



**Affaires autochtones et
Développement du Nord Canada**

**Aboriginal Affairs and
Northern Development Canada**



**CHANGES TO THE NUNAVUT REGULATORY SYSTEM:
Nunavut Planning and Project Assessment Act
and
*Nunavut Waters and Nunavut Surface Rights Tribunal Act***

Nunavut Mining Symposium, 2014

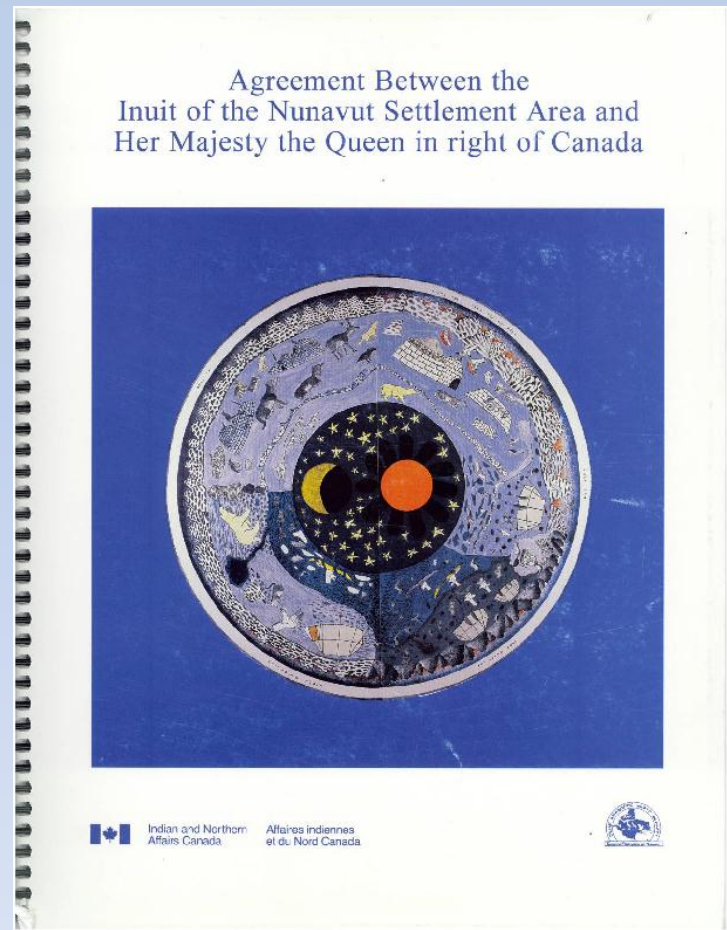
Overview

- ▶ *Nunavut Planning and Project Assessment Act*
 - Context
 - Changes
 - Implementation

- ▶ Proposal to amend the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*
 - Context
 - Proposed changes
 - Next steps

NuPPAA: Context

- ▶ Legislation for the Nunavut Impact Review Board (NIRB) and the Nunavut Planning Commission (NPC) is an obligation under the Nunavut Land Claims Agreement (NLCA)
- ▶ NuPPAA was introduced November 2012 and received Royal Assent June 2013 (Bill C-47)
- ▶ It will come into force on a date set by the Governor in Council



NuPPAA: Changes

- ▶ Nunavut Land Claims Agreement Amendments:
 - Definition of Project (2)
 - Single entry point through NPC (76)
 - Default Board review when shipping is the only trans-boundary component (94)
 - Emergencies (152)

NuPPAA: Changes

- ▶ NPC / NIRB / Minister administration:
 - Members may continue to act after expiry of term with respect to a project (13, 21)
 - Vacancies are filled for a new 3 year term (28)
 - Public registry (201, 202)
- ▶ Land use planning:
 - Land use plan may contain requirements that, if contravened, could be offences (48, 74, 219)
 - Added the Designated Inuit Organization the authority to accept/reject a draft land use plan or a plan amendment (54, 62)

NuPPAA: Changes

▶ Review of Projects:

◦ Time limits on:

- NPC for conformity check (83),
- NIRB screening (same as NLCA) (92),
- NIRB writing a review report (104, 107) and issuing a project certificate (111),
- Federal panel writing a review report (123), and
- most Ministerial decisions (93–95, 105–107, 112, 125–127)

NuPPAA: Changes

- ▶ Review of Projects (cont'd):
 - Scoping by NIRB (86, 99)
 - Significance factors (90)
 - Federal panel clarity (115–133)
 - Trans-boundary projects (156–162)
 - Enforcement (209–219)

