



May 9, 2024

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Sent via email

Re: Notification and request for comments in relation to a proposed screening exemption agreement under Article 12, Schedule 12-1(7) of the Nunavut Agreement and s. 230 of the NuPPAA between Environment and Climate Change Canada-Canadian Wildlife Service and the Nunavut Impact Review Board applicable to “Scientific Permits” and “Protected Area Access Permits”

Dear Parties:

As provided for under Article 12, Schedule 12-1(7) of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)*, and s. 230 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (NuPPAA) the Nunavut Impact Review Board (NIRB or Board) has been engaged with Environment and Climate Change Canada – Canadian Wildlife Service (ECCC-CWS) to develop a new screening exemption agreement between ECCC-CWS and the NIRB. The proposed new screening exemption agreement (attached to this correspondence) would apply to a class of physical works or activities that involve “Scientific Permits” and “Protected Area Access Permits” issued by ECCC-CWS (these activities are described and defined within the proposed *draft* screening exemption agreement attached to this correspondence) (referenced as the Exemption Agreement).

As described in greater detail below, the NIRB notes that the proposed Exemption Agreement is consistent with two existing screening exemption agreements the NIRB currently has in place with:

- the Government of Nunavut – Department of Environment applicable to specific authorizations issued under the *Wildlife Act* (Nunavut); and
- Parks Canada applicable to specific research and collection permits in National Parks.

The proposed Exemption Agreement was informed by, and aligns with, the exemption criteria incorporated into the two existing agreements, covering designated Wildlife and Protected Areas that are already highly regulated. Accordingly, ECCC-CWS and the NIRB considered it appropriate to develop a new Exemption Agreement to align and streamline the regulatory processes applicable to this class of activities.

As set out in ss. 230(1) and 230(2) of *NuPPAA*,¹ by way of this correspondence the Board is providing notification of the proposed Exemption Agreement to the Minister and the designated Inuit organizations and is also inviting interested parties to submit their comments about the Exemption Agreement to the NIRB on or before **September 6, 2024**.

BACKGROUND ON THE GENERAL PROCESS FOR DEVELOPING AND IMPLEMENTING SCREENING EXEMPTION AGREEMENTS

Under Article 12, Schedule 12-1(7) of the *Nunavut Agreement* and s. 230 of the *NuPPAA*, the NIRB has the authority to enter into agreements with relevant government Ministers to define categories of physical works or activities that constitute project proposals that would normally trigger a screening level assessment by the NIRB, but that a regulatory authority² has requested be exempted from the requirement to undergo screening by the NIRB. If a regulatory authority requests the NIRB to consider entering into this type of screening exemption agreement, the following steps outline the process the Board and regulatory authority engage in to develop a screening exemption agreement.

1. The NIRB and applicable regulatory authority develop a list of all categories of activities or projects that require formal government licences, permits or approvals (i.e. authorizations) and that trigger the requirement for screening by the NIRB under the *Nunavut Agreement*, and Part 3 of the *NuPPAA* including descriptions or definitions of the physical works or activities that should be exempt from screening (Exemption List).

¹ Schedule 3 — proposed agreement

230 (1) Before entering into an agreement under item 7 of Schedule 12-1 to the Agreement, the Board must notify the designated Inuit organization and either the federal Minister or the territorial Minister, as the case may be, in writing of the classes of physical works and activities that are the subject of the proposed agreement.

Comments

(2) The recipient of a notice referred to in subsection (1) may, within 120 days after receiving the notice, provide the Board with comments in writing on the proposed agreement.

² Under s. 2(1) a regulatory authority is defined as...a department or agency, a municipality or any other public body responsible for issuing a licence, permit or other authorization required by or under any other Act of Parliament or a territorial law for a project to proceed.

2. The NIRB reviews the draft Exemption List, and if the Board determines that it is consistent with the objectives of the Board under the *Nunavut Agreement* if the class of works or activities included on the draft Exemption List is excluded from screening by the Board, the NIRB and the regulatory authority prepare a consultation draft of a screening exemption agreement that defines/describes the class of exempted works or activities and the terms and conditions associated with such exemptions, including items such as reporting requirements and the ability of the regulatory authority or NIRB to terminate the screening exemption agreement, etc.
3. When the draft of the screening exemption agreement has been prepared, written notification of the draft agreement is provided to the designated Inuit organization and applicable federal or territorial Minister (as required under s. 230(1) of *NuPPAA*) and comments are invited on the screening exemption agreement for a period of at least 120 days (as required under s. 230(2) of *NuPPAA*).
4. Once comments are received from interested parties and taken into account by the Board, the NIRB considers whether it remains appropriate for the Board to exempt the proposed class of works or activities from NIRB screening under Schedule 12-1(7) of the *Nunavut Agreement*.
5. If the Board and regulatory authority determine that the screening exemption agreement continues to be appropriate, the Board works collaboratively with the regulatory authority to finalize the screening exemption agreement.
6. The final screening exemption agreement is executed by the NIRB and the relevant federal or territorial Minister under Schedule 12-1(7) of the *Nunavut Agreement*.
7. The NIRB provides written notice of the screening exemption agreement to the designated Inuit organization, and the relevant federal or territorial Minister (as required by 230(3) of *NuPPAA*).
8. Upon the receipt of the Notice of the screening exemption agreement coming into force, the federal Minister responsible for *NuPPAA* must amend Schedule 3 of *NuPPAA* to include a description of the class of works or activities exempted from screening under the terms and conditions of the screening exemption agreement.
9. When the screening exemption agreement is in force, project proposals submitted to the Nunavut Planning Commission and meeting the definitions of exempted works or activities included within the scope of the screening exemption agreement would not be forwarded to the NIRB for screening unless the Nunavut Planning Commission has concerns in respect of any cumulative ecosystemic and socio-economic impacts associated with the project proposal.

