

Nunavik Marine Region Wildlife Board

Public Hearing Guidelines



Approved: December 16th, 2013

AS AMENDED November 19th, 2019

Part 1: Purpose

In accordance with section 5.6.23 of the Nunavik Inuit Land Claims Agreement (NILCA) the Nunavik Marine Region Wildlife Board (NMRWB or Board) may hold public hearings into any issue requiring a decision on its part. NMRWB hearings are intended to provide Board members with information so they can make fair and informed decisions on the matters before them, and to ensure that affected parties are given an opportunity to present their case.

Part 2: Procedural Fairness

As an institute of public government whose decisions affect people's rights, privileges or interests, the NMRWB is subject to the common law principles of procedural fairness. Consequently, it is imperative that NMRWB decisions are made in a manner that is fair, impartial and open to affected parties. Should the NMRWB deem that a public hearing is necessary to fulfill these requirements; the following order of events will be respected:

1. Issuance by the NMRWB of a Notice of Public Hearing;
2. Disclosure to the parties, by the NMRWB, of the best available information in its possession relating to the issue before the Board for decision;
3. The holding of an NMRWB hearing; and
4. The holding of an NMRWB decision-making meeting, following the Public Hearing.

The NMRWB retains the right to add any additional events, upon notice to all the Parties, where it is in the interest of procedural fairness and natural justice to do so.

For greater certainty all decisions under the NMRWB's mandate as prescribed in s. 5.2.3 (a), (b), (c), (d), (e) and (i), as well as s. 5.2.4 (a), (b), (c), (d), and (f), are assumed to require a public hearing.

Part 3: Types of Hearings

If the NMRWB deems that a public hearing is required within its decision-making process, it may hold said hearings in one of three ways:

- 1) In-person hearings:** Consist of both written and oral components and are generally held for Board decisions that are of significant economic, social and/or cultural interest to Nunavik Inuit harvesters. In-person hearings may also include a written component. Such hearings will be held, whenever practical, in the community or region most affected by the proposed decision(s).
- 2) Electronic hearings:** May be conducted via teleconference, videoconference, or other via some other form electronic conferencing that allows participants to communicate

orally. Electronic hearings may also include a written component. Such hearings may be held for NMRWB decisions that are under a time constraint, and/or parties to the hearing are unable to meet physically, and/or the costs of holding an in-person hearing cannot be accommodated by the NMRWB.

- 3) Written hearings:** May be held by the NMRWB if it determines that the decision is of relatively minor economic, social and/or cultural interest to affected Nunavik Inuit harvesters and/or if the NMRWB is bound by a time constraint, and/or parties to the hearing are unable to meet physically, and/or the costs of holding an in-person hearing cannot be accommodated by the NMRWB.

Throughout the course of any Public Hearing, the Board reserves the right to authorise the use of teleconference, videoconference, pre-recorded video submissions and/or audio submissions in order to facilitate the participation of Nunavik Inuit Elders, and any other Nunavik Inuk, who have special knowledge of the issues to be decided on.

Part 4: NILCA guidelines

The NILCA provides a number of directives concerning the holding of public hearings. They are listed below, and are applicable at all NMRWB public hearings:

1. Any representative or agent of the Government of Canada or Government of Nunavut, any Nunavik Inuk, any LNUK or the RNUK will be accorded the status of full party at a hearing of the NMRWB (NILCA s.5.6.24)
2. The NMRWB will, at its discretion, and in conformity with its rules, determine whether any other person is to be accorded the status of full party for the purpose of any particular public hearing (NILCA s. 5.6.24)
3. The NMRWB, when making decisions in relation to populations of wildlife found in the NMR that cross jurisdictional boundaries and are harvested outside of the NMR, will provide full party status to the representative organizations of people who have a legal right to harvest that population of wildlife outside the NMR (NILCA 5.5.4.1).
4. The NMRWB, when exercising its responsibility in relation to wildlife in the marine areas and islands of the NMR traditionally used and occupied by Nunavut Inuit, will provide full standing to Nunavut Tunngavik Incorporated as the representative body for Nunavut Inuit (NILCA s. 27.6.4).
5. The NMRWB, when exercising its responsibilities with respect to a stock, species or population of wildlife in the areas of Cree/Inuit Offshore Overlapping Interests Area in the NMR, will accord full party status to the Cree of Eeyou Istchee (NILCA s. 28.7).
6. The NMRWB, when exercising its responsibilities with respect to a stock, species or population of wildlife in the portion of the Nunavik Inuit/Labrador Inuit Overlap Area in the NMR, will accord full party status to the Nunatsiavut Government (s. 29.3.9).