NuPPAA: Implementation

- ▶ Engagement with partners and clients for readiness
- ▶ Amendment to Nunavut Land Claims Agreement
- ▶ Populate Schedule 3 with existing exemptions

**More on NuPPAA:
Wednesday, 9:00 am – 3:30 pm
Building 918 Boardroom
(AANDC)**

NWNSRTA: Context

- ▶ 2012 Approval to expand regulatory improvement agenda in the North:
 - Apply same objectives, policy approach and tools as Responsible Resource Development to the North (to the extent consistent with CLCAs).
 - Consult and limited authority to share draft legislative proposal, which is currently out for comment

NWNSRTA: Changes

1. Time limits
2. Life of project water licences
3. Security management arrangements
4. Cost recovery
5. Fines
6. Administrative Monetary Penalties

NWNSRTA: Proposed Changes

Time Limits

- Establish beginning-to-end time limits for water licences requiring a public hearing
 - 9 months for Nunavut Water Board (NWB) time (Minister already has max. 90 day time limit)
- Extensions:
 - Minister may extend time limit by 2 months upon request of Board
 - GiC may further extend time limits on Minister's recommendation

NWNSRTA: Proposed Changes

Time limits (cont'd)

- ▶ Time limit begins on complete application, or on posting of notice, when review is on the NWB's own initiative

- ▶ 'Stop the clock provisions' include:
 - Proponent time (where proponent required to provide information)
 - To account for project being reviewed by NPC or NIRB
 - Time taken to enter into required compensation agreements

- ▶ Time limit concludes on NWB decision

- ▶ Non-termination of authority provision

NWNSRTA: Proposed Changes

Life of Project Licences

- Allow the issuance of water licences for anticipated duration of certain projects requiring type A water licences
- Current 25 year time limit will remain for:
 - Type A projects described by regulations
 - Type B licences
- Board will continue to be able to make amendments to licence

NWNSRTA: Proposed Changes

Regulation Making Authority for Cost Recovery

- ▶ Creation of a regulation making power for cost recovery:
 - Board's activities
 - Services provided to Board by third parties
 - Costs incurred by Minister specific to application

- ▶ Regulations will specify activities and services subject to cost recovery

- ▶ Regulations may exempt classes of applicants from cost recovery

NWNSRTA: Proposed Changes

Security Management Arrangements

- ▶ Permissive authority for Minister to enter into written arrangements with proponents and designated Inuit organizations to provide for:
 - amount of security
 - form and nature of security
 - periodic review of security
- ▶ Board must take an arrangement into account when in determining the amount of security under the licence

NWNSRTA: Proposed Changes

Fines

- Increase maximum fines for offences
- Ensure fine increases are in line with other federal regulatory legislation
 - i.e. CEAA 2012, FA, NEBA, NSCA, SARA and CEPA and with other northern statutes (MVRMA, TLA, NWTWA)

NWNSRTA: Proposed Changes

Fines:

	Current	Increased max. fine
Principal offence -	\$100,000	\$250,000
Second /subsequent offence	n/a	\$500,000
Type A licence offence -	\$100,000	\$250,000
Second /subsequent offence - Type A	n/a	\$500,000
Type B licence offence -	\$15,000	\$37,500
Second /subsequent offence - Type B	n/a	\$75,000
Limitation period -	2 years	5 years

NWNSRTA: Proposed Changes

Administrative Monetary Penalties

- ▶ Civil financial penalty for violation (AMP)
- ▶ Inspectors – ability to choose to enforce using prosecution or AMP
- ▶ AMPs will not affect ability of inspectors to issue orders
- ▶ Essential provisions to be set out in legislation with details in regulations, including setting out what constitutes a violation

NWNSRTA: Proposed Changes

Administrative Monetary Penalties

LEGISLATION WILL SET OUT

Maximum = \$25K individuals, \$100K corporations

Continuing Violations - violations on more than one day are separate violations

Inspectors will issue Notice of Violation

Limitation period = 2 years

Violations \neq offences (inspector must choose)

AMPs can be reviewed (on application) by the Minister

REGULATIONS WILL SET OUT

What violations are “AMPable”

Determination of penalty amount

Notice of violation (contents, service...)

Details for reviews

NWNSRTA: Next Steps

- ▶ Comments on proposals by April 23, 2014
- ▶ Final drafting and response to comments early May
- ▶ Legislative proposal ready for Minister by late May, 2014