



What We Heard Report

Fire Prevention Act - Legislative Review Public Engagement
July 2017



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Background

A. Comprehensive Review

The *Fire Prevention Act (FPA)* and *Fire Prevention Regulations* have not been fully reviewed since the mid-1950s and have only gone through a few substantive changes since then. As such, it is in need of modernization.

The *FPA* and Regulations relate to:

- Structural fire investigation and reporting;
- Fire hazard regulation; and,
- The adoption of codes and standards for the prevention and extinguishment of structural fires.

The Regulations under the *FPA* are: the *Fire Prevention Regulations*, the *Fireworks Regulations*, and the *Propane Cylinder Storage Regulations*.

In summer 2013, representatives from the Department of Municipal and Community Affairs (MACA) and key stakeholders formed a technical working group to discuss the *FPA* and *Regulations*. This working group included representatives from the NWT Association of Communities, the Local Government Administrators of the NWT, the NWT Fire Chief's Association, the NWT Association of Architects, the Workers' Safety and Compensation Commission, the NWT and Nunavut Association of Professional Engineers and Geoscientists, the NWT Chamber of Commerce, and the NWT and Nunavut Construction Association. The working group flagged a number of issues with the legislation and regulations for MACA's review and consideration.

In 2014, MACA began a comprehensive legislative review of the *FPA*. This review includes considering the issues raised by the 2013 working group, as well as identifying and addressing gaps and issues with the *FPA* that had not been previously identified.

Through this comprehensive review of the *FPA*, MACA has the opportunity to, among other things:

- Clarify regulatory controls and offences under the *Act*;
- Clarify administrative roles and responsibilities under the *Act*; and
- Strengthen enforcement provisions and penalties.

This legislative review is a significant undertaking is intended to ensure there will be a sound basis for any amendments or new legislation that may be proposed. Ultimately, MACA's goal is to ensure that the NWT has the means to adequately and efficiently protect the public and property from fire and the threat of fire.

B. Public and Stakeholder Engagement

One of the first steps in the comprehensive review was to complete a public and stakeholder engagement process, completed between December 2016 and March 2017.

MACA released a Public Engagement Discussion Guide in December 2016 to solicit feedback from stakeholders and the public to better understand the issues, challenges, and opportunities around the *FPA* and Regulations. The Discussion Guide asked for general feedback on the *FPA* as well as specific feedback on issues that were identified through previous stakeholder engagement and MACA's consideration of the legislation. Responses were accepted until March 2017.

C. This Report

The aim of this report is to give readers a summary of the feedback, comments and concerns received in response to the Public Engagement Discussion Guide released in December 2016. This document is a summary of the areas of concern identified in the responses and is not intended to provide conclusions or recommendations based on the concerns raised. The feedback from this engagement, as included in this report, will be taken into account as MACA develops potential legislative solutions to the identified stakeholder issues and areas of concern. It will also be used as a foundation upon which to build a second engagement process that will ask stakeholders and the public to consider and comment on potential legislative solutions to address identified issues in the *FPA* and Regulations.

The following What We Heard Section includes summaries of the responses MACA received to each question. Each section includes a short summary of the information provided in the Discussion Guide before the questions are presented. For more background information, please refer to the Public Engagement Discussion Guide.

What We Heard

MACA released the Public Engagement Discussion Guide on December 5, 2016. Responses were collected until March 2017. MACA reached out directly to primary stakeholders to inform them of the engagement process and implemented an information campaign through a public press release, newspaper and radio ads, and internal communication to other GNWT departments. Responses were accepted by mail to the MACA mailing address, email to FPA@gov.nt.ca, or online via a survey tool available on the MACA website.

MACA received 20 responses, from multiple NWT regions and many different organizations. See the tables below for a breakdown of affiliation and geography of respondents. Thirteen of the respondents (68%) answered more than half of the questions. Several respondents answered only those questions that applied to their specific concerns, and five of respondents submitted their concerns in a separate format from the survey provided, which were included in the “Other” section of this report, or added to the responses to specific questions where they clearly applied to the issue at hand.

