

SUBMISSION TO THE

NUNAVUT WILDLIFE MANAGEMENT BOARD



FOR

Information: _____

Decision: X

Issue: Review of NWMB Interim Policy on Walrus Sport Hunts and removal of NWMB approval

Background:

Prior to the bowhead hunts in 2010, Nunavut Tunngavik Incorporated (NTI) challenged the Nunavut Wildlife Management Boards (NWMB or Board) authority to require the approval of bowhead hunt plans prior to the issuance of a licence to Inuit¹. In consideration of this challenge put forth by NTI at the Board's Regular Meeting No. 64, the NWMB was in agreement that the Board does not have the authority to **require** a hunt plan as per S 5.2.34 (d) (i) of the Nunavut *Land Claims Agreement* (NLCA) for approval prior to the issuance of a licence to Inuit.

As a result of the bowhead discussion, it was the NWMB's Wildlife Section staff's understanding that the Board directed staff to proceed with the removal of the NWMB from the annual approval of walrus sport hunts as per its Interim Policy. This direction was not accompanied by a Board resolution, neither was the direction of removing NWMB from requiring Bowhead hunt plans.

Since the 1995 pilot walrus sport hunt in Igloolik, the Nunavut Wildlife Management Board (NWMB or Board) has requested applications for walrus sport hunts in the form of hunt plans, as per the NWMB's Interim Policy, for approval by the NWMB and Fisheries and Oceans (DFO) in accordance with S 5.2.34(d)(i) and S 5.6.48 of the NLCA prior to the issuance of a licence for a sport hunter.

The policy has been implemented by requesting walrus sport hunt plans in June for submission to the NWMB by the end of August; review of the hunt plans for approval at the September meeting²; decision sent to the Minister by October; and then applicants being informed by DFO by the end of December so that bookings can proceed. To date the NWMB has not issued the call for walrus sport hunt plans.

The Interim Policy identifies four conditions that must be met which are that:

- i.) no conservation concern arises;
- ii.) hunter and public safety are maintained;
- iii.) humane harvesting takes place and the whole animal is used; and

¹ This is a very general description of one of NTI's positions. NTI's full position is outlined in its September 2009 submission to the NWMB. The intention of this briefing note is not to present all of the positions and arguments put forth by NTI pertaining to the issue.

² Note that when approving sport hunt applications, the NWMB only approves the hunt plan and non-quota limitations for those communities that have a quota.

iv.) the developing industry is healthy and will continue to deliver a quality product, thus serving and promoting the long-term economic, social and cultural interests of Inuit harvesters (NLCA S 5.1.3 (b) (iii)).

The Interim Policy also includes three criteria for the evaluation of applications, which are:

- 1.) In a community that is not subject to a quota (beyond the individual limit of 4), attempt to ensure that the combination of community and sport hunts does not exceed the average total harvest for the previous 5 years (condition i)
- 2.) Ensure that a hunt plan is in place that meets the safety, humane and other requirements necessary under the NLCA, the Fisheries Act and the Regulations (conditions ii and iii);
- 3.) Ensure that the community or enterprise starts with a relatively small and closely monitored number of hunts, prior to permitting an expanded sport hunting effort (condition iv).

In approving walrus sport hunts, the NWMB has also included the following conditions in recent approvals, which include the following:

- 1.) That all struck, lost and landed information is reported to the Department of Fisheries and Oceans. If such information is not reported, future sport hunts may not be approved;
- 2.) That the hunt be conducted in compliance with all safety requirements established by Transport Canada or DFO;
- 3.) That the assignment of each walrus be made in writing;
- 4.) That there be no more than 2 strikes per walrus landed.

NWMB staff held a meeting on November 10th, 2010 with Nunavut Tunngavik Incorporated (NTI) to discuss the Interim Policy. Due to the short notice for the call of the meeting, DFO indicated that it was not able to attend the meeting due to previous commitments. However, DFO provided a preliminary position with recommendations on how to move forward.

The meeting identified a difference between the approval of bowhead hunt plans and walrus hunt plans, in that walrus sport hunt plans are for non-Inuit harvesting, but similar in that the requirement for a hunt plan is placed on Inuit. Upon further discussions with NTI staff, it was noted that the NWMB has the ability to establish Non-Quota Limitations on non-Inuit that do not have to meet the same test as per S 5.3.3 of the NLCA, as S 5.3.3 specifically refers to Inuit harvesting.

