

LEGAL TOOLKIT:

Facilitating public participation in grizzly bear hunt management in British Columbia

Prepared by the University of Victoria Environmental Law Centre on behalf of the David Suzuki Foundation



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Introduction

This legal toolkit is designed to help the public better understand the processes and thus participate in the B.C. government's decisions about grizzly bear hunting. Trophy hunting of grizzly bears has been highly controversial in British Columbia and internationally. In February 2001, B.C.'s then-NDP government placed a three-year moratorium on grizzly hunting while scientists developed a grizzly bear conservation strategy. That strategy led to the *Grizzly Bear Harvest Management Procedure Manual* — the policy through which the government determines how many grizzly bears may be killed in various areas of the province. Many British Columbians are concerned about the ethics of trophy hunting of apex species such as grizzly, and others are concerned that overhunting threatens grizzly bears' continued viability in the province. While a total moratorium or ban on hunting may be desirable to some people, the purpose of this toolkit is to help readers understand how various government officials determine grizzly hunting limits.

The toolkit is divided into several parts. Part I provides context for concerns about overhunting of grizzly bears. Part II introduces the sources of government's grizzly bear hunting policies. Part III explains the current process that the B.C. government goes through to decide how many grizzlies may be killed each year. Finally, Part IV suggests some ways the public can participate in the government's decision-making process in order to reduce grizzly mortalities.



I. Background information

A. WHY ARE GRIZZLY BEARS IMPORTANT?

Grizzly bears are a vital ecological, cultural and economic resource in B.C. They are apex predators that interact with other plant and animal species in their habitats, and their population health is therefore a key indicator of the overall ecosystem's health.¹ Furthermore, B.C.'s grizzlies are part of the province's cultural identity and its image as a place where wildlife flourishes² — and they are particularly sacred and essential to some Indigenous peoples' ways of life.³ Grizzly bears also have immense economic value to the province because they attract people from all over the world to B.C. for viewing and hunting.⁴

B. POPULATION DECLINE

Although grizzly bears are valuable in many ways, some wildlife biologists believe overhunting is taking a toll on the viability of bears in the province.⁵ The most recent government population estimate puts the number of grizzly bears in B.C. at 15,000 in 2012.⁶ Although other factors, such as habitat destruction, also lead to population decline, research strongly suggests that current hunting levels in the province are based on overly optimistic population data, which only exacerbates the problem.⁷

1 James Peek *et al*, "Management of Grizzly Bears in British Columbia: A Review by an Independent Scientific Panel" (2003), submitted to Ministry of Land, Air and Water Protection, Government of British Columbia, online: http://www.env.gov.bc.ca/wld/documents/gbear_finalspr.pdf; G.V. Hilderbrand *et al*, "Role of brown bears (*Ursus arctos*) in the flow of marine nitrogen into a terrestrial ecosystem" (1999a), 121 *Oecologia* 546.

2 British Columbia, "Bear Watching", Super, Natural British Columbia, online: <http://www.hellobc.com/british-columbia/things-to-do/parks-wildlife/bear-watching.aspx>.

3 D. Rockwell, *Giving Voice to Bear: North American Indian Rituals, Myths, and Images of the Bear* (Niwot, CO: Roberts Reinhart Publications, 1991); Nuxalk Nation, "Nuxalk Environment" (2012), online: <http://www.nuxalknation.org/content/blogcategory/56/150/>.

4 Nancy Macdonald, "Grizzly toll: B.C.'s controversial trophy bear hunt", *Maclean's*, 24 October 2014, online: <http://www.macleans.ca/society/grizzly-toll-b-cs-controversial-trophy-bear-hunt/>.

5 *Ibid.*

6 Ministry of Forests, Lands and Natural Resource Operations, "British Columbia Grizzly Bear Population Estimate for 2012", April 2012, online: http://www.env.gov.bc.ca/fw/wildlife/big_game_info.html#GrizzlyBear.

7 Kyle Artelle *et al*, "Confronting Uncertainty in Wildlife Management: Performance of Grizzly Bear Management", *PLOS One*, 6 November 2013, online: <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0078041>.

C. WHAT IS THE B.C. GOVERNMENT’S STANCE ON GRIZZLY BEAR HUNTING?

The B.C. government’s position is that its hunting policies reflect conservation goals and are based on sound science;⁸ however, recent peer-reviewed scientific research shows that by not adequately accounting for uncertainty in grizzly bear population levels and mortalities, the government’s own mortality targets are consistently exceeded, mostly by permitted hunting.⁹ Scientists have therefore questioned whether the B.C. government’s policies represent a truly “scientific approach.”¹⁰

D. OVERVIEW OF GRIZZLY HUNTING IN B.C.

Each year, hunters engage in fall and spring grizzly bear trophy hunts in B.C. The fall hunt lasts from August 15 until November 30, and the spring hunt goes from April 1 to June 15. The hunt is referred to as a “trophy hunt” because grizzly bears are not usually hunted for food but for “trophies” such as hides, heads and paws. While the normal rule under B.C.’s *Wildlife Act* requires hunters to “pack out the meat” of wildlife killed, grizzly bears are currently exempted from this requirement.¹¹

In 1996, the B.C. government eliminated open season for grizzly bear hunting due to the species’ low productivity.¹² This means that hunters may now only participate in a spring or fall hunt by obtaining a limited-entry hunt authorization or paying a guide outfitter who has obtained a quota, discussed below.

