Board may:

- (a) impose such conditions as shall ensure compliance;
- (b) suspend the proceeding until satisfied that the Rules have been complied with; and/or

- (c) take such other steps as it considers just and reasonable, up to and including termination of party or interested person status.

However, the NWMB may dispense with compliance with any Rule, if it considers this to be just and reasonable, under the circumstances.

1.3 Interpretation

Unless the context requires otherwise, words and phrases in these Rules have the same meaning as in the *Nunavut Land Claims Agreement*.

1.4 Inconsistency or Conflict Between the Rules and the *Nunavut Land Claims Agreement*

Where any of these Rules is inconsistent or in conflict with the *Nunavut Land Claims Agreement*, the Agreement shall

prevail to the extent of the inconsistency or conflict.

1.5 Principle of Public Access

- (1) Subject to sub-rules 1.5(2) and 3.3, the principle that hearings, pre-hearing meetings and pre-hearing consultations should be open to the public shall be strictly followed by the NWMB.
- (2) The Board is not required to provide facilities to allow public participation in or attendance at an electronic hearing, pre-hearing meeting or pre-hearing consultation.
- (3) Subject to Rule 7, the principle that the parties and the public should have full access to documents filed at a hearing shall be strictly followed by the NWMB.

1.6 Definitions

“Board” means the NWMB, a panel of the NWMB, or an individual member of the NWMB. In these Rules, NWMB and the Board are used interchangeably.

“Document” means, in addition to anything in printed form, any type of telecommunication or electronic transmission or recording capable of being reduced to a printed format, and audio or video recordings.

“Electronic hearing” means a hearing conducted by conference telephone or some other form of electronic technology whereby parties can communicate orally.

“Entire NWMB” means at least 5 members of the NWMB.

“Hearing” may refer to an oral or electronic hearing. It includes any hearing in which participants appear before the NWMB in person or electronically, or through a combination of both, to make oral submissions.

“In camera” means in private.

“Inuktitut” includes Inuinaqtun whenever an issue under these Rules affects people using that dialect.

“Notice” means a written notice:

- (a) delivered by hand or prepaid courier to the person;
- (b) sent by facsimile or other reliable electronic means, the receipt of which shall be deemed to have occurred on the next day following transmission;
- (c) mailed, the receipt of which shall be deemed to have occurred on the 7th day after posting; or
- (d) announced by newspaper, radio, television, community poster, or other public means, according to reasonable terms established by the NWMB.

“NWMB” is the acronym for the Nunavut Wildlife Management Board.

“Oral notice” refers specifically to notice provided by radio, television, or other public means employing spoken language.

“Participant” means a party or interested person attending a hearing.

“Person” includes a corporation, any Inuit Organization, any institution established under the *Nunavut Land*

Claims Agreement, and any unincorporated association recognized as a person by the NWMB. “Submissions” include statements of fact and opinion, argument, and related documentation or other material.

Rule 2: PRE-HEARING CONSULTATIONS

2.1 NWMB shall consider Pre-Hearing Consultations

Prior to deciding whether to hold public hearings, the NWMB shall consider undertaking pre-hearing consultations.

2.2 Purpose of Pre-Hearing Consultations

Without restricting the possible uses of such consultations, the NWMB may organize a consultation:

- (a) to assist the Board in deciding whether to hold public hearings;
- (b) to identify community and other concerns;
- (c) to discuss with the community, as well as others with a special interest in the subject-matter of the consultation, potential decisions, actions or alternatives, and possible consequences;
- (d) to collect and/or to distribute information; and
- (e) to discuss the involvement of the community and others in potential public hearings.

2.3 Notice and Format of Pre-Hearing Consultations

- (1) Before deciding upon the format of a particular pre-hearing consultation,

the NWMB shall consider seeking the advice of one or more individuals possessing knowledge of culturally-appropriate consultation techniques.