In summary, DFO provided three main points for the NWMB to consider when considering the removal of the NWMB's Interim Policy:

- 1.) Supports an immediate review of the existing policy with the objective of revising or replacing the existing policy to address current gaps (including regulatory and statutory compliance) prior to October 2011. Recommends first initial meeting to occur early in the new year.
- 2.) That the interim policy remains in place to guide the hunts this year, as the removal without having an alternative would be both harmful to both the stock and the outfitting industry.

3.) That the interim policy be presented to the Foxe Basin and Baffin Bay Walrus co-management working groups at meetings scheduled November 30th to December 3rd to obtain feedback on the interim policy.

Due to the briefing note deadline, NTI was not able to submit a position but NWMB staff indicated that NTI would verbally present its position at the Regular Meeting.

NWMB Recommendations:

NWMB staff recommend that based on the Board's lack of authority provided to it in the NLCA, the NWMB no longer request and require that a hunt plan be approved by the NWMB prior to the issuance of a licence for a walrus sport hunt to a sport hunter. Rather that DFO regulate the sport hunts through existing regulations and NWMB established NQL's.

Members should be aware that in the absence of annual NWMB approval of hunt plans, all sport hunts would still be subject to the relevant provisions of the Marine Mammal Regulations, the General Fishery Regulations and the Nunavut Land Claims Agreement. Relevant provisions in the Marine Mammal Regulations and General Fishery Regulations as per S 5.6.51 of the NLCA are deemed to have been established by the NWMB. NWMB staff have provided a summary list in Appendix 1 of the regulations that it believes would be applicable in the absence of annual NWMB approval.

In the absence of NWMB approval of sport hunters, NWMB staff recommend that the Board establish the following Non-Quota Limitations for walrus sport hunts that are not covered by existing regulations:

1. That the walrus be harpooned first then shot to reduce struck and lost.
2. That there be no more than 2 strikes per walrus landed.
3. That the sport hunter identify the guide as approved by the HTO as per S 5.6.41 (b) of the NLCA,

NWMB staff believe that with the establishment of these NQLs and the application of existing regulations, walrus sports hunt should be sufficiently managed and that the following process should be followed by DFO.

For communities with a quota:

- 1.) The Hunters and Trappers Organization (HTO) decides how many sport hunts are to be conducted and designates the guides (i.e. outfitter) for the hunts;
- 2.) DFO issues the licence to the sport hunter applying NWMB established NQLs and any other conditions that it deems necessary through relevant existing regulations;

For communities without a quota:

- 1.) The outfitter requests to DFO the number of sport hunts it wishes to conduct;
- 2.) DFO applies the first criteria from the NWMB's Interim Policy and responds to the request;
- 3.) Outfitter gets designated by the HTO for the requested number of sport hunts;

4.) DFO issues the licence to the sport hunter applying NWMB established NQLs and any other conditions that it deems necessary through relevant existing regulations.

In addition, it is recommended that the NWMB recommend to DFO that it apply the first criteria of its Interim Policy, when considering requests from outfitters from communities with no quota.

Consultations: Robert Kidd, Director of Wildlife Management

Prepared By: Adam Schneidmiller, Wildlife Management Biologist

Dated: November 12th, 2010

APPENDIX 1: NWMB staff summary of key existing regulations that would be applicable to walrus sport hunts

The requirements in the Interim Walrus Sport Hunt policy and application form and existing DFO walrus sport hunt licence conditions are identified to illustrate that the requirements would still have to be met if annual NWMB approval was removed.

Marine Mammal Regulations (MMR):

MMR 10 (1) (a): *"No person who kills or wounds a marine mammal shall fail to make a reasonable effort to retrieve it without delay"*

Interim Policy: condition iii (i.e. humane harvesting);

Application Form:

DFO licence conditions: condition #1 (i.e. If the animal is lost, every effort will be made to retrieve it...")