Note that these restrictions do not apply to Indigenous people who hunt grizzly bears for food, social or ceremonial purposes. However, government may impose some restrictions on Aboriginal rights for conservation purposes.¹³

8 Email correspondence from the Fish and Wildlife Branch, 6 November 2014.

9 Artelle *et al*, *supra* note 8.

10 Kyle Artelle *et al*, “When Science Based Management Isn’t”, *Science*, vol 343, 21 March 2014, online: <http://johnreynolds.org/wp-content/uploads/2012/07/Artelle-et-al.-Science-2014.pdf>

11 *Wildlife Act*, s.35; and *Wildlife Act General Regulation*, BC Reg 340/82, s.12.01.

12 Fish, Wildlife and Habitat Management Branch, “Grizzly Bear Hunting: Frequently Asked Questions”, 7 October 2010, online: http://www.env.gov.bc.ca/fw/wildlife/management-issues/docs/grizzly_bear_faq.pdf [hereinafter, “Grizzly Bear Hunting FAQ”]; see also, EAB decision no 2013-WIL-014(a) at para 19.

13 *Wildlife Act*, RSBC 1996, c 488, s 11(9); see also, Grizzly Bear Hunting FAQ, *supra* note 11 at 13; *R. v. Sparrow*, [1990] 1 S.C.R. 1075.

E. LIMITED-ENTRY HUNT AUTHORIZATIONS AND GUIDE OUTFITTER QUOTAS

Limited-entry and guided hunting are the only two ways to legally hunt grizzly bears in B.C. (for non-Indigenous hunters).

The limited entry hunt (LEH) system is only for hunters who are B.C. residents.¹⁴ Interested hunters apply in advance of the spring or fall hunt, and a lottery-based system provides successful applicants with one LEH authorization to kill a grizzly bear within a certain geographical zone. A resident hunter is limited to one authorization to hunt a grizzly bear each year.¹⁵

A guide outfitter (GO) — a person with a particular guiding territory and an annual quota for how many animals his or her clients may harvest — must accompany non-residents who wish to hunt grizzlies. B.C. residents may also hire a guide outfitter, and if a resident holds an LEH authorization, the kill does not count against the guide outfitter's quota.¹⁶

The government states that its policy is to give resident hunters preferential access over guided hunters to grizzly bears and other game species.¹⁷ As the resident and guide outfitter hunting systems are necessarily related, this toolkit addresses the procedures for determining permissible grizzly hunting levels in both systems.



(Mick Thompson via Flickr, Robert S. Johnson)

14 Grizzly Bear Hunting FAQ, *supra* note 12 at 14.

15 *Wildlife Act*, s 14; *Hunting Licensing Regulation*, BC Reg 8/99, s 15(e); *Limited Entry Hunting Regulation*, BC Reg 134/93, s 4(3.1).

16 EAB decision, *supra* note 12 at para 9.

17 Ministry of Environment, *Harvest Allocation Policy Manual*, rev 3, 29 March 2007, at 1, online: http://www.env.gov.bc.ca/fw/wildlife/policy_procedures/docs/policy/4_7_01.03.pdf.

II. Information sources

A. OVERVIEW OF SOURCES

The sources of information that guide the B.C. government in its decisions about grizzly bear hunting include the *Wildlife Act*, regulations, government policies, procedure manuals and other publications. Collectively, these documents grant authority over grizzly hunting decisions to specific government actors, and set out the limits and preferred methods for their decision-making. Finally, decisions of the Environmental Appeal Board (EAB) shed further light on the government's processes and how the rules are to be interpreted and applied.

B. THE WILDLIFE ACT AND REGULATIONS

This toolkit makes reference to the following legislation:

- *Wildlife Act*, RSBC 1996, c 488
 - o *Hunting Licensing Regulation*, BC Reg 8/99
 - o *Limited Entry Hunting Regulation*, BC Reg 134/93

Acts vs. regulations

Acts (such as the *Wildlife Act*) are often called “primary legislation” or “parent statutes”. Acts must go through readings in the B.C. legislature before they become enforceable laws.

Acts may also delegate authority to cabinet or an individual minister to create **regulations**, sometimes called “subordinate legislation”. The process for approving and amending regulations is much quicker but less transparent because it does not require debate in the legislature. However, if a regulation is inconsistent with its parent statute, it is invalid. Section 109 of the *Wildlife Act* grants authority to the minister to make regulations for a number of matters. Regulations are just as legally binding as an act.

C. OTHER KEY DOCUMENTS

The *Grizzly Bear Harvest Management Procedure Manual* is a publication of the Fish and Wildlife Branch that came into effect on August 31, 2007.¹⁸ The stated purpose of this manual is “[t]o provide clear direction on the approach and methods for managing grizzly bear harvests province-wide”.¹⁹

A more recent explanation of the decision-making process on grizzly hunts is available in a document from October 2010 entitled “Grizzly Bear Hunting: Frequently Asked Questions”, available on the Fish and Wildlife Branch website.²⁰

Legal authority of procedure manuals and explanations

Legislation and regulations often contain considerable discretion when it comes to how the law will be applied. Government ministries may issue written policy statements like procedure manuals, which describe the ministry’s internal processes for handling different situations. However, these documents are not legally binding and do not have the force of law. They are guidelines, which the ministry and its employees usually follow, but may choose not to in specific instances.