THE DEVELOPMENT OF THE DRAFT EXEMPTION AGREEMENT REQUESTED BY ECCC-CWS

In the case of this proposed Exemption Agreement, to determine whether the class of works and activities proposed by ECCC-CWS should be exempted from screening, the NIRB determined that the proposed class of works or activities:

1. Will not result in land disturbances that exceed the nature and extent of land disturbances that are acceptable under a Class B land use permit.
2. Will not result in any disturbance to the land such that the land cannot be remediated and returned to its original state or its original function.
3. Will not require water uses that trigger the requirement for a public hearing under Article 13, Section 13.7.3 of the *Nunavut Agreement*.
4. Will not involve the bulk storage of hazardous materials, the bulk storage of fuel, power generation with nuclear fuels, or hydro power and any industrial activity.
5. Will not result in any substance entering into surface or ground water.
6. Will not occur on land that has cultural or historical significance.
7. Will not interfere with Inuit harvesting activities, including travel routes or traditional camp locations.
8. Will not have the potential to cause any negative socio-economic effects on northerners, including the movement of peoples.
9. Will not involve the use of technological innovations for which the effects may be unknown.
10. Is not likely to be the cause of significant public concern.
11. Will not have the potential to cause any negative effects on human health.
12. Is the type of activity or project where the effects are highly predictable and any adverse effects will be insignificant and mitigated.

In addition, as noted above, the Board also determined that the proposed Exemption Agreement would align with the types of permits and activities currently exempt from screening in areas managed by the Government of Nunavut and Parks Canada. The proposed Exemption Agreement contains similar terms and conditions to those being implemented under the existing screening exemption agreement with the Government of Nunavut – Department of Environment, and the proposed Exemption Agreement would apply to similar types of activities to support ongoing wildlife research. The Exemption Agreement recognizes that ECCC-CWS has an existing review and permit approval process associated with the issuance of Scientific Permits to authorize scientific research, works and/or activities involving fieldwork disturbing migratory birds inside or outside National Wildlife Areas, Migratory Bird Sanctuaries, and/or to issue Protected Area Access Permit(s).

REQUEST FOR COMMENTS

The attached draft of the proposed Exemption Agreement has been developed jointly by ECCC-CWS and the NIRB and has been provided for review and comment by interested parties with this distribution. The NIRB requests that interested parties submit comments regarding the proposed initiation of the Nunavut Agreement Schedule 12-1(7) agreement with Canadian Wildlife Service to exempt research in National Wildlife Areas and/or Migratory Bird Sanctuaries subject to the conditions stated within the draft Exemption Agreement. Specifically, the Board asks that interested parties include comments addressing the following:

- Whether the party has any concerns with the Board exempting from screening the types of scientific activities typically associated with research activities in National Wildlife Areas, Migratory Bird Sanctuaries or other Protected Areas to which the Exemption Agreement applies;
- Whether exemptions of this nature should be time-limited and/or flexible; and if so, why; and,
- Any other relevant matter relating to either previous exemption agreements that were in place between the NIRB and ECCC-CWS or the attached draft Exemption Agreement which should be taken into account during the Board's consideration of the current request by ECCC-CWS.

The NIRB invites interested parties to submit comments directly to the Board via email to info@nirb.ca or via fax to (867) 983-2594 on or before **September 6, 2024**.

Should you have any questions or require additional information, please contact the undersigned at (867) 983-4611 or tarko@nirb.ca.

Sincerely,



Tara Arko
Director, Operations
Nunavut Impact Review Board

cc: System-Wide Distribution List
 Bruce MacDonald – Canadian Wildlife Service
 Lisa Pirie-Dominix – Canadian Wildlife Service
 Brendan Kelly – Canadian Wildlife Service
 Dustin Fredlund – Nunavut Tunngavik Inc.
 Carson Gillis – Nunavut Tunngavik Inc.
 Jorgan Aitaok – Nunavut Tunngavik Inc.
 Wynter Kuliktana – Kitikmeot Inuit Association
 Tannis Bolt – Kitikmeot Inuit Association
 Luis Manzo – Kivalliq Inuit Association
 Ashley Aupaluktuq-Burton – Kivalliq Inuit Association
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 Jared Ottenhof – Qikiqtani Inuit Association
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Conor Goddard – Qikiqtani Inuit Association
Joel Fortier – Qikiqtani Inuit Association
Assol Kubeisinova – Qikiqtani Inuit Association
Kaitlyn Bakker – Government of Canada
Spencer Dewar – Crown-Indigenous Relations and Northern Affairs Canada
Kim Pawley – Crown-Indigenous Relations and Northern Affairs Canada
Adrian Paradis – Canadian Northern Economic Development Agency
Lisa Dyer – Canadian Northern Economic Development Agency
Justin Buller – Government of Nunavut
Dianne Lapierre – Government of Nunavut
Sharon Ehaloak – Nunavut Planning Commission
Jonathan Savoy – Nunavut Planning Commission
Stephanie Autut – Nunavut Water Board
Karén Kharatyan – Nunavut Water Board

Enclosed (1): *Draft NIRB-ECCC-CWS Schedule 12-1(7) Exemption Agreement (May 09, 2024)*