MMR 10 (2): *"No person who kills a cetacean or walrus shall waste any edible part of it"*

Interim Policy: condition iii (i.e. the whole animal is used)

Application Form: section 14 and 15

DFO licence conditions: condition #7 (i.e. all meat is utilized)

MMR 8: *"No person shall attempt to kill a marine mammal except in a manner that is designed to kill it quickly."*

Interim Policy: condition iii (i.e. humane harvesting);

Application Form: section 8 and 12

DFO licence conditions: condition #4

MMR 9: *"No person shall fish for a marine mammal without having the equipment necessary to retrieve it."*

Interim Policy:

Application Form: section 12

DFO licence conditions: condition #6

MMR 5: *"Subject to section 6, no person shall fish for marine mammals except under the authority of a licence issued under these Regulations...."*

Requirement for sport hunters to have a licence

MMR 6 (1) (c): *"An Indian or Inuk other than a beneficiary may, without a licence, fish for food, social or ceremonial purposes for subject to section 26, four walrus in a year."*

MMR (6) (2) (c): *"A beneficiary may, without a licence, fish for food, social or ceremonial purposes within the area covered by the agreement under which the beneficiary is enrolled for subject to section 26, four walrus in a year."*

MMR 17 (1): *“Every person who is authorized under these Regulations to fish for cetaceans or walrus shall keep a record for a period of two years of any cetacean or walrus taken and shall produce that record for examination when requested to do so by a fishery officer.”*

MMR 17 (2): *“The record referred to in subsection (1) shall contain the time and place at which the cetacean or walrus was taken and the species, sex and colour of the cetacean or walrus.”*

Interim Policy:

Application Form: section 17, 18, 19, 20, and 21

DFO licence conditions: in part condition #3

MMR 25 (a) (b): *“No person shall fish for walrus with a firearm unless the person uses (a) a rifle and bullets that are not full metal-jacketed that produce a muzzle energy of not less than 1,500 foot pounds; or (b) a shotgun and rifled slugs that produce a muzzle energy of not less than 1,500 foot pounds.”*

Interim Policy:

Application Form: section 12

DFO licence conditions: condition #4

MMR 26: *“No person who ordinarily resides in a settlement set out in column I of an item of the table to this section shall fish for walrus after notice has been given by a fishery officer that the annual fishing quota set out in column II of that item has been reached.*

TABLE

Colonne I		Colonne II
Item	Settlement	Annual Fishing Quota
1.	Coral Harbour	60
2.	Sanikiluaq	10
3.	Arctic Bay	10
4.	Clyde River	20

General Fishery Regulations (GFR):

GFR 8 (1) (a): *“The Minister may require an applicant for a document to submit such information in addition to that included in the application as may reasonably be regarded as relevant.”*

2: “document” means a licence, fisher’s registration card or vessel registration card that grants a legal privilege to engage in fishing or any other activity related to fishing and fisheries.”

Interim Policy:

Application Form: all sections

DFO licence conditions:

22 (1): "For the proper management and control of fisheries and the conservation and protection of fish, the Minister may specify in a licence any condition that is not inconsistent with these Regulations or any of the Regulations listed in subsection 3(4) and in particular, but not restricting the generality of the foregoing, may specify conditions respecting any of the following matters:

(a) the species of fish and quantities thereof that are permitted to be taken or transported;

Interim Policy: condition i (i.e. no conservation concern arises); criteria 1 (i.e. ensure that the combination of community and sport hunts does not exceed the average total harvest for the previous 5 years)

Application Form: section 5

DFO licence conditions:

(b) the age, sex, stage of development or size of fish that are permitted to be taken or transported;

(c) the waters in which fishing is permitted to be carried out;

Interim Policy:

Application Form: section 7

DFO licence conditions:

(f) the period during which fishing or transporting fish is permitted to be carried out;

Interim Policy:

Application Form: section 6

DFO licence conditions:

(g) the vessel that is permitted to be used and the persons who are permitted to operate it;

Interim Policy:

Application Form: section 12

DFO licence conditions: condition 6

(h) the type, size and quantity of fishing gear and equipment that is permitted to be used and the manner in which it is permitted to be used.

Interim Policy:

Application Form: section 8 (i.e. harpooned first then shot), 12, 13

DFO licence conditions: condition #4, #6

(k) information that the holder of the licence shall report to the Department prior to commencement of a fishing trip with respect to where and when fishing will be carried out, including the method by which, the times at which and the person to whom the report is to be made;

Interim Policy: criteria 2

Application Form: all sections

DFO licence conditions:

(p) records that the master of the vessel shall keep of any fishing activity carried out under the licence or of the sale or transporting of fish caught under the licence, including the manner and form in which the records are to be kept, the times at which and the person to whom the records are to be produced and the period for which the records are to be retained;

22 (2): The Minister may, for purposes of the conservation and protection of fish, amend the conditions of a licence

22 (7): No person carrying out any activity under the authority of a licence shall contravene or fail to comply with any condition of the licence.