- (2) The NWMB shall provide each community, the Government Department having jurisdiction over the subject-matter of the consultation, and any persons the NWMB considers to have a special interest in the subject-matter of the consultation with adequate notice of the date, time and place of a pre-hearing consultation, including adequate oral notice to the community.
- (3) The NWMB shall organize each pre-hearing consultation so as to encourage full and open participation.
- (4) Subject to sub-rule 2.3(1), the consultation shall be conducted in an informal, but structured manner. The NWMB shall make clear, at the start of each consultation, how it intends to moderate the consultation, to ensure a timely exchange of views and information, and to ensure that all those wishing to participate have an opportunity to do so.
- (5) A pre-hearing consultation may be conducted in person or by means of electronic communication, or through a combination of both.

2.4 Pre-Hearing Consultation Summary

- (1) Within a reasonable period of time following the conclusion of a pre-hearing consultation, and bearing in

mind the purpose or purposes of the consultation, the NWMB shall produce a written Pre-Hearing Consultation Summary, in English and Inuktitut. In addition, the Board shall produce an Inuktitut audio-recorded version of the Summary.

- (2) Copies of the Summary shall be delivered to:
 - (a) the full membership of the NWMB;
 - (b) the Hunters and Trappers Organization of the community;
 - (c) the Regional Wildlife Organization;
 - (d) the Government Department having jurisdiction over the subject-matter of the consultation;
 - (e) Nunavut Tunngavik Inc.; and
 - (f) any persons who indicate to the NWMB, or whom the NWMB considers to have, a special interest in the subject-matter of the consultation.
- (3) The NWMB shall make available for public inspection, at its head office, a written and an Inuktitut audio-recorded copy of the Pre-Hearing Consultation Summary.

Rule 3: ACCESS TO HEARINGS

3.1 Access by Parties

- (1) Any representative or agent of the Government of Canada or Territorial Government, any Hunters and Trappers Organization or Regional Wildlife Organization, any Inuk, and any other person whom the Board considers appropriate, shall be

accorded the status of full party at an NWMB public hearing.

- (2) Subject to sub-rules 1.2 and 3.3(2), and Rule 7, full party status entitles that party to the same terms of participation at an NWMB public hearing and the same access to hearing documents as any other party.
- (3) Any other person wishing to be named as a party by the NWMB shall make an appropriate request in writing to the Board.
- (4) In deciding whether to name a person as a party, the NWMB may consider such matters as the following:
 - (a) the person's interests may be directly and substantially affected by the hearing or its result;
 - (b) the person has a genuine interest in the subject matter of the hearing;
 - (c) the person raises a genuine concern;
 - (d) the person is likely to make a useful and distinct contribution to the NWMB's understanding of the issues in the hearing; and/or
 - (e) there are no other reasonable and effective means by which the person's concerns can be raised.

3.2 Access by Interested Persons

The NWMB may, prior to or during a hearing:

- (a) recognize as an interested person any person who is not a party and who, in the Board's opinion, has information, knowledge or a view which is likely to be of assistance in the hearing, but not of a nature to warrant naming the person as a party; and

- (b) permit the interested person to participate in the hearing upon terms established by the NWMB.

3.3 In Camera Hearings

- (1) All or part of a hearing may be conducted in camera, where the NWMB considers that:
 - (a) confidential or sensitive matters may be disclosed; or
 - (b) such intimate financial, personal or other matters may be disclosed,that the desirability of avoiding disclosure, in the interest of any person affected or in the public interest, outweighs the desirability of adhering to the principle that hearings should be open to the public.
- (2) Where the NWMB holds all or part of a hearing in camera, it shall decide, in the circumstances of each case, who shall be permitted to attend and the conditions to be imposed upon any person permitted to attend.

Rule 4: PRE-HEARING MEETINGS

4.1 The NWMB may organize a Pre-Hearing Meeting

Without restricting the possible uses of such meetings, and in order to render a hearing more effective, the NWMB may organize a pre-hearing meeting or meetings:

- (a) to identify and/or finalize the list of issues to be dealt with at the hearing;
- (b) to consider procedural matters not addressed by these rules;

- (c) to consider any other matters that could aid in the simplification and/or efficiency of the hearing;
- (d) to identify confirmed and potential parties, interested persons, and witnesses;
- (e) to provide information to participants;
- (f) to determine the length, schedule and location of the hearing; and
- (g) to ensure that, in conducting the hearing, the NWMB gives due regard and weight to Inuit culture, customs, and knowledge, and to the tradition of Inuit oral communication.