D. ENVIRONMENTAL APPEAL BOARD (EAB) DECISIONS

Lastly, decisions of the Environmental Appeal Board help shed light on the background and rationale for the government’s procedures, and how the regime should be administered. The Environmental Appeal Board is an administrative tribunal that hears appeals involving hunting licences and guide outfitter grizzly bear quotas. However, the *Wildlife Act* does not allow grizzly scientists, environmental organizations or concerned citizens to appeal these decisions — just those whose hunting or guiding rights are affected by an administrative decision.

18 Fish and Wildlife Branch, *Grizzly Bear Harvest Management Procedure Manual*, vol 4, s 7, subsection 04.04 [hereinafter, “*Procedure Manual*”].

19 *Ibid* at 1.

20 Grizzly Bear Hunting FAQ, *supra* note 12.

III. How the government sets grizzly bear hunting limits

A. OVERVIEW

From initially estimating grizzly bear populations to ultimately setting the number of LEH authorizations and guide outfitter quotas, the government follows a long and often complex process involving numerous actors.

This part of the toolkit attempts to clarify this process by explaining who is involved, where their authority comes from, how they make determinations, what objectives they pursue and when each stage of the process occurs.

B. WHO ARE THE KEY GOVERNMENT DECISION-MAKERS AND ACTORS?

The Fish and Wildlife Branch is the primary government agency responsible for regulating hunting in B.C. It was formerly part of the Ministry of Environment, but it now falls under the Ministry of Forests, Lands and Natural Resource Operations. Its office is in Victoria. However, when it comes to grizzly bear hunting policy, some key officials remain within the Ministry of Environment, so two ministries are involved.

Within the Fish and Wildlife Branch and elsewhere in government, a number of people work together to determine the number of grizzly bears that can be hunted in the province. The titles and functions of these key actors are established either by legislation or policy manuals. The following list summarizes their roles in the decision-making process:

- **Biological data officer** (BDO): This staff person in the Fish and Wildlife Branch is responsible for updating the compulsory inspection database (CID).²¹
- **Director of the Fish and Wildlife Branch** (director)²²: The director receives and approves formal management objectives to increase or decrease allowable grizzly mortalities and determines the number of LEH authorizations for the spring and fall hunts.²³
- **Large carnivore specialist** (LCS): This is the wildlife biologist in the Ecosystems Branch of the Ministry of Environment. The LCS is based in Victoria and is responsible for provincial coordination of grizzly bear harvest management.²⁴ Key duties of the LCS include estimating grizzly bear populations, discussing population estimates with regional staff, recommending grizzly bear population unit (GBPU) boundaries and reviewing and commenting on allowable harvest rates.²⁵

21 *Procedure Manual, supra note 18, at 2.*

22 *Ibid at 2; Wildlife Act, s 1(1).*

23 *Procedure Manual, supra note 18, Appendix A.*

24 *Ibid at 3.*

25 *Ibid, Appendix A.*

- **Regional manager (RM):** This is a regional manager of the recreational fisheries and wildlife programs.²⁶ The RMs recommend management objectives to the director and ultimately determine guide outfitter quotas based on regional allocations from the director.²⁷ For wildlife management purposes, there are eight regions in the province.
- **Regional section head (RSH):** This person is responsible for fish and wildlife management within a region.²⁸ RSHs work with the LCS to determine population estimates, allowable harvest rates and GBPU boundaries.²⁹
- **Wildlife manager:** This is the manager of the wildlife management section of the Fish and Wildlife Branch, based in Victoria.³⁰ The wildlife manager is consulted if there is a discrepancy about population estimates.³¹
- **Wildlife regulations officer (WRO):** This is the staff person in the Fish and Wildlife Branch who is responsible for making hunting and trapping regulation changes.³² The WRO also enters grizzly bear mortality data into spreadsheets for each region/GBPU and alerts the LCO of concerns. Lastly, the WRO posts final LEH authorizations on the ministry's website.³³
- **Wildlife science section manager (WSS manager):** This person is part of the Ecosystems Branch of the Ministry of Environment.³⁴ The WSS manager is consulted if there is a discrepancy about population estimates.³⁵

26 *Wildlife Act*, s 1(1).

27 *Procedure Manual*, *supra* note 18, Appendix A.

28 *Ibid* at 3.

29 *Ibid*, Appendix A.

30 *Ibid* at 4.

31 *Ibid*, Appendix A.

32 *Ibid* at 4.

33 *Ibid*, Appendix A.

34 *Ibid* at 3.

35 *Ibid*, Appendix A.

C. WHERE DOES THE GOVERNMENT DERIVE ITS DECISION-MAKING AUTHORITY OVER GRIZZLY BEAR HUNTING?

Governmental power to make decisions comes from the *Wildlife Act* and its regulations. The regulations contain several important provisions for the purposes of grizzly bear hunt management. This section identifies key provisions that grant the government broad authority to make decisions about the LEH authorizations and GO quotas.

Section 16 of the *Wildlife Act* allows the minister to make regulations regarding LEH authorizations for a wildlife species.

Section 8 of the *Limited Entry Hunting Regulation* gives the Fish and Wildlife Branch director authority to determine the number of LEH authorizations for grizzly bears, which are issued by lottery. Under this section, the director makes a decision by using his or her professional judgment to consider:

- (a) recommended numbers approved and submitted by regional managers;
- (b) data on population dynamics of the species in the described area; and
- (c) hunter success rates.

