

**JOINT SUBMISSION TO  
THE NUNAVUT WILDLIFE MANAGEMENT BOARD AND  
THE NUNAVIK MARINE REGION WILDLIFE BOARD**

**Information: X**

**Decision:**

**Issue:** Update on the Status of Northern Fisheries under the U.S. Marine Mammal Protection Act (MMPA) Import Provisions

**Background:**

The U.S. is preparing to implement the MMPA Import Provisions rule. Once in force, this rule ensures that the U.S. will only accept imports of fish and fish products originating from foreign countries that have enacted management measures to reduce marine mammal bycatch. These measures must be comparable to those used in the U.S., and prohibit the intentional mortality or serious injury of marine mammals in the course of commercial fishing operations. The Import Provisions rule was finalized in 2016 and included a 5-year exemption period (ending on January 1, 2022) so that harvesting nations may develop or improve their domestic regulatory programs.

The MMPA process is administered by the U.S. National Oceanic and Atmospheric Administration (NOAA). Since 2016, NOAA has produced two drafts of the List of Foreign Fisheries (LOFF), which specifies all fisheries for each harvesting nation that export to the United States. The LOFF categorizes each of these fisheries as either “exempt” or “export”, based on the likelihood that it results in marine mammal bycatch. In March 2021, Canada must apply to NOAA for a Comparability Finding (CF) for each of these fisheries. Decisions will be made by November 30, 2021 and approvals are valid for 4 years (TAB 1). After January 1, 2022, the US will no longer accept imports of fish and fish products from foreign fisheries without a NOAA Comparability Finding.

As part of the implementation process, Canada submitted a Progress Report to NOAA on September 10, 2019. This report summarized information on each fishery listed on the LOFF, including details of the regulatory programs used to mitigate marine mammal bycatch. In response, NOAA provided advice on certain fisheries where additional management measures may be required to receive a Comparability Finding.

**Current Situation:**

On March 17, 2020 NOAA published the 2020 Draft List of Foreign Fisheries (LOFF) which accounted for information provided in Canada’s Progress Report, and includes all fisheries that will be required to receive a Comparability Finding in 2021. All Northern fisheries included on the LOFF are listed in Table 1. Following direction from NOAA, minor changes were made to the list of marine mammals that may interact with a these fisheries. All changes are listed in TAB 2.

The next opportunity for Canada to provide fishery information will be in Autumn 2020, when the Comparability Finding application process will open.

Table 1. DFO (Arctic Region) fisheries included in the 2020 draft LOFF

Species	Fishery/Location	Gear Type	Listing
Arctic Char	Cambridge Bay	Fixed gear; Gillnet	Export
Arctic Char	Cumberland Sound	Fixed gear; Gillnet	Export
Arctic Char	Nunavut Settlement Area (NSA)	Fixed gear; Gillnet	Export
Greenland Halibut	Cumberland Sound Turbot Management Area (CSTMA)	Fixed gear; Longline	Export
Greenland Halibut	NAFO Subarea 0, 100 ton	Fixed gear; Pots	Export
Greenland Halibut	NAFO Subarea 0	Fixed gear	Export
Greenland Halibut	NAFO Subarea 0	Mobile gear	Export
Shrimp	Shrimp Management Units (SMU) 0, 1, EAZ, WAZ	Mobile gear	Export

Gillnet fisheries without At Sea Observer (ASO) coverage were flagged as high risk for marine mammal interactions; this includes three northern Arctic Char fisheries. DFO had proposed to categorize Arctic Char gillnet fisheries as Exempt based on their estuarine location, short net soak time, shallow net depth, and opportunistic subsistence harvest of bycatch. NOAA did not approve the change, and all Arctic Char fisheries remain under Export. NOAA has indicated that log book reporting is currently acceptable, but the need for increased reporting is expected in the future.