7. The NMRWB may make rules distinguishing the roles reserved for full parties and roles reserved for other participants at public hearings (NILCA s. 5.6.25).
8. The NMRWB may, in any application, proceeding or matter of special importance pending before it, if in the opinion of the NMRWB the public interest so requires, hire counsel to conduct or argue the case or any particular question arising in the application, proceeding or matter (NILCA s. 5.6.26).
9. The NMRWB shall have the same powers as commissioners appointed pursuant to Part I of the *Inquiries Act*, R.S.C. 1985, c.I-11, however the NMRWB may not subpoena Ministers of the Crown (NILCA s. 5.6.27).

Part 5: Notice of Public Hearing

The Notice of Public Hearing, as described in Part 2 of these Guidelines, will be delivered to the parties of the Public Hearing and will contain the following information:

1. a description of the decision(s) to be made by the NMRWB;
2. the date, time and location of the Public Hearing;
3. a list of the parties to the Public Hearing;
4. information with respect to how to apply to the NMRWB for party status at the Public Hearing;
5. a description of the information the NMRWB requires from the parties at the Public Hearing;
6. notice with respect to all timelines that will be applied in the course of the Public Hearing, including the deadline for filing of written submissions.

Part 6: Application for Party Status

In advance of the calling of a Public Hearing the NMRWB will identify the parties to the hearing based on the requirements outlined in the NILCA. In the event that an individual or organization has not been identified as a party for a hearing and wishes to be a party, the individual or organization can apply to the NMRWB for party status. Individuals or organization that can demonstrate that they would be directly affected by the decision made by the Board will be accorded party status. An application for party status must be provided in writing to the Board no later than thirty (30) days prior to the commencement of the Public Hearing.

Part 7: Constitution of the Board and Chairmanship

All hearings of the NMRWB will be presided over by a quorum of the membership of the NMRWB. All members of the NMRWB, except the appointed Chairperson, have an equal right to participate in a public hearing and to participate in the decision making process. All members, except the appointed Chairperson, shall have one (1) vote. The appointed Chairperson shall vote only in order to break a tie. The absence of a member of the NMRWB for part or all of a public hearing does not prevent the member from participating in the remainder of the decision making process so long as a written record of the public hearing is available, and has been reviewed by the member. In the absence or disability of the Chairperson, public hearings are presided over by a member of the NMRWB appointed to preside as Acting Chairperson by a resolution of the NMRWB members. A NMRWB member required to preside as the Acting Chairperson will retain their right to vote as outlined in section 5.6.6 of the NILCA.

Part 8: Access to Public Hearing Documents

All relevant information pertaining to a particular hearing will be posted on the NMRWB website, and updated as new information is received by the NMRWB. Information posted will include the public hearing notice, the NMRWB's best available information on the matter, and any submissions and/or communications received from the parties to the hearing.

The NMRWB recognizes that in the fulfilment of its duties it is bound by principles of fairness, public accountability and transparency. As a result, it is expected that information received by the NMRWB in the course of fulfilling its mandate will be made publicly available, unless the Board receives a request that specific information provided be maintained in confidence, provided that such requests are consistent with the NILCA and the laws of general application relating to confidentiality of, and access to, information in the possession of government departments.

Part 9: Communication with the NMRWB

The NMRWB recognizes that in the fulfilment of its duties it is bound by principles of fairness, public accountability and transparency. As a result, all communication to and from the NMRWB in the course of the Public Hearing must be delivered to all parties.