Subsection 60(1) of the *Wildlife Act* allows regional managers to issue guide outfitter quotas. “Quota” is the total number of a game species specified by the regional manager that clients may kill in the guide outfitter’s area in a given year.

D. HOW DOES THE GOVERNMENT DETERMINE THE SIZE OF GRIZZLY BEAR POPULATIONS AND THE NUMBER OF BEARS THAT MAY BE HUNTED?

The B.C. government relies on a number of terms and methods to manage grizzly bear hunting, or “harvesting”. This section summarizes the most important concepts. For more detail, see the *Procedure Manual*.

Grizzly bear population units (GBPUs)

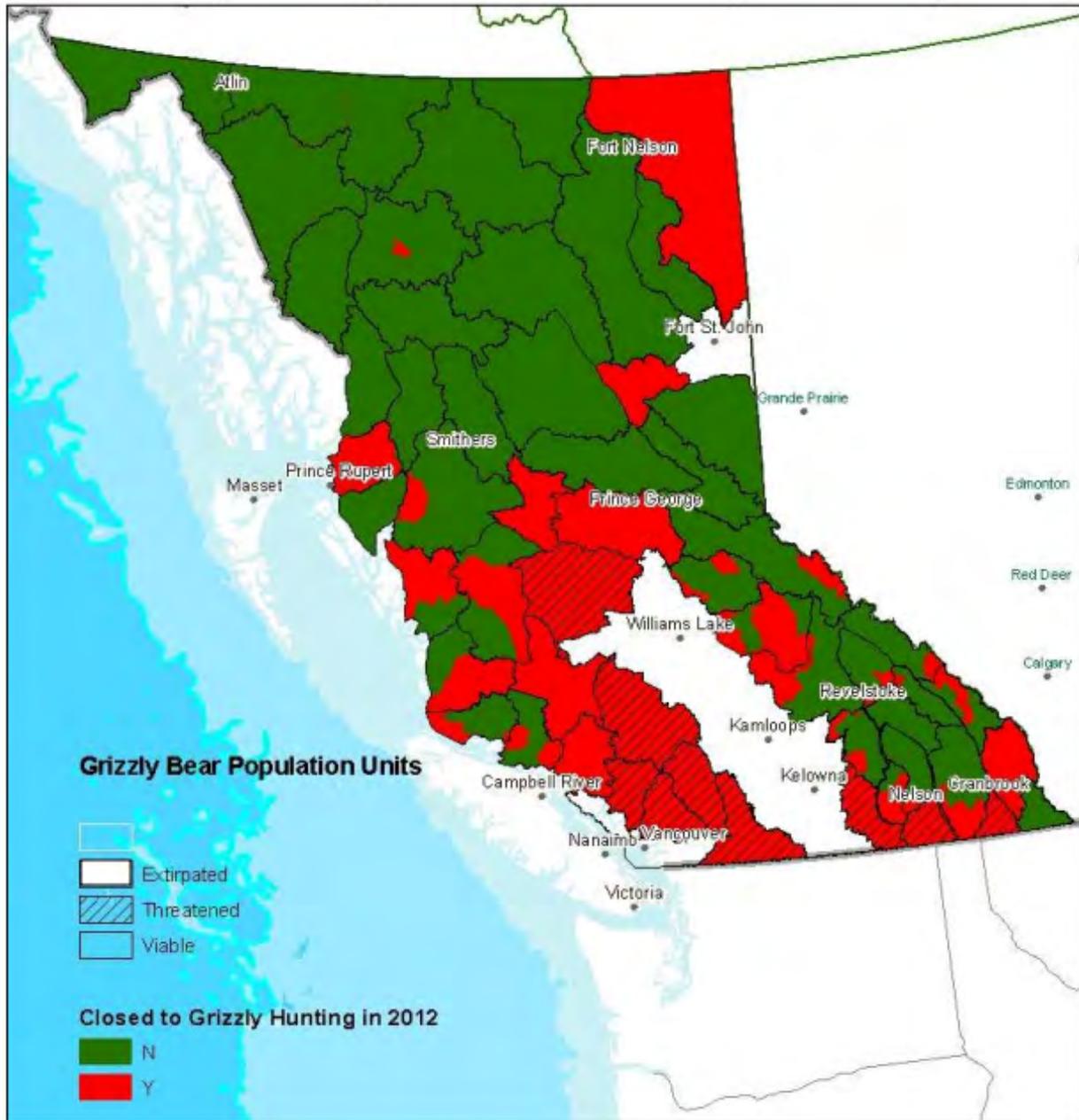
For the purposes of hunting regulations, the province is divided into eight regions and 225 “management units” (MUs).³⁶ However, these divisions fail to reflect that grizzly bears in B.C. are not one large interbreeding population, but rather a number of distinct, smaller populations. As a result, grizzly biologists have identified 57 discrete “grizzly bear population units” (GBPUs) in B.C., which are “areas that define individual grizzly bear populations for the purposes of management and conservation”.³⁷ GBPUs are “the primary unit for establishing Annual Allowable Harvests (AAH) for viable populations that can sustain a harvest”.³⁸

36 Ministry of Forests, Lands and Natural Resource Operations, Fish and Wildlife Management Unit Maps, online: http://www.env.gov.bc.ca/fw/wildlife/hunting/regulations/mgmt_units.html.

37 *Procedure Manual*, *supra* note 18 at 2.