APPENDIX 2: DFO Licence Conditions for Walrus Sport Hunts from 2009

1. The hunter will pursue and hunt one selected walrus until the kill is complete or two strikes have been made whichever occurs first. If the animal is lost, every effort will be made to retrieve it and failing retrieval, the hunter must stop hunting
2. If a walrus is harvested thus completing the allotted quota of one walrus the licence shall no longer be valid.
3. All walrus harvested or struck and lost shall be reported to DFO Iqaluit.
4. Fishing gear will include
 - (a) a rifle and bullets that are not full metal-jacketed that produce a muzzle energy of not less than 1,500 foot pounds; or
 - (b) a shotgun and rifled slugs that produce a muzzle energy of not less than 1,500 foot pounds
5. The hunter shall follow the directions of the guides. If at any time there should be a problem or conditions that would affect the safety of the hunt, the hunt shall cease until the problem or condition has been resolved.
6. Hunter will be accompanied by a second boat for back up.
7. All meat must be utilized.

APPENDIX 3: NWMB Interim Policy on Walrus Sport Hunts

Interim NWMB Policy for Walrus Sport Hunts

In deciding the number of sport hunts to approve for a particular community, it is recommended that the NWMB's policy be to ensure, to the extent reasonably possible, that sport hunting in the community develops in such a manner that the following 4 conditions are met:

- (i) no conservation concern arises;
- (ii) hunter and public safety are maintained;
- (iii) humane harvesting takes place and the whole animal is used; and
- (iv) the developing industry is healthy and will continue to deliver a quality product, thus serving and promoting the long-term economic, social and cultural interests of Inuit harvesters (See *NLCA* Sub-section 5.1.3 (b) (iii))

Accordingly, until the Walrus Working Group offers a more detailed analysis and recommendations, it is recommended that the NWMB apply the following 3 criteria in deciding upon the number of sport hunts for a community:

1. In a community that is not subject to a quota (beyond the individual limit of 4), attempt to ensure that the combination of community and sport hunts does not exceed the average total harvest for the previous 5 years (condition i);
2. Ensure that a hunt plan is in place that meets the safety, humane and other requirements necessary under the *NLCA*, the *Fisheries Act* and the Regulations (conditions ii and iii); and
3. Ensure that the community or enterprise starts with a relatively small and closely monitored number of hunts (the "pilot" stage), prior to permitting an expanded sport hunting effort (condition iv).

In addition, the NWMB may wish to consider what percentage of the overall quota or average harvest for the last 5 years should be allocated to sport hunts.

APPENDIX 4: Application form

REQUEST TO CONDUCT WALRUS SPORT HUNTS

[illegible][illegible]

<p>(12) What hunting equipment will be required in each boat? ሽጌልኛዎች ላሳዳሚዎች ለርሽቢላቸው ላላቸው ልቦናዎች?</p>	<p>(13) What safety equipment will be required in each boat? What other safety precautions will you take? ሽጌልኛዎች ለጌራርሰብዎች ለርሽቢላቸው ላላቸው ልቦናዎች? ሽጌልኛዎች ለሥላሴዎች ለጌራርሰብዎች ለሥላሴዎች ልቦናዎች?</p>
<p>(14) What can the sport hunter take for a trophy? ዎሪዎች ለዕድሜያቸው ለሥላሴዎች ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>	<p>(15) What will happen to the rest of the walrus? ሽጌልኛዎች ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>
<p>(16) Who will hold the outfitter's licence? Insurance? ዎሪ ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>	
<p>(17) Did you conduct walrus sport hunts last year? ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>	
<p>(18) If yes, how many sport hunters were there? ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>	<p>(19) How many of the hunts were successful? ሽጌልኛዎች ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>
<p>(20) How many walrus were landed? ሽጌልኛዎች ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>	<p>(21) How many were struck and lost? ሽጌልኛዎች ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው ለዕድሜያቸው?</p>