

SUBMISSION TO THE

NUNAVUT WILDLIFE MANAGEMENT BOARD

FOR



Information:

Decision: X

Issue: Revision of the NWMB's Allocation Policy for Commercial Marine Fisheries

Background:

A working group consisting of Nunavut Wildlife Management Board (NWMB or Board) staff (Executive Director, Legal Counsel, Fisheries Management Biologist) and two Fisheries Advisory Committee (FAC) members, has completed revisions to the *NWMB Allocation Policy for Commercial Marine Fisheries* (Allocation Policy). Consultations with co-management partners and industry have also been completed. The Allocation Policy was first developed in 2001, with a previous major revision in 2007. A decision is required from the Board on whether to approve the 2012 revised version of the Allocation Policy.

Parties wishing to obtain Nunavut commercial marine fisheries allocations must apply to the NWMB under the Allocation Policy. Under the Nunavut Land Claims Agreement (NLCA), the NWMB exercises an extensive decision-making jurisdiction in the marine waters of the Nunavut Settlement Area (NSA), including decision-making jurisdiction (shared with the Minister of Fisheries and Oceans). In waters adjacent to the NSA, the NWMB has extensive advisory authority.

Overview:

A version of the revised (2012) Allocation Policy is included in Appendix A. A version of the previous (2007) version of the Allocation Policy is included in Appendix B.

Notable changes to the revised Allocation Policy include:

- Substantial effort to reduce redundancies throughout the document and update content to better reflect the current context of Nunavut's commercial marine fisheries;
- Development of essential confidentiality safeguards and commitments with respect to the Fisheries Advisory Committee (FAC). These additions comprehensively address the legal duties of FAC members to maintain strict confidentiality with respect to confidential materials and information, both during the members' terms and after those terms have ended (See Part 3, as well as Part 6 and Schedules I and II of Appendix A).
- Proposed annual Verification Reports - prepared by the Department of Fisheries and Oceans (DFO) and Transport Canada – that primarily focus on the “*Mandatory Requirements for Responsible Stewardship*”. These Verification Reports will be

considered by the FAC and the NWMB in their review of both allocation applications and Annual Reports (See Parts 6, 9 and 14, as well as Annexes 2 and 3).

- Revisions to the “*Mandatory Requirements for Responsible Stewardship*” (Part 6) based on feedback from DFO and industry.
- A revised “*Evaluation Form for the Allocation Guidelines*,” which sets out the maximum number of scoring points provided for each subsection of the Allocation Guidelines (see Part 7 and Appendix D). The division of points between major subsections did not change. The scoring system was revised to bring greater balance amongst scoring elements, and reduce subjectivity and duplication. Changes included down-weighting vessel capacity, recognizing processing operations, weighting items by level of importance, removing reference to the Exploratory Fisheries Fund (a voluntary fund), adding points for collaboration amongst industry, and emphasizing business planning. Consideration of numbers of workers as well as dollars spent was also added to the evaluation.
- The former section on “*Small Boat Fisheries Development*” has been entirely deleted, pending appropriate infrastructure development within Nunavut.
- A section on the “*Transfer of Nunavut Allocations*” was added (Part 9). Permanent transfers of allocation are prohibited. Temporary External (outside of Nunavut) and Temporary Internal (within Nunavut) requirements are outlined.
- A section was added on “*New Applications for Commercial Fisheries Allocations*” (Part 10) which highlights the best opportunities for new applicants to receive allocations.
- A new “*Multi-Year Allocations*” section has been added, which sets out proposed five-year allocation terms, and also addresses the challenges of allocation increases and decreases during a five-year term (see Part 12 and Annex 2). Five-year multi-year allocations are favourable to industry for stability in business planning, as well as to DFO under their new Fisheries Modernization initiatives.
- Another new section – “*Allocation Reconciliation*” - proposes the adoption of a formal process to reconcile allocation overruns (Part 13). DFO has guidelines for allocation reconciliation (<http://www.glf.dfo-mpo.gc.ca/e0012110>), but the NWMB has also made decisions based on allocation reconciliation in 2007 and 2010 (Appendix C). A new amendment suggests that if the allocation reconciliation process cannot be completed within the 30-day period, adjustments will be made on a 1:1 basis. Subject to agreement by all allocation holders at the commencement of the five-year allocation term:

“...[t]his adjustment will be based first on any remaining un-harvested allocation in the respective management zone. Thereafter (or, if there is no agreement by all the allocation holders), the remaining allocation overrun, if any, will be deducted from the subsequent year’s allocation of the specific license holder in question.”