38 Grizzly Bear Hunting FAQ, *supra* note 12 at 2.

Figure 1. Areas open (green) and closed (red) to Grizzly bear hunting in British Columbia. Threatened units are identified by cross-hatching. White areas within BC are extirpated or never occupied.*



* From *British Columbia Grizzly Bear Population Estimate for 2012* by Ministry of Forests, Lands and Natural Resource Operations: http://www.env.gov.bc.ca/fw/wildlife/docs/Grizzly_Bear_Pop_Est_Report_Final_2012.pdf

Estimating population

According to the *Procedure Manual*, the government estimates the population of grizzlies in the 57 GBPU's "using the best available scientific information".³⁹ Ranked from most to least effective, the government uses the following three methods to varying degrees:⁴⁰

- Inventory of the GBPU (i.e., counting the number of bears);
- A predictive approach, which estimates the number of bears in a GBPU using a formula and known population densities in other areas (sometimes known as multiple regression analysis); and
- A habitat-based method that starts with the capability of an area to support grizzly bears, then makes adjustments to account for perceived or known human impacts.

Population estimates include grizzly bears of all ages but exclude bears in areas greater than 100 km² that are indefinitely closed to grizzly hunting.⁴¹

"Indefinitely closed" areas

The *Procedure Manual* defines "indefinitely closed" areas as resulting from management objectives independent of hunting procedures. Examples include "ecological reserves, national parks, some provincial parks, transition and coastal grizzly bear closed areas, and grizzly bear management areas where designated".⁴²

39 *Procedure Manual*, *supra* note 18 at para 3.1.1.

40 *Ibid* at paras 3.1.2-3.1.3.

41 *Ibid* at para 3.1.4.

42 *Ibid* at 6.

Calculating annual allowable mortality (AAM) and annual allowable harvest (AAH)

Once the population is estimated, the annual allowable harvest (i.e., the number of grizzlies that may be hunted in a given year⁴³) for each GBPU is calculated in the following way:⁴⁴

Dividing annual allowable harvest into LEH authorizations and GO quotas

Step 1: Calculate annual allowable mortality (AAM)*

Annual allowable mortality = allowable mortality rate X population estimate

where allowable mortality rate = the maximum allowable mortality rate (6%) minus the estimated unreported mortality rate, and minus the estimated First Nations' harvest rate

Step 2: Calculate annual allowable harvest (AAH)

Annual allowable harvest = AAM minus predicted non-hunting mortalities

where predicted non-hunting mortalities are an estimate of the average number of non-hunting mortalities from the previous allocation period

*There is an equivalent annual allowable mortality calculation for female grizzly bears based on 30 per cent of the general AAM.

After subtracting the estimated number of grizzly bears that will be killed pursuant to LEH authorizations, the remainder is assigned to guide outfitters. Each GO territory receives an initial five-year allocation, and based on this allocation, the regional managers determine the GOs' annual quotas.⁴⁵

43 *Ibid* at 2; see also definition of "annual allowable harvest" at 2 of Ministry of Environment, *Harvest Allocation Policy Manual*, rev 3, 29 March 2007, online: http://www.env.gov.bc.ca/fw/wildlife/policy_procedures/docs/policy/4_7_01.03.pdf.

44 *Procedure Manual*, *supra* note 18 at paras 3.2.2.1-3.

45 EAB decision, *supra* note 12 at para 31.

E. WHAT ARE THE GOVERNMENT'S MANAGEMENT OBJECTIVES AND HOW DOES IT MONITOR THEM?

Overall management goal

The government states its overall management goal is “not to exceed the cumulative annual allowable mortality” (AAM) at any time during a five-year allocation period.⁴⁶

Formal management objectives

At the same time, regional and headquarters staff within the Fish and Wildlife Branch may recommend formal management objectives to the director to increase or reduce grizzly bear mortalities in a GBPU. The *Procedure Manual* lists the following factors as relevant to formal management objective determinations:⁴⁷

- Current population estimate;
- Habitat capability, habitat suitability, habitat effectiveness, and resulting estimates of current carrying capacity;
- Threats (if any) to the population and to adjacent populations;
- Known or perceived trends in the population or habitat supply;
- History of grizzly bear-human conflicts in the area;
- Degree of certainty in any of these factors; and
- Other issues of interest to First Nations, stakeholders, and the general public.

Government retains discretion to raise or lower the maximum allowable mortality rate of six per cent, relied on for the calculations described above. A written rationale “that is consistent with stated management objectives” forms the basis for such a change and is to be based on factors such as:⁴⁸

- Uncertainty in the population estimate;
- Knowledge of the population's natural growth rate;
- Location of the area within the species' distribution; and
- Difference between the estimates of population size and current carrying capacity.

46 *Procedure Manual*, *supra* note 18 at para 3.2.1.

47 *Ibid* at para 2.2.

48 *Ibid* at para 3.2.2.1.