4.2 The Meeting may be Held in Person or Electronically

A pre-hearing meeting may be conducted in person or by means of electronic communication, or through a combination of both.

Rule 5: NOTICE OF HEARINGS AND PRE-HEARING MEETINGS

5.1 Notice of Hearings

- (1) The NWMB shall provide all parties with at least 60 days' notice of the date, time and place of a hearing, and, in addition, shall provide adequate oral notice to Inuit.
- (2) The NWMB shall provide all recognized interested persons and the public with adequate notice of the date, time and place of a hearing.

5.2 The NWMB Shall Make Necessary Information Available

In order to permit each party to be able to prepare for meaningful participation in the hearing, the NWMB shall make available to all parties, within a reasonable time prior to a hearing, sufficient information as to:

- (a) the subject of the hearing;
- (b) the purpose and intended consequences of the hearing;
- (c) the specific issues to be dealt with at the hearing;
- (d) the written and/or audio-recorded materials and other information, provided to the NWMB, which the Board, a party, or an interested person intends to use at the hearing; and
- (e) the preliminary agenda for the hearing.

5.3 Notice of Pre-Hearing Meetings

The NWMB shall provide all parties, recognized interested persons, and the public with adequate notice of the date, time, place, and purpose of any pre-hearing meeting organized by the NWMB. In addition, the NWMB shall provide adequate oral notice to Inuit.

5.4 Defects in Notice

Notwithstanding sub-rules 5.1 to 5.3, failure to provide adequate notice does not invalidate a pre-hearing meeting or hearing where:

- (a) the party or interested person entitled to notice consents;
- (b) there is no actual prejudice to any participant arising out of the failure; or
- (c) prejudice caused can be offset by:

- (i) adjourning the meeting or hearing where the NWMB considers that an adjournment would not unduly compromise the progress of the process; or
- (ii) some other means that the NWMB considers would not unduly compromise the process

Rule 6: HEARING DOCUMENTS

6.1 Oral and Written Submissions, and other Documents

- (1) At any time prior to or during a hearing, participants may file with the Board:
 - (a) oral submissions, transcribed in full or in summary and/or recorded by the Board, as it considers appropriate;
 - (b) recorded oral submissions;
 - (c) written submissions; and
 - (d) other documents;respecting the subject matter of the hearing.
- (2) The NWMB shall notify all participants of its receipt of such documents, and shall provide copies - including translations, summaries, and audio recordings, where applicable - to any party requesting them. The NWMB shall place all such documents in the Hearing Record.
- (3) Participants are strongly encouraged to file the documents, referred to in sub-rule 6.1(1), at least 30 days prior to the hearing, so that the NWMB and the parties shall have adequate time to review them.

- (4) Upon informing the other participants, the NWMB may invite written, oral, or recorded oral submissions from a participant at any time. The Board shall provide copies of the submissions received - including translations, summaries, and audio recordings, where applicable - to any party requesting them, and shall place all such submissions in the Hearing Record.

6.2 Directed Questions

Upon informing the participants, the NWMB may, at any time, direct written, oral, or recorded oral questions to any person on any issues relevant to the hearing. The Board shall provide copies of the questions and answers received - including translations, summaries, and audio recordings, where applicable - to any party requesting them, and shall place all such questions and answers in the Hearing Record.

6.3 Translations and Summaries of Submissions, Directed Questions and Answers, and other Documents

- (1) Each document of 5 pages or less, and each oral recording of 5 minutes or less, shall be translated into English or Inuktitut, as the case may be, by the person producing the document, and such translation shall be delivered to the NWMB at the same time as the document.
- (2) Subject to sub-rule 6.3(3), for all written documents over 5 pages in length, and all recordings over 5 minutes in length, the person shall

provide, at the same time, to the NWMB:

- (a) the document or recording;
 - (b) a concise summary of the document or recording; and
 - (c) a translation of the summary.
- (3) For written documents over 5 pages in length and prepared specifically for the hearing, or for any other documents over 5 pages or 5 minutes in length and designated by the Board, the person shall provide, at the same time, to the NWMB:
- (a) the document and its translation; and
 - (b) a concise summary of the document and its translation.