In 2019, Fisheries and Oceans Canada (DFO) ceased to issue nuisance seal licences, as they conflicted with requirements to prohibit intentional killing of marine mammals in the course of commercial fishing operations. DFO is informally evaluating the possibility of amending the Marine Mammal Regulations (MMR) to reflect situations where lethal removal may be required, such as an imminent threat to human health and safety, death due to entanglement, or the need to avoid serious injury to a marine mammal. DFO is conducting a public survey to inform next steps, including formal public consultation through the Canada Gazette process (<http://www.dfo-mpo.gc.ca/fisheries-peches/consultation/mmr-par-rmm-rap-eng.html> or <http://www.dfo-mpo.gc.ca/fisheries-peches/consultation/mmr-par-rmm-rap-fra.html>). The potential amendment is intended for commercial fisheries only and will not affect Inuit hunting rights.

### **Consultation:**

To date, ongoing engagement between DFO and co-management partners has occurred since December 2018, including the submission of an information note to the NWMB and NMRWB in June 2019. DFO will continue to engage with co-management organizations as updates become available. The most recent conference call was held on April 27, 2020 at which time DFO reviewed the 2020 draft LOFF and updated co-management organizations with details of a technical consultation between DFO and NOAA. A summary of each conference call is provided to all

invitees. Feedback received through this process has been incorporated into all regional submissions to NOAA. A complete list of consultation activities is appended for reference in (TAB 3).

**Recommendation:**

It is recommended that the NWMB and the NMRWB continue to support the inclusion of these key fisheries on the LOFF. Any concerns the Boards have should be flagged to DFO prior to the start of the CF Application Process in Autumn 2020. The Boards will be notified when this process begins.

**Prepared by:**

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**Date: July 22, 2020**

## TAB 1: Overview of the U.S. Marine Mammal Protection Act (MMPA) Import Provisions

### MMPA import provisions

- The U.S. *Marine Mammal Protection Act* (MMPA) Import Provisions establish new market access requirements for fisheries that export to the U.S. and includes 3 components described in the List of Foreign Fisheries (LOFF): wild capture fisheries, aquaculture operations, and intermediary nations.
- These provisions only apply to nations with fisheries exporting fish or fish product to the U.S. directly or indirectly, as an **intermediary nation**.
- Under the import provisions, which take effect on January 1, 2022, harvesting nations intending to export fish and fish products to the U.S. must apply for and receive a **comparability finding** from the U.S. National Oceanic and Atmospheric Administration (NOAA) for each of its commercial fisheries and aquaculture operations.

**Intermediary Nation:** a nation that imports fish or fish products from a fishery on the List of Foreign Fisheries and re-exports such fish or fish products to the U.S.

**Comparability Finding:** Finding by NOAA required to export fish and fish products to the U.S.

Detailed information from the U.S. government on the MMPA import provisions can be found at: <https://www.fisheries.noaa.gov/foreign/marine-mammal-protection/noaa-fisheries-establishes-international-marine-mammal-bycatch-criteria-us-imports>.

### List of Foreign Fisheries (LOFF)

The U.S. developed a List of Foreign Fisheries (which export fish and fish products to the U.S.), based on input from harvesting nations and other third party sources. The LOFF classifies each fishery as either an

**Exempt:** remote likelihood of marine mammal bycatch

**Export:** risk of marine mammal bycatch

“**exempt**” or “**export**” fishery based on its risk of marine mammal bycatch.

Throughout 2016-2019, the Department of Fisheries and Oceans Canada (DFO) consulted with NOAA to provide and revise data for several drafts of the LOFF, the latest is expected to be published in February - March 2020.

The 2018 LOFF can be found at: <https://www.fisheries.noaa.gov/foreign/international-affairs/list-foreign-fisheries>.

