

Justifications for the NQLs contained within sections 4 and 8 of the Prescribed Matters Regulations, December 2006

PROPOSED NQLs: BIRDS OF PREY (PRESCRIBED MATTERS REGULATIONS)

S.4: IN ORDER TO HARVEST A BIRD OF PREY, A PERSON MUST HAVE A RIGHT UNDER THE *WILDLIFE ACT* TO HARVEST THE BIRD WITHOUT A LICENCE, OR HOLD AN APPROPRIATE LICENCE.

Justification: Section 18(1) of the Wildlife Act describes the requirement for a licence for a person who is harvesting. In summary, it states that unless a person has a right to harvest game or prescribed wildlife, then they require a licence. Birds of prey are wildlife, but they are not game, therefore without prescribing birds of prey for the purpose of this section, there is no requirement for a licence. Therefore this section makes it clear that non-Inuit require a licence in order to harvest birds of prey. As birds of prey are a presumption as to needs species (pursuant to NLCA section 5.6.5), there will be no surplus for these species. Therefore Inuit will not, in any circumstances, require a licence to harvest them, and therefore this section will not apply to Inuit. In any event, the provision exists for a conservation purpose pursuant to 5.3.3(a) of the NLCA.

When the Wildlife Act was brought into force in 2005, it was necessary to pass certain prescribed matters regulations in order to ensure that the legislation system was functional. It was therefore deemed necessary to include this provision to ensure there was clarity with regard to harvesting of birds of prey, and to avoid any legislative gap.

PROPOSED NQLs: ALL TERRAIN VEHICLES (PRESCRIBED MATTERS REGULATIONS)

S.8: A PERSON MAY HUNT GAME WHILE ON A MOTORIZED ALL TERRAIN VEHICLE, OTHER THAN A SNOWMOBILE, THAT:

(A): HAS A DRY WEIGHT OF 600 KG;

(B): RUNS ON WHEELS, TRACKS, AIR CUSHIONS OR ANY COMBINATION OF WHEELS, TRACKS OR AIR CUSHIONS; AND

(C): IS DESIGNED FOR CROSS-COUNTRY TRAVEL ON LAND, WATER, SNOW, ICE, MARSH, SWAMP OR ON OTHER NATURAL TERRAIN.

Justification: Section 87(1) of the Wildlife Act describes what types of activities associated with vehicles are restricted or prohibited for the purposes of harvesting. In general, any use of a vehicle during actual harvesting is prohibited. Section 87(2) then describes the exemptions to the prohibitions, and states that prescribed all-terrain vehicles can be used.

Section 8 of the prescribed matters regulations describes the types of all-terrain vehicles that can be used. The list was developed based on research into the types of all-terrain vehicles that are in regular usage, or that are commonly available for purchase. We determined that of the all-terrain vehicles that are available or in use weigh less than 600kg, and therefore it is highly unlikely that this restriction will have an impact on

harvesting practices. The one exception is large, tracked snow vehicles commonly known as “bombardiers”, “snowcats”, and similar pieces of equipment. These vehicles weigh more than 600kg, and therefore would be prohibited for use in harvesting. While not common in Nunavut, these vehicles do exist and are in use for transportation, particularly in the Kivalliq region.

The reason for the restriction is to prevent large, heavy vehicles from being used in harvesting, for three primary reasons:

- their large weight causes damage to the tundra and wildlife habitat. The purpose of restricting their use for harvesting is for a conservation purpose pursuant to section 5.3.3(a) of the NLCA.
- their size and noise may cause disturbances to wildlife, affecting life processes and negatively impacting wildlife populations. . The purpose of restricting their use for harvesting is for a conservation purpose pursuant to section 5.3.3(a) of the NLCA.
- Their size and noise may cause disturbances and interference with the activities of other harvesters. The purpose of restricting their use is to reflect the objective that there is a need to create a system of rights, priorities, and privileges that: reflects the traditional and current levels, patterns, and character of Inuit harvesting; avoids unnecessary interference in the exercise of the rights, priorities, and privileges to harvest; and serves and promotes the long-term economic, social, and cultural interests of Inuit harvesters. (Reference NLCA Sections 5.3.3(b), 5.1.3(a)(i)(v), and 5.1.3(b)(iii)).