Table 1: Respondents by affiliation

Affiliation	Number of Respondents	Percentage
Community governments and/or community fire departments	6	30%
Fire-related companies in the NWT	4	20%
Office of the Fire Marshal	3	15%
Organizations or associations	3	15%
Territorial government stakeholders outside MACA	2	10%
Member of the public	1	5%
Anonymous	1	5%

Table 2: Respondents by region

Region	Number of Respondents	Percentage
North Slave	12	60%
South Slave	5	25%
Sahtu	1	5%
Inuvik	1	5%
Anonymous	1	5%

1. General

The *Fire Prevention Act (FPA)* has not been fully reviewed since the mid-1950s. The roles and responsibilities and the processes put in place under the *FPA* are fundamental to the system of structural fire prevention in the NWT.

1.1 What we asked:

From your experience, what do you think is working and what do you think may not be working with respect to structural fire prevention in the NWT?

1.1 What we heard:

Working:

- There were no clear themes in the responses around what is working, however respondents mentioned:
 - Prompt adoption of the National Building Code and National Fire Codes;
 - Basic equipment availability;
 - Community fire protection initiatives; and
 - The work and expertise of design professionals.

Not Working

- The most common concerns were:
 - Compliance and enforcement;
 - The amount of responsibility placed on community governments;
 - Lack of resources and infrastructure (especially fire suppression infrastructure including sprinkler systems and fire alarms); and
 - The range of capacity in northern communities.
- Other concerns mentioned by one or two respondents included:
 - Lack of funding;
 - Lack of training;
 - The level of services to First Nations Designated Authorities and remote lodges;
 - Inability to deal with inspection issues;
 - Insufficient fire suppression services; and
 - Lack of clarity around roles.

1.2 What we asked:

How could our system of structural fire prevention be improved?

1.2 What we heard:

The main themes, with about a quarter of respondents mentioning each included:

- Increased funding and training around fire prevention;
- Clarity around roles and responsibilities and communication with other non-MACA actors;
- Clarity around inspections, including increased training and defined expectations and roles; and
- Dealing with capacity issues by working with northern realities, capturing the northern built environment in codes, working with community capacity, setting expectations relative to access to resources, and GNWT support,

2. Community Needs

The *FPA* outlines responsibilities related to fire prevention, including the authority for enforcing codes and standards through plan review, fire investigation, and fire inspections. Community governments are responsible for providing oversight on components of fire protection related to firefighting equipment and maintenance, strategy and tactics, operating procedures, and other safety requirements. It can be difficult for community governments to develop and sustain quality community fire protection services, equipment, and infrastructure.

2.1 What we asked:

What is working and what is not working in your community with respect to protecting people and property from fire and threats of fire?

2.1 What we heard:

Working:

Some respondents mentioned support from MACA and the Assistant Fire Marshals, especially when collaborating with community governments, and community government support for fire departments more generally.

Not Working:

- A third of respondents to this question brought up lack of funding.
- A third brought up community engagement and education.
- Several brought up lack of resources for training for fire departments.
- Several mentioned resources for fire suppression services, infrastructure, and equipment maintenance.
- Other comments mentioned by one or two respondents included:
 - Lack of consistency between different communities depending on capacity and community government support, and between the FPA vs. Environment and Natural Resources (ENR) forest fire policy;
 - Fire chief retention;
 - The relationship between individuals acting under the FPA and design professionals;
 - Plan review response times; and
 - Regulating inspection and servicing systems.

2.2 What we asked:

Do you feel that the *Fire Prevention Act* or *Regulations* could be changed or improved in order to better assist community fire prevention and protection? If so, how?

2.2 What we heard:

- Several respondents stated that they did not think changes to the *FPA* or *Regulations* would better assist community fire prevention and protection. Rather, that increased funding, training, communication, and support for community fire departments is needed to effectively carry out the already existing processes, roles and responsibilities.
- Several suggestions were made about potential amendments or improvements to the *FPA* and *Regulations* including:
 - Exempting traditional structures from regulations;
 - Inclusion of a requirement or option for community governments to implement fire prevention bylaws;
 - Recognizing the northern built environment;
 - Establishing inspection standards;
 - Establishing fire protection systems standards (including sprinklers and fire alarms),
 - Implementing penalties; and
 - Including fire department operational requirements in the *FPA* and *Regulations*.

3. Scope of Statutory Roles and Responsibilities

Four key roles are created in the *FPA*: the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshals, and Local Assistants. The three key functions that are shared between these four actors are: undertaking inspections, investigations, and issuing orders. Although the *FPA* creates and describes these functions, it does not always clearly describe who is responsible for each function.