The working group also aimed to add a carry-forward provision based on industry at the February 2012 workshop, but this was removed based on opposition by DFO.

- The “*Allocation Application*” procedure and the development and delivery of “*Annual Reports*” are both addressed in the Allocation Policy and in accompanying Flow Charts (See Part 14 and Annexes 1, 2 and 3). It clearly outlines what steps are necessary in allocation application years, for Annual Reports (to be submitted by allocation holders in

the years between allocation applications), and for Verification Reports (to be submitted annually by DFO and Transport Canada).

The deadline for issuing the call for commercial fisheries allocation applications under the Allocation Policy is June 15th.

Summary of Consultations:

The last major revision of the Allocation Policy was approved in 2007. Current revisions began in 2010. The NWMB held workshops on proposed revisions with co-management partners and industry in October 2010 and February 2012 (minutes in Appendix D). Co-management partners and industry also had opportunities to submit written submissions in 2010, 2011 and 2012. Written submissions from 2010, 2011 and 2012 are compiled in Appendices E, F and G respectively (**note: Appendices E, F and G are Internal In-Camera appendices only because industry does not want their submissions to be public**). On May 7th, 2012, a final draft of the Allocation Policy was provided to the fishing industry of Nunavut, as well as the NWMB's co-management partners – the Government of Nunavut (GN), DFO, Transport Canada, all RWOs, and the relevant HTOs - for final review. The deadline for final comments was May 21st and the NWMB's working group reviewed all final submissions (also in Internal In-Camera Appendix G) before finalizing revisions.

Staff Recommendation:

NWMB staff recommend approving the revisions to the Allocation Policy. NWMB staff also suggest that the Board recommend four additional measures proposed in the Allocation Policy, which are outlined below.

Draft Resolutions:

- (1) *MOVED that the Board approve the revised 2012 version of “NWMB’s Allocation Policy for Commercial Marine Fisheries”.*
- (2) *FURTHER MOVED that the NWMB makes the following four recommendations outlined in the revised 2012 version of “NWMB’s Allocation Policy for Commercial Marine Fisheries” (Allocation Policy):*
 - a. *At a minimum, DFO adopt the following measures (outlined in Part 6.5(a) of the Allocation Policy) as departmental policy, and that these measure be included in relevant Integrated Fisheries Management Plans: (i) require each allocation holder to employ fishing practices that minimize the risk of gear loss, and (ii) have in place a functional plan for recovery of lost gillnets.*
 - b. *As per Part 10 of the Allocation Policy, the NWMB would prefer that the Nunavut fishing industry – through the Industry Working Group (IWG) – establish its own administrative rules for temporary internal transfers of Nunavut allocations, compliant with the directions set out in section 9(c) of the Allocation Policy. Accordingly, the NWMB provides the IWG until November 3rd 2012 to develop and submit to the NWMB and DFO a proposed IWG temporary internal transfer*

policy for Nunavut allocations. In the absence of such a submission, current transfer arrangements will remain in place until the NWMB and DFO develop and implement an appropriate policy in consultation with allocation holders.

- c. *The Allocation Reconciliation described in Part 14 of the Allocation Policy should be considered a provisional arrangement to be reviewed by the FAC, the NWMB, and DFO after the third year of implementation. If one or more allocation holders are found to be consistently engaging in overruns, the NWMB is prepared to modify or eliminate adjustments based on any remaining un-harvested allocation in the management zone.*
- d. *Further discussions on carry-over provisions for turbot and shrimp fisheries in the NSA and adjacent waters should take place on a priority basis and involve industry, affected Inuit, the GN, the NWMB and DFO.”*

Prepared By: Anna Magera, Fisheries Management Biologist

Reviewed By: Adam Schneidmiller, Wildlife Management Biologist

Date: May 11th, 2012