Part 10: Public Hearing Rules

The following rules are intended to guide all public hearings of the NMRWB. To the extent that they are applicable, these rules will also be enforced for written and electronic hearings. Rules specific to each hearing may be produced by the NMRWB to supplement and/or augment these guidelines. The NMRWB reserves the right to modify these rules, as it deems necessary, for any particular hearing in order to ensure the just, most expeditious and cost efficient determination of the matter before the Board.

1. All hearings of the NMRWB are open to the public;
2. The NMRWB reserves the right to hold part of the hearing *in camera* where it deems necessary to allow the disclosure/discussion of sensitive or confidential information;

3. Parties to a public hearing may file with the NMRWB written submissions, and provide any supporting documentation relevant to the matter before the Board. The deadline for filing of supporting documents and submissions will be provide for in the Notice of Public Hearing;
4. Written submissions and supporting documentation may be provided in French, English or Inuktitut. However, an English and Inuktitut version of each document must be provided. Each party is to assume the cost of translating its documents and submissions;
5. The requirement for translation of written submissions and supporting documentation does not apply to individual Nunavik Inuit;
6. The NMRWB will not consider materials received after the submission deadline, unless reasons are provided to the NMRWB in writing, explaining the late filing and the material would assist the NMRWB in discharging its duties;
7. The NMRWB shall ensure that all materials filed with it, or produced by it, are made publicly available, subject to relevant confidentiality or privacy concerns, and in conformity with applicable legislation;
8. Oral submissions must be in Inuktitut, English or French. Simultaneous interpreters between English and Inuktitut will be provided by the Board. The availability interpreters between French, English and Inuktitut will be made available by the Board upon notice being given by a party, no less the thirty (30) days before the commencement of the hearing date, that such service is required;
9. Public hearings shall be carried out in a civil manner, with participants showing respect to one another and towards the NMRWB;
10. Each party attending a hearing will be given reasonable opportunity for oral submissions. The NMRWB reserve the right to provide time limits on the duration of oral submissions;
11. Prior to the commencement of a public hearings the NMRWB will provide the parties with the sequence by which the parties will be called upon to provide their submissions and notice of the time limit, if any, within which they will be required to give their submissions;
12. The NMRWB members, either directly or through their counsel, are entitled to adduce evidence by way of leading and non-leading questions from any witness or party during the public hearing;
13. The NMRWB members, either directly or through their counsel, may request a party or witness undertake to produce any and all documents referred to or relied on in the course of submissions;
14. Parties will have an opportunity to cross-examine witnesses or parties on their submissions, to the extent of their interest. The NMWRB will determine the order of cross-examination by the parties;

15. The NMRWB shall provide members of the public in attendance at the hearing a reasonable opportunity to make statements and to ask questions of the witnesses or parties;
16. The NMRWB reserves the right for its Chairperson to place reasonable time limits on submissions, and questions as he, or she, deems appropriate. The NMRWB further reserves the right to object to and disallow submissions and/or questions that are not relevant to the matter before the Board, or that are not in keeping with the rules of respect and civility;
17. Following the end of the in-person portion of a public hearing the NMRWB will either announce the conclusion of the public hearing or where necessary will adjourn the hearing to allow for additional submissions;
18. Where responses to undertakings are received following the end of the in-person portion of the public hearing, all parties will be afforded the opportunity to make supplementary submissions;
19. A written record or transcripts of all NMRWB public hearings may be made available upon request to the NMRWB.

Part 11: NMRWB decisions making meeting

All public hearings held by the NMRWB will be followed by a decision-making meeting, whose timing will be determined by the NMRWB. Decision making meetings, in accordance with part 5.5 of the NILCA, must remain confidential until, in accordance with sections 5.5.11 or 5.5.19 the NMRWB may make the decision public. Therefore, NMRWB decision making meetings are to be conducted by way of an *in-camera* meeting and are not open to the public. However, and in accordance with s. 5.2.2 of the NILCA, Makivik and Government shall have the right to have technical advisors attend decision making meetings as non-voting observers.