3.1 What we asked:

In your community, what do you see as being the most important job of the Local Assistant (e.g. Fire Chiefs, SAOs)?

3.1 What we heard:

- Half of the responses identified maintaining and ensuring preparedness of fire department personnel and equipment as a priority.
- Half included fire prevention activities, especially inspections.
- A third proposed community outreach and education.
- A third included communication with the OFM.
- Several mentioned that more resources are necessary for Local Assistants to adequately fulfill their responsibilities.

3.2 What we asked:

Do you have any comments on the role and responsibilities of Local Assistants in your community?

3.2 What we heard:

- Most respondents stated that there is a gap between training and the requirements of a Local Assistant. They supported more specific qualifications with support for training and adequate funding.
- Some stated that there is a need for increased clarity around the roles and responsibilities of the Local Assistant in the *FPA*, and resources provided for the Local Assistant to fulfill these responsibilities, because capacity to carry out the duties of the position can vary, especially with the position assigned automatically to the SAO or Fire Chief.

3.3 What we asked:

Do you feel that the roles and responsibilities of the positions under the *FPA* (the Fire Marshal, Assistant Fire Marshals, Deputy Fire Marshals, and Local Assistants) are clearly defined? If not, what could be clarified?

3.3 What we heard:

- The majority felt the roles and responsibilities are not well defined and require more clarity, particularly around inspections and compliance.
- Several specified that the differences between the roles of the Deputy Fire Marshal and Assistant Fire Marshal need to be clarified.

4. Carrying out Statutory Roles and Responsibilities

Capacity limitations can affect the ability of those in positions described in the *FPA* to carry out their roles and responsibilities. Many of the responsibilities set out in the *FPA* are complex and require specific skill sets. Capacity challenges vary by community and could present frustrations and a capacity strain to those working on the ground to keep communities safe.

4.1 What we asked:

Based on your experience, are there changes to the *FPA* that could be made to help those in positions set out in the *FPA* (e.g. Assistant Fire Marshals, Local Assistants) deal with limitations to capacity?

4.1 What we heard:

- The majority of responses supported increased funding and training rather than specific changes to the *FPA* to deal with capacity limitations.
- Several respondents brought up concerns around the capacity of Local Assistants in different communities depending on the level of resources available. Some expressed a desire for increased assistance from OFM or allowing outside contractors to work with Local Assistants.
- Several respondents brought up concerns with a lack of standardization around the qualifications of the Local Assistant.

5. The Plan Review Process

Any construction, alteration or repair of a structure in the NWT must follow the codes and standards that relate to fire and the spread of fire as adopted under the *Fire Prevention Regulations*. The Fire Marshal is responsible for reviewing plans and specifications to ensure all non-exempted structures adhere to these codes.

5.1 What we asked:

Do you feel that the roles and responsibilities of those involved in the plan review process are sufficiently clear in the *FPA*? If not, how could they be made clearer?

5.1 What we heard:

- Most respondents who did not believe these roles are clear stipulated that more clarity in communication from the OFM and education for those in official positions, construction players, and communities overall would improve the implementation of the plan review process.
- A third of the respondents agreed that the roles are sufficiently clear.

5.2 What we asked:

Would you like to provide any other observations or comments regarding the existing plan review process under the Fire Prevention Act?

What we heard:

- One major theme was efficiency:
 - Most respondents mentioned concerns about timelines around the existing plan review process.
 - Several respondents raised concerns around the level of detail of the current plan review process.
 - Several stated that OFM review of design professionals' work is unnecessary given their level of expertise and training if they have sufficient knowledge of the codes.
 - Several suggested the OFM be involved at an earlier stage of design process to save time or allow professional consultants to supplement the plan review officer's responsibilities.
- The other major theme was enforceability; respondents suggested:
 - Adding penalties
 - Final inspections
- Additionally, respondents mentioned:
 - Desire for increased collaboration between actors involved with plan review,
 - Flexibility for northern contexts,
 - Funding & training, and
 - The need for building standards as additional regulatory oversight.

6. Procedural Clarity

Under the *FPA*, the Fire Marshal has the authority to publicize information and advice about fire prevention and fire protection in the NWT. This information is presented as 1) Advisories & Clarifications and 2) the Plan Review Guidelines.