Precautionary flag system

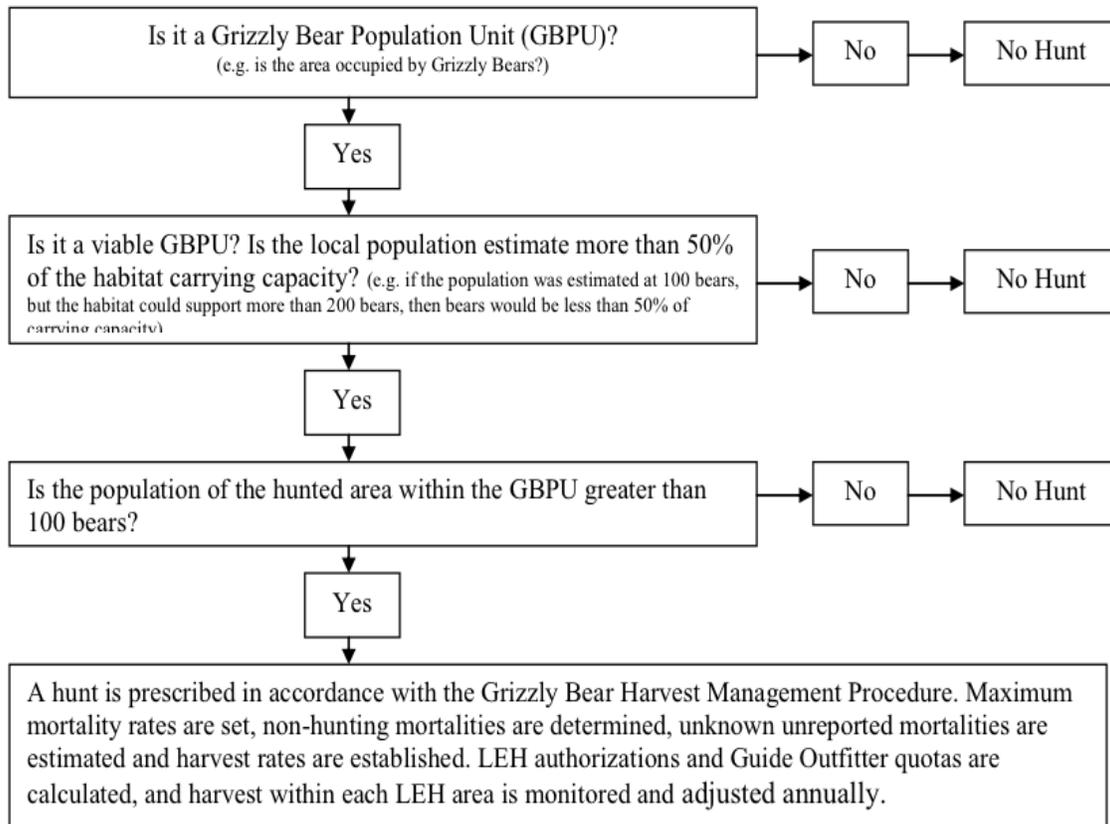
Finally, the government has a “flag” system for monitoring grizzly bear mortalities within a GBPU over the allocation period. If the actual mortalities for a GBPU or its female subpopulation, averaged over the course of the five-year allocation period, approach the AAM too closely, the government is to respond according to this chart:⁴⁹

	Threshold	Response
“Yellow flag”	Actual total annual mortalities are 20% below or at the AAM	Appropriate RSH should closely monitor the harvest and discuss options with stakeholders for keeping the harvest within acceptable limits, such as taking measures to direct the harvest towards males.
“Red flag”	Actual total annual mortalities exceed the AAM	Director should recommend that hunting opportunities be reduced so that mortalities return to a level at or below the AAM and female AAM.

49 *Ibid* at paras 3.2.7.1-3.2.7.2.

F. UNDER WHAT CIRCUMSTANCES IS A GBPU CLOSED FOR HUNTING?

The government identifies two additional criteria that GBPUs must meet to be viable for hunting: The population must be greater than 50 per cent of its habitat's carrying capacity and comprise at least 100 bears. The following diagram illustrates how these thresholds determine whether a GBPU can support a hunt:⁵⁰



However, a formal management objective can override these thresholds and allow or disallow hunting, as the case may be.⁵¹

50 Grizzly Bear Hunting FAQ, *supra* note 11 at 5.

51 Procedure Manual, at para 3.2.3.2.

G. AT WHAT STAGE ARE KEY DECISIONS MADE IN THE PROCESS?

Adapted from the *Procedure Manual*, the next table shows the deadlines in the decision-making process for the following year's hunts, as well as the person responsible at each stage:⁵²

Deadline	Task	Person(s) responsible
March 31	Recommend management objectives for GBPUs, as needed, and provide these with a written rationale to the director	Regional managers (RMs)
April 1	Prepare population estimates for each GBPU, together with supporting rationale, and provide this to RSHs	Large carnivore specialist (LCS)
May 1	Review and provide comment on population estimates to LCS	Regional section heads (RSHs)
June 1	Respond to the comments provided by the RSHs, by either revising the population estimates or further discussing the issue	Large carnivore specialist (LCS)
August 15	Finalize management objectives (as needed) and population estimates	
August 15	Prepare a description of any recommended GBPU boundary changes and provide this to RSHs	Large carnivore specialist (LCS)
August 15	Work with the LCS to determine and prepare supporting rationale on allowable harvest rates for each GBPU	Regional section heads (RSHs)
September 15	Review and provide comment on proposed GBPU boundary amendments to LCS	Regional section heads (RSHs)
September 15	Review and provide comment on resulting allowable harvest rates to RSHs	Large carnivore specialist (LCS)
December 1	Finalize GBPU boundaries and allowable harvest rates for each GBPU	
December 1	Complete and submit Compulsory Inspection Data Sheets (CIDS) for all grizzly bear mortalities reported throughout the year to the biological data officer (BDO)	Compulsory inspection contractors, conservation officers, and/or Fish and Wildlife Branch staff
December 8	Enter all CIDS data into the CIDS database and provide this information to the WRO	Biological data officer (BDO)
December 8	Provide the wildlife regulations officer with spreadsheets for each region that include the grouping of MUs and LEH zones by GBPU, population estimates and allowable harvest rates	Large carnivore specialist (LCS)
December 12	Complete entry of previous mortality data into spreadsheets provided by LCS, flag concerns and return spreadsheets to LCS for review	Wildlife regulations officer (WRO)
December 15	Provide regionally specific spreadsheets to RMs and RSHs	Large carnivore specialist (LCS)
January 6	Identify and correct any errors in the spreadsheet, in consultation with WRO	Regional section heads (RSHs)
January 12	Determine guide outfitters' quotas and recommend the number of LEH authorizations, using regional allocation shares provided by the director	Regional managers (RMs)
January 12	Determine the number of LEH authorizations for that year's spring and fall hunts	Director of Fish and Wildlife
January 16	Post the final number of LEH authorizations for the spring and fall hunts on the Ministry of Environment's website	Wildlife regulations officer (WRO)