6.4 Requirement to Produce an Audio Recording

The NWMB may require a person to produce, in Inuktitut and/or English, an audio recording of a written document or its summary, to be delivered to the NWMB at the same time as the document.

6.5 NWMB Assistance

The NWMB shall, if requested, assist any Inuk or Hunters and Trappers Organization, and may assist any other person, in fulfilling obligations under sub-rules 6.3 and 6.4.

Rule 7: ACCESS TO DOCUMENTS

7.1 Restricted Access to Particular Documents

The Board may restrict access to particular documents described in Rules

6 and 9 if, having regard to all the circumstances, the NWMB considers that:

- (a) access to the documents would result in such significant prejudice; and/or
- (b) all or any part of the documents disclose such confidential, sensitive, or intimate financial, personal or other matters,

that the desirability of avoiding disclosure in the interest of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the parties and the public should have full access to documents filed at a hearing.

7.2 Affected Parties may make Submissions

The Board shall not withhold or otherwise restrict access to documents without giving any affected party the opportunity to make submissions on the matter.

7.3 Possible Determinations by the NWMB

In withholding or otherwise restricting access to particular documents, the Board may make whatever determination it considers appropriate. The determination might indicate that:

- (a) all or any part of a document shall not be accessible to the public, or to the public and another party;
- (b) an appropriate summary of the document shall be made available;
- (c) the document shall be marked “confidential” and kept separate from other documents, and access shall be allowed only in accordance with the Board determination, or as otherwise authorized by law; or

- (d) the document shall only be made available to parties and such other persons as the Board considers appropriate.

Rule 8: PARTICIPATION IN HEARINGS

8.1 General Matters

(1) Non-attendance by a Party or Interested Person

Where a party or interested person who has been given notice of a hearing does not appear at the hearing, the NWMB may proceed with the hearing in the person’s absence.

(2) Language of the Hearing

Unless all participants, witnesses, the members of the Board, and the public are Inuktitut-speaking, the NWMB shall provide simultaneous English and Inuktitut translation at a hearing, to the extent reasonably possible.

(3) Transcripts or Minutes of the Hearing

Any written transcripts or minutes of a hearing shall be in English and Inuktitut.

(4) Swearing of Evidence

The NWMB may require that all persons giving evidence at a hearing do so under oath or solemn affirmation.

8.2 Participation by the NWMB

(1) The Number of NWMB Members Conducting a Hearing

The entire NWMB may designate an individual member, or a panel of the Board composed of two or more members, or the entire Board, to conduct a particular hearing.

(2) Emphasis on Flexibility and Informality

The NWMB shall, consistent with the broad application of the principles of natural justice and procedural fairness, emphasize flexibility and informality in the conduct of a hearing.

(3) Participants and Witnesses to be Treated with Respect

The NWMB shall make every effort to ensure that all participants and witnesses at the hearing are treated with respect.

(4) Determining Time Limits

The NWMB may determine time limits for oral submissions by any or all participants at the hearing.

(5) Admission of Evidence

The NWMB may admit any evidence which it considers relevant to the subject-matter of the hearing.

(6) Limiting or Excluding Documents or Presentations

The NWMB may limit or exclude the receipt of documents, other materials, or oral presentations that are irrelevant or

would not likely contribute significantly to the hearing.

(7) The Importance of Traditional Knowledge

The NWMB shall give due regard and weight to traditional knowledge, as it applies to any matter under consideration at a hearing.

(8) Question and Answer Period

The NWMB shall provide for an informal question and answer period at each hearing, to permit the public the opportunity to address and ask questions of the participants and the Board.

(9) Questions by NWMB Members at the Hearing

Any member of the Board may ask any participant or witness questions, arising either from an oral, written, or audio-recorded submission, or from views, knowledge or information that the person may have, relevant to the subject-matter of the hearing.