6.1 What we asked:

Do you feel there is sufficient information available to help you understand your obligations under applicable codes and standards with respect to building construction, alteration, or repair in the NWT? Why or why not?

6.1 What we heard:

- Half responded that there is sufficient information, however most of these responses indicated that translation of this information through increased training and communication would improve understanding.
- Half responded that there is not sufficient information. These responses identified the need for increased information available regarding inspection requirements, clarity around interpreting codes, and responsibilities of specific roles, both within the OFM and those working with the OFM.

6.2 What we asked:

Are there other matters relating to structural fire prevention in general in the NWT that you feel are subjects about which the Fire Marshal should provide increased public information?

6.2 What we heard:

- Respondents brought up the need for increased awareness around:
 - Fire-related recalls,
 - Issues specific to the northern environment (including remote lodges and mine sites), and
 - Occupancy loads.
- Several responses brought up the need for increased communication to communities, to related government branches (especially coordinating with the Department of Environment and Natural Resources) and to designers and contractors.
- Several expressed interest in seeing increased communication regarding fire safety and practical suggestions on maintaining structural fire safety.
- One response suggested a designated OFM communications staff member.

7. Inspections, Building Codes and Standards

While the *FPA* requires descriptions, plans, and specifications to be submitted to the Fire Marshal for review, and the receipt of a written report from the Fire Marshal prior to construction, the *FPA* and Regulations do not require the plans and specifications to be *approved* by the Fire Marshal. Even when the plan review process is properly completed, there is currently no way to ensure that all territorial construction adheres to codes and standards in the NWT given that the Fire Marshal does not complete post-plan review inspections.

7.1 What we asked:

What additional tools or procedures, if any, do you feel officials in the NWT need in order to ensure the construction and maintenance of safe buildings (i.e. compliance with building codes and standards)?

7.1 What we heard:

- Most respondents supported additional tools for enforcement, including:
 - Post-plan review inspections,
 - Authority to open structures to confirm compliance,
 - Enabling a community bylaw with enforcement tools.
- Two respondents support building standards legislation.
- Respondents also brought up the need for increased fire prevention inspections, communication with design professionals, and harmonization and consultation with other GNWT departments and community governments.

8. Corrective Action Orders

Under the *FPA*, the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal or Local Assistant can carry out hazard inspections. A hazard inspection can reveal problems including dilapidated conditions, dangerous uses or occupancy, combustible materials, and inadequate fire exits. These problems may prompt officials to issue a corrective action order under Section 12 or Section 13 of the *FPA*, however the authority of the corrective action is limited around ordering evacuation and it is not always clear who must remedy the identified dangerous conditions.

8.1 What We Asked:

Have you encountered any barriers (e.g. resources, training, procedural, geographic, etc.) to issuing, receiving, or enforcing orders under the *FPA*? If so, what barriers have you encountered?

8.1 What We Heard:

- Most respondents identified lack of training and information as barriers; several said that enforcement would be easier if there was more clarity and education around the process of drafting and issuing orders.
- Several mentioned that lack of clarity around the process makes enforcement of orders difficult.
- Several identified lack of clarity in jurisdiction, including working with First Nations in designated authorities and around remote lodges.
- Several brought up lack of resources as a barrier in enforcement
 - Varying levels of capacity of different fire departments can create barriers to meeting *FPA* requirements
 - One respondent expressed a concern that the only option for order enforcement is through court action, which they felt would be a burden on community resources
- One respondent brought up distance to small communities making compliance difficult to monitor.

8.2 What we asked:

What tools or processes, if any, do you feel would better enable the process of issuing and enforcing orders?

8.2 What we heard:

The major themes in responses included:

- Increased education and training;
- Communication to the public;
- Increased funding and resources;
- Clarity on standards and process; and
- A more formalized process for non-compliance and discipline.

9. Disputes and Appeals

If a recipient of an order disagrees with the official they can dispute the order or decision. The *FPA* enables the plan review process but does not establish plan review reports as authoritative decisions or provide information on the enforceability of plan review written reports. This means that it is not clear whether or how plan review reports cannot be formally challenged or disputed by the recipient. For those decisions or orders that can be formally appealed, those from the Deputy Fire Marshal, Assistant Fire Marshal or Local Assistant may be appealed to the Fire Marshal. If the response is not satisfactory, the recipient can appeal the Fire Marshal's decision to the NWT Supreme Court. Orders directly issued by the Fire Marshal can be appealed directly to the NWT Supreme Court.