IV. Getting involved

A. OVERVIEW

This final part of the toolkit discusses how the public can get involved in the government's grizzly hunt decision-making process.

Not all of these strategies are available to all members of the public. For example, people whose rights are affected by a government decision are more likely to have legal redress than those who are not affected. As such, members of an Indigenous group with a claim to rights or title in an area where grizzly hunting is allowed may have the strongest footing to challenge the legality of trophy hunts.

B. WHAT CAN A CONCERNED MEMBER OF THE PUBLIC DO?

On its face, the decision-making process described in Part III provides little, if any, opportunity for the public to comment or participate. Indeed, the government's official response is that this process is closed to the public.⁵³

However, the government's process does contemplate receiving information from outside sources. For example, the formal management objectives described in Part III, Section E take into account "other issues of interest to First Nations, stakeholders, and the general public." Thus, it is reasonable for citizens to inform Fish and Wildlife Branch regional managers of their concerns about overhunting.

More generally, this toolkit describes various stages of the government's decision-making process and the actors involved at each stage who ultimately determine the allowable harvest of grizzly bears.

The most direct strategy is to contact the relevant decision-maker (e.g., by writing a letter) at each stage and request that he or she consider additional information, such as the lack of certainty about population estimates and actual mortality and how this threatens the viability of grizzly bear populations. The decision-makers should take this into account when exercising their discretion and limiting the number of grizzlies that may be hunted.

In addition to regional managers, the following people within government have direct or indirect bearing on hunt decisions:

Large carnivore specialist. In April each year, the LCS is supposed to prepare population estimates, which may be revised in June. It would therefore be useful to provide feedback to the LCS on concerns about inaccuracies in population estimates around this time.

53 Email correspondence from the Fish and Wildlife Branch, 6 November 2014.

Regional section heads. RSHs are similarly involved in estimating population. Because they are more directly involved with gathering and reporting on data for individual regions, it would be worthwhile to contact them with concerns about population estimates, particularly if those concerns are region-specific.

Wildlife regulation officer. Since the WRO enters mortality data into government spreadsheets in December and flags concerns, contacting this person with information about mortalities that the government may not be aware of could influence the government's calculations.

Director of fish and wildlife. As the most authoritative person under the *Wildlife Act*, the director of fish and wildlife may exercise discretion in accepting or refusing to implement management objectives and in setting the number of LEH authorizations. Thus, contacting the director around the end of March or beginning of April to provide input about management objectives, or prior to January 12, when he or she makes final LEH authorization determinations, could potentially influence these decisions. The B.C. government maintains a searchable public directory of employees and officers that provides the name and contact information of the person in each role. It is available online at dir.gov.bc.ca.

Other opportunities for public engagement

Hunting and trapping regulations under the *Wildlife Act* (including those pertaining to grizzly hunting) are summarized bi-annually in the *Hunting and Trapping Regulations Synopsis*.

The *Regulations Synopsis*:

- Sets out general hunting information
- Summarizes important hunting regulations
- Defines open seasons with maps indicating closed areas

The 2016-18 *Hunting and Trapping Regulations Synopsis* is effective from July 1, 2016, to June 30, 2018, and is available for download at the following website:

www2.gov.bc.ca/gov/content/sports-culture/recreation/fishing-hunting/hunting/regulations-synopsis

The Fish and Wildlife Branch also has an Angling, Hunting and Trapping Public Engagement Website (AHTE) where the public can provide feedback on proposed regulation changes pertaining to trapping and hunting, including grizzly bear hunting, at apps.nrs.gov.bc.ca/pub/ahte/

Finally, the province has established a number of stakeholder committees to provide advice for regional and provincial managers, which members of the public can participate in. Interested members of the public should contact the director of the Fish and Wildlife Branch for more information on how to participate.

C. WHAT IF YOUR RIGHTS ARE MORE DIRECTLY AFFECTED BY THE GOVERNMENT'S GRIZZLY BEAR HUNT DECISIONS?

If the government's decisions to allow grizzly bear hunting have a more direct impact on your rights (e.g., you operate grizzly bear viewing tours), you likely have additional options available to you. These operations will typically have commercial recreation tenures that grant legal rights that could be adversely affected by grizzly hunting decisions. Even where the policy does not contemplate consultation with such tenure holders, common law may require that government provide a meaningful opportunity to engage in the decision-making process as a matter of procedural fairness.

