



Change is the Only Constant: Recent and Upcoming Regulatory Changes in Nunavut

The Nunavut Water Board

**Presentation for the 2016 Nunavut Mining Symposium
IPGs Panel**

April 7, 2016



Topics

- Who is the NWB?
- What do we do?
- Where do we fit in the “integrated regulatory process”?
- What’s currently keeping the NWB busy?
- Legislative changes affecting the NWB’s processes
 - NuPPAA
 - Amendments to the NLCA
 - Amendments to the NWNSRTA
- For more information



Who are we?

- The Nunavut Water Board (NWB or Board) was created as an Institution of Public Government (IPG) under Article 13 of the Nunavut Land Claims Agreement (NLCA).
- In 2002, the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA or Act) and in 2013 the *Nunavut Water Regulations* (Regulations) were adopted and this legislation further spells out the NWB's substantive powers, function, objectives and duties.



What do we do?

- The Board has responsibility and power over the regulation, use, and management of fresh water in the Nunavut Settlement Area.
- The NWB's primary function is to approve the use of water and deposits of waste associated with various types of undertakings such as industrial, municipal and mining undertakings taking place in the Nunavut Settlement Area.
- In the exercise of that function, the Board considers any detrimental effects of the potential use of waters or a deposit of waste on other water users and can, if called upon, determine the basis for compensation of other water users affected by these effects.
- Other licensing and regulatory activities.



Where does the NWB fit in Nunavut's “integrated regulatory system”

- The process commences with the receipt of a project proposal by the Nunavut Planning Commission (Article 11) who assesses the project for conformity with applicable land use planning requirements.
- Then the NPC passes project proposals that are not exempted from assessment to the Nunavut Impact Review Board (Article 12) to assess the potential environmental and socio-economic effects of the project proposal.
- Once the NIRB assessment process is complete and if the project proposal has been approved by the NIRB and relevant Ministers to proceed to the permitting phase the NWB reviews and decides on the application to use freshwater and deposit waste associated with the “undertaking” (Article 13).



What is currently keeping the NWB busy?

- The Board makes decisions on the following types of undertakings (as defined under the *Nunavut Waters Regulations*): industrial, mining, municipal, power, agricultural, conservation, recreational and “other”
- **2014-2015 Statistical Year in Review**
 - 5 Type “A” Applications , 51 Type “B” Applications, and 25 Approvals without a Licence
- **Projected 2015-2016**
 - Approximately 5 Type “A” applications and 23 Type “B” applications are under review by the Board
 - Several Public Hearings for Type”A” Licences have been conducted and will be conducted this year



What are the new legislative changes affecting the NWB's water licensing processes?

- The *Nunavut Planning and Project Assessment Act* (NuPPAA)
- Amendments to the *Nunavut Land Claims Agreement* (NLCA)
- Amendments to the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA)



What are the key changes introduced to the NWB process under the Nunavut Planning and Project Assessment Act?

- Section 75
 - Prohibits a regulatory authority (including the NWB) from issuing a licence or other authorization until the requirements of the Act have been met
- Section 75(3)
 - Allows for the issuance of a licence or other authorization if the project proposal has previously been met the requirements of the Act and provided the project proposal has not been “significantly modified”
- Mandates coordination between NPC, NIRB and NWB is mandatory



What are the key changes introduced by the NLCA Amendments?

- The revised definition of Project Proposal
- NLCA Amendments clarify NPC, NIRB and NWB Processes
- Amendments to Article 13 reinforce the importance of co-ordination among NPC, NIRB and NWB



Processing Project Proposals under the Amended NLCA but NOT NuPPAA

- Due to amendments to Articles 11&13 of the NLCA and no definition of “project” under the NLCA there is now a category of project proposals that involve an application to the NWB that must be submitted to NPC for their consideration under the amended NLCA even though NuPPAA does not apply





What are the key changes to the NWNRSRTA?

- (Coming into force in June 2016)—term of licence can be for the “life of the undertaking”; and
- 9 month time limit for NWTB’s processing of water licences
- (In force June 2015) – new section to require the Board to take into account financial security agreements made between the Minister (INAC), the Regional Inuit Association and the applicant (a mechanism to address overbonding)



What are the key changes to the NWNSRTA?

- Others (Coming into force in June, 2016):
 - Changes to the enforcement mechanisms available to INAC (“AMPs”—Administrative Monetary Penalties);
 - Increases to fines for breaches of the Act, Regulations and terms and condition of water licences



Who to contact if you have questions?



Please contact:

Stephanie Autut, Executive Director

P.O. Box 119

Gjoa Haven, NU, XoB 1Jo

Telephone: 867-360-6338

Toll Free: 1-855-521-3745

Stephanie.autut@nwb-oen.ca



Questions and/or Comments