(10) Questions by the NWMB Following the Hearing

Upon informing the participants, the NWMB may direct any participant or witness to answer any relevant question or provide any relevant information within its knowledge or reasonable ability to obtain, following the hearing. Sub-rules 6.3 to 6.5 shall apply to any answers given. The Board shall provide copies of such materials to any party requesting them. The NWMB shall, in addition, place all such information in the Record of Hearing.

(11) Adjournments and Re-openings of Hearings

The NWMB may adjourn any hearing from time to time. It may re-open any hearing, upon providing reasonable notice - including oral notice to Inuit - to the participants and the public, for the purpose of receiving further submissions.

8.3 Participation by Elders

Recognizing the role of Elders in Inuit society, the NWMB shall provide reasonable opportunity for Elders to speak at a hearing. The Board shall make every reasonable effort to accommodate Elders, with respect to seating, order of appearance, and opportunity to raise matters and to comment on and respond to matters raised at the hearing.

8.4 Participation by Counsel

- (1) If, in the opinion of the NWMB, the public interest so requires, the Board may hire counsel, or may direct its own legal counsel, to argue a case, or any particular question, before the NWMB.
- (2) The NWMB may, in addition, direct its own legal counsel to, among other things:
 - (a) advise the Board on matters of law and procedure, and on such other matters as the Board requires; and
 - (b) question any participant, or Board-appointed or other witness.

8.5 Participation by Parties

A party at a hearing may:

- (a) either authorize a representative to represent him or her at the hearing, or represent himself or herself personally;
- (b) be a witness;
- (c) call witnesses, and question the witnesses of other participants, including Board witnesses;
- (d) question other parties or interested persons;
- (e) be questioned by the Board, and by other parties; and
- (f) make submissions to the NWMB, including final argument.

8.6 Participation by Interested Persons

Interested persons shall participate in the hearing upon terms established by the NWMB.

8.7 Participation by Witnesses

- (1) The NWMB may summon any person, except a Minister of the Crown:
 - (a) to attend and give evidence at an oral or electronic hearing; and
 - (b) to produce at the hearing such documents and other things as are specified in the summons.
- (2) Any party may make a request to the Board for a summons, requiring the attendance of a witness at a hearing. The request should be made at least two weeks prior to the hearing, and include the name and address of the person, and the reasons why the person's testimony is necessary and why a summons is required.

- (3) Every witness at a hearing may be questioned by the NWMB and any of the parties.
- (4) The NWMB shall endeavor to provide in advance to a witness, any documents submitted to it by the participants, or otherwise in its possession, that are relevant to the witness's testimony.
- (5) In the case of an Inuk witness, the NWMB shall endeavor to provide translated and/or audio-recorded copies of relevant documents or their summaries.

8.8 Participation by the Public

Subject to sub-rules 1.5(2) and 3.3, the public shall have an opportunity at each hearing to present information and make statements, and to participate in an informal question and answer period.

Rule 9: RECORD OF HEARING

9.1 Contents of the Record of Hearing

The NWMB shall compile a record of each hearing, containing:

- (a) all notices of pre-hearing meetings;
- (b) any video or audio recording, or other form of transcript of any pre-hearing meeting;
- (c) the notice of the hearing;
- (d) all documents and other materials, including written and audio-recorded submissions, and directed questions and responses, placed in the record by the NWMB;
- (e) any video or audio recording, or other form of transcript of the hearing; and

- (f) the record of any determinations made by the NWMB at, or with respect to, the hearing.

9.2 Availability of the Record of Hearing

The NWMB shall make available for public inspection, at its head office, a copy of each Record of Hearing.

Rule 10: THE HEARING REPORT

10.1 The NWMB shall Produce a Hearing Report

Within a reasonable period of time following the conclusion of a hearing, the NWMB shall produce a Hearing Report, in English and Inuktitut. Copies of the Report shall be delivered to the full membership of the NWMB, and to the Minister having jurisdiction over the subject-matter of the hearing.

10.2 Availability of the Hearing Report

The NWMB shall make available for public inspection, at its head office, a written and an Inuktitut audio-recorded copy of the Hearing Report. The Board shall provide a copy of the Report to any party that requests it.