Participate in an EAB hearing

The Environmental Appeal Board (EAB) is a tribunal that hears a variety of appeals, including those of hunters and guides who believe they have been treated unfairly; e.g., by receiving less grizzly hunting quota than they applied for.

Unfortunately, no one other than hunters and guide outfitters have the right to appeal to the EAB, as the *Wildlife Act* considers them the only "affected persons". But clearly, grizzly hunting decisions can also affect others who depend on grizzly bears. Such a person may apply to or receive an invitation to participate from the EAB as a "third party" or "participant" in the appeal hearing. A helpful procedure manual for the EAB is also available online at www.eab.gov.bc.ca/fileAppeal/EAB_proc_manual_2014.pdf.

The EAB's procedures are less formal than those of a court, but they contemplate allowing third parties with sufficient interest in the proceedings to participate in a hearing and express their concerns regarding a specific hunter's permit(s). Although challenging a specific decision may not influence the overall grizzly hunting regime in a meaningful way, participating in an EAB hearing could reduce grizzly bear hunting on a smaller scale.

Legal remedies

It is beyond the scope of this toolkit to provide advice concerning possible legal remedies for a given situation. However, readers should be aware that principles of law govern every statutory decision-maker; that is, a person who is authorized by law or regulation to make decisions that affect the rights of others. The courts provide oversight of decision-makers such as government ministries, and the people who act within them, to ensure that their decisions are reasonable, fair and sufficiently transparent. This process of oversight by the courts is called judicial review.

In the case of grizzly bear hunting, this toolkit identifies various statutory decision-makers, most notably the director and regional managers. If their decisions adversely affect you in some way, and they failed to adhere to established administrative law standards, those decisions may be subject to judicial review.

To invoke the supervisory role of the courts, a person whose rights are affected by a statutory decision-maker's ruling may bring a petition to the B.C. Supreme Court for a judicial review under the *Judicial Review Procedure Act*.⁵⁴ This is a complex task, and it is therefore best to consult a lawyer for advice and assistance.

Challenges based on Aboriginal rights and title

Indigenous peoples have special rights enshrined in Canada's Constitution. Where government action infringes such rights, a legal challenge might be valid. Bringing this type of legal challenge is quite complex, and it is therefore recommended that you consult a lawyer.

D. WHAT IF THE GOVERNMENT REMAINS UNRESPONSIVE?

While they may seem like obvious solutions, contacting the government or voicing your concerns about the status quo at the ballot box are still important and effective means of bringing about change, especially for environmental issues such as overhunting, where it is difficult to show the government is offside.

Write a letter to the appropriate cabinet minister or your MLA

Cabinet ministers are members of the legislative assembly (MLAs) who are given a portfolio of special responsibilities within the provincial government and who therefore have a heightened duty to respond to concerns relating to their mandate. Two key cabinet ministers whose portfolios encompass grizzly bear protection are:

- The Honourable Steve Thomson, Minister of Forests, Lands and Natural Resource Operations, and
- The Honourable Mary Polak, Minister of Environment.

You can also contact your MLA by searching for his or her information via name, constituency, community or postal code at www.leg.bc.ca/mla/3-1-1.htm.

Government representatives may be unaware of concerns about grizzly bear overhunting, and so bringing the matter to their attention may compel the government to act quickly and emphatically. Moreover, as Part III identified, some areas of the province are indefinitely closed to grizzly bear hunting, such as ecological reserves and provincial parks. Seeking this type of designation for areas where hunting is currently allowed may be another fruitful avenue worth exploring with your MLA.

54 RSBC 1996, c 241.

E. LINKS FOR MORE INFORMATION AND TO ORGANIZATIONS WORKING TO STOP THE B.C. GRIZZLY BEAR TROPHY HUNT

Grizzly bear conservation science and policy

David Suzuki Foundation website: www.davidsuzuki.org/issues/wildlife-habitat/projects/grizzly-bears/

Analysis of overhunting of grizzly bears in B.C.: journals.plos.org/plosone/article?id=10.1371/journal.pone.0078041

Analysis of grizzly bear policy in B.C.: www.davidsuzuki.org/publications/reports/2014/failing-bcs-grizzlies-report-card/

Options for legal protection of grizzly bears in Canada: www.davidsuzuki.org/publications/reports/2013/securing-a-national-treasure-protecting-canadas-grizzly-bear/

Videos and films

Bear Witness: a film by B.C.'s Coastal First Nations: pacificwild.org/visual-media/documentaries/bear-witness-a-film-by-bcs-coastal-first-nations

Death of a Great Bear: pacificwild.org/visual-media/documentaries/death-of-a-great-bear

The Price of the Prize: watch.cbc.ca/absolutely-canadian/season-2016/the-price-of-the-prize/38e815a-00a5922b618

Organizations working to end the B.C. grizzly trophy hunt

Central Coast First Nations Bear Working Group: www.bearsforever.ca

David Suzuki Foundation: www.davidsuzuki.org

Raincoast Conservation Foundation: www.raincoast.org

Pacific Wild: www.pacificwild.org

Valhalla Wilderness Society: www.vws.org

Justice for BC Grizzlies Campaign: <https://justiceforbcgrizzlies.com>

Wildlife Defense League: <http://www.wildlifedefenceleague.org>

Commercial Bear Viewing Association of BC: <http://www.bearviewing.ca>



David
Suzuki
Foundation