9.1 What we asked:

Would you like to provide any observations or comments regarding the existing appeals process under the Fire Prevention Act?

9.1 What we heard:

- Responses were varied to this question; several stated that the appeals process is clear while others that it is unclear.
- One respondent suggested the appeals process should go straight to court while another supported additional levels being added between the Fire Marshal and the Supreme Court.

9.2 What we asked:

Do you feel that this the current process of appeals to the NWT Supreme Court is an appropriate process through which to appeal decisions of the Fire Marshal?

9.2 What we heard:

- Half of the responses to this question believed the current process is appropriate, while the other half did not.
- Several brought forward the idea of an independent third party mediation, one respondent felt the Fire Marshal should be the final decision maker.
- One respondent suggested that the process be dependent on the situation—with a different process for minor vs. major appeals, for example, major community construction going to the NWT Supreme Court, but appeals or smaller projects staying in the community.

9.3 What we asked:

Do you agree with the current two-level appeal process (first to the Fire Marshal and then to the Supreme Court of the NWT)? Why or why not? If not, what process would you see as being more effective or beneficial?

9.3 What we heard:

- Just over half of the respondents did not agree, while just under half do agree with the process.

- The proposed alternatives included a third party mediator or board; one respondent felt the Fire Marshal should be the final decision maker; one said that it should bypass the Fire Marshal and go straight to courts; and two recommended increased communication and meetings with community governments to resolve some conflicts.

10. Other Comments

The final section of the Public Engagement Discussion Guide encouraged stakeholders and public to provide any other comments or feedback that may not have been addressed by the questions provided. Several respondents to the Discussion Guide submitted their concerns in a separate format from the survey provided, and these responses were added to the sections above where they specifically applied to a question in the Discussion Guide and otherwise were added to the “Other Comments” section below. The following section includes comments that address issues not specifically included in the Discussion Guide, grouped by major themes.

Training

- The issue of increased training was brought up consistently throughout the Engagement Questions and as “Other” feedback.
- Many respondents brought up the need for further training for actors under the *FPA* along with training and education outreach for community members and those involved in the fire prevention system.

Funding

- The issue of increased funding was also brought up consistently throughout the Engagement Questions and as “Other” feedback.
- Many respondents felt that even with clarified roles and responsibilities set out in the *FPA*, an effective fire prevention system is not feasible without increased funding for training, resources, and equipment.

Coordination with other governmental actors

- Several respondents brought up lack of communication and duplication in the system between levels of government,
- These included coordinating with the Department of Public Works and Services (PWS) on codes, the Department of Environment and Natural Resources (ENR) on addressing fires outside municipal boundaries, harmonization with other legislation that overlaps with the *FPA*, federally and territorially, and working with community governments to avoid downloading roles and responsibilities without proper funding and training.
- Enabling community governments to enact fire by-laws was mentioned several times.

Inspections & Enforcement

- Many responses included the need for more inspections. These included more regular periodic inspections and testing of fire protection systems as well as specifically mandated post-plan review inspections to confirm compliance. The inspection of sprinkler systems was mentioned especially often for both regular periodic inspections and post-review inspections
- Several respondents brought up amendments to the *Act* to allow warrantless entry for inspections or increased scope for entry around fire prevention inspections.

- In addition to more post-plan review inspections, increasing penalties and enforcement was emphasized along with ensuring the OFM is properly resourced to complete these inspections.
- Without these inspections, many respondents expressed concern that the authority in the *FPA* is not meaningful since there is no method of enforcement.

Northern Context

- Several respondents brought up specific issues that need to be considered in the northern context, including fire prevention at remote lodges and at mine sites, working with First Nations Designated Authorities, dealing with capacity issues in small community governments and volunteer fire departments, consideration of traditional structures, and difficulties in developing infrastructure.
- Some respondents were concerned that the National Building Codes are not always relevant for northern infrastructure as they are developed for the provinces in southern Canada, and suggested that these codes be supplemented by a northern building code.