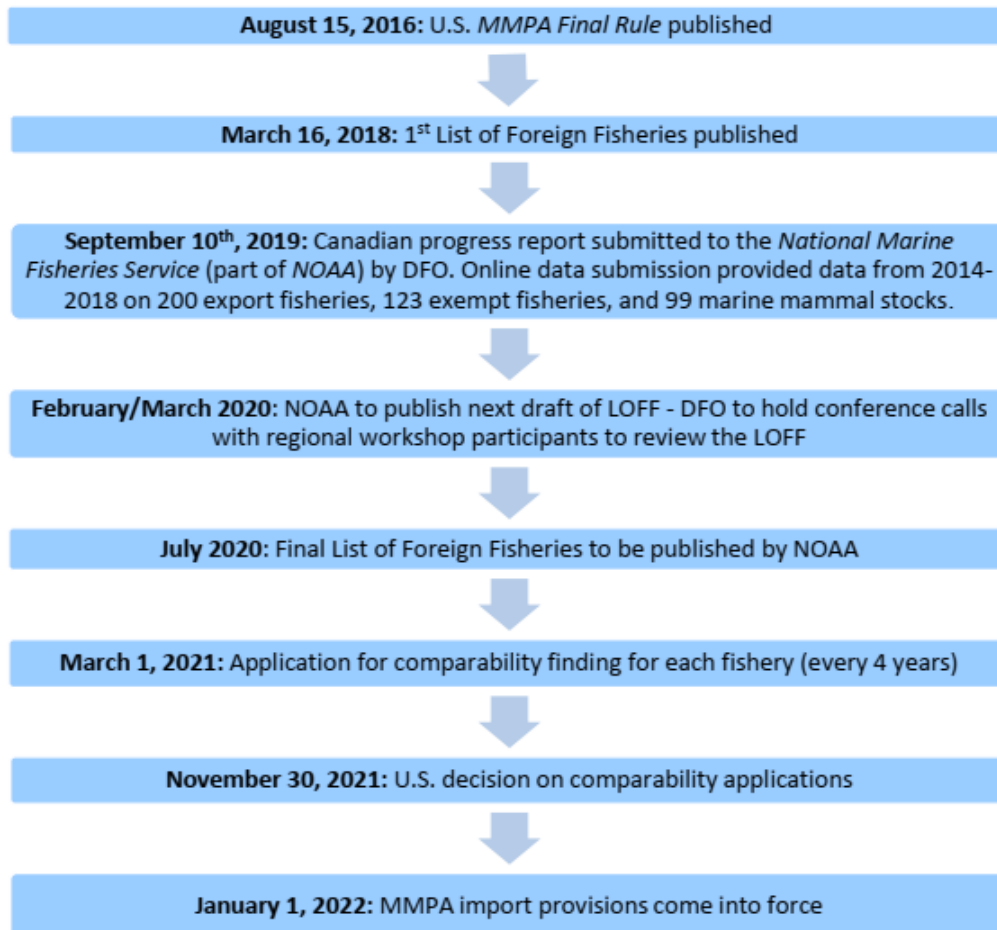
**Disclaimer:** This material was prepared by Fisheries and Oceans Canada to assist Canadian fisheries in preparing for the new U.S. MMPA import provisions. This is not meant to be a replacement for information available from the United States.

## What the MMPA Means for Canadian Commercial Fisheries

- All fisheries intending to export to the U.S. must include a prohibition of the intentional mortality and serious injury of marine mammals during the course of commercial fishing operations.
- Export fisheries are also required to maintain a regulatory program for the fishery that is comparable in effectiveness to the U.S. regulatory program, with respect to mitigating the bycatch of marine mammals.
- DFO Science is supporting Canada's goal to meet the MMPA import provision requirements by providing population estimates and **Potential Biological Removal** levels for marine mammals likely to interact with Canadian fisheries.

**Potential Biological Removal:** the maximum number of animals (not including natural mortalities) that can be removed from a marine mammal stock while allowing that stock to reach/maintain an optimal population level

## Timeline for the U.S. MMPA



## **TAB 2: Summary of changes to marine mammal (MM) stocks listed in the 2020 draft LOFF**

**Purpose for Changes:** All changes to MM stocks in LOFF fisheries were made based on further refinement of stock distribution in relation to fishery location. If the MM stock range did not overlap and had no reported interactions with the fishery in question, it was removed. Alternatively, if a stock that was not originally included was deemed to overlap with a given fishery, it was added.

### **Greenland Halibut – Gillnets and Longlines (Fixed Gear) 0A/0B**

MM Stocks Removed

- Grey Seal (Western North Atlantic)
- Northern Bottlenose Whale (Scotian Shelf)

### **Greenland Halibut – Trawls (Mobile Gear) 0A/0B**

No Changes

### **Greenland Halibut – Longlines 0B Cumberland Sound Turbot Management Area (CSTMA)**

MM Stocks Removed

- Fin Whale (Gulf of St. Lawrence, Scotian Shelf, Bay of Fundy, Newfoundland); (West Greenland stock remains)
- Grey Seal (Western North Atlantic)
- Humpback Whale (Gulf of St. Lawrence, Scotian Shelf, Bay of Fundy Newfoundland); (West Greenland stock remains)

### **Greenland Halibut – Longlines 0A in the Nunavut Settlement Area**

MM Stocks Removed

- Grey Seal (Western North Atlantic)

MM Stocks Added

- Atlantic Walrus (Penny Strait/ Lancaster Sound)

### **Aesop Shrimp/ Northern Prawn – Otter Trawls**

MM Stocks Removed

- Grey Seal (Western North Atlantic)

### **Arctic Char – Gillnets Cambridge Bay**

MM Stocks Removed

- Atlantic Walrus (Penny Strait/ Lancaster Sound)
- Beluga, white whale (High Arctic)

### **Arctic Char – Gillnets Cumberland Sound**

MM Stocks Removed

- Blue Whale (Western North Atlantic)
- Grey Seal (Western North Atlantic)

### **Arctic Char – Gillnets (Kitikmeot, Kivalliq, and Qikiqtaaluk Regions of NU)**

MM Stocks Removed

- Blue Whale (Western North Atlantic)
- Grey Seal (Western North Atlantic)

**TAB 3: List of regional stakeholder engagement opportunities to provide input on DFO Arctic LOFF submissions**

<b>LOFF Fishery</b>	<b>Organization(s) Contacted</b>	<b>Method of Engagement</b>
Cambridge Bay Arctic Char	Kitikmeot Foods Ltd. (KF) Ekaluktutiak HTO Cambridge Bay Community Elders Nunavut Wildlife Management Board Nunavik Tunngavik Inc. Nunavik Marine Regional Wildlife Board Makivik Government of Nunavut	KF Post-Season Meeting (Jan 2019)  Request for comment prior to submission (May 2019)
Cumberland Sound Arctic Char	Pangnirtung HTO: Nunavut Wildlife Management Board Nunavut Inuit Wildlife Secretariat Nunavik Tunngavik Inc. Nunavik Marine Regional Wildlife Board Makivik Government of Nunavut	Request for comment prior to submission (May 2019)
Nunavut Arctic Char Fisheries (remainder)	Community HTOs: Clyde River, Resolute Bay, Pond Inlet, Qikiqtarjuaq, Arctic Bay, Igloolik, Hall Beach, Grise Fiord, Cape Dorset, Iqaluit, Kimmirut, Sanikiluaq, Gjoa Haven, Taloyoak, Kugaaruk, Kugluktuk, Bathurst Inlet Kitikmeot Regional Wildlife Board Nunavut Wildlife Management Board Nunavik Tunngavik Inc. Nunavik Marine Regional Wildlife Board Makivik Government of Nunavut	Request for comment prior to submission (May 2019)
Cumberland Sound Turbot Management Area (CSTMA) Greenland Halibut	Pangnirtung HTO Cumberland Sound Fisheries Ltd./Pangnirtung Fisheries Ltd. Nunavut Wildlife Management Board Nunavut Inuit Wildlife Secretariat Nunavik Tunngavik Inc. Nunavik Marine Regional Wildlife Board Makivik Government of Nunavut	NFA – DFO Meeting (Dec 2018)  Request for comment prior to submission (May 2019)
NAFO Subarea 0, 100 ton	Community HTOs: Arctic Bay, Pond Inlet, Clyde River,	Request for comment prior to submission (May 2019)

	<p>Qikiqtarjuaq, Resolute Bay, Grise Fiord,  Nunavut Wildlife Management Board  Nunavut Inuit Wildlife Secretariat  Nunavik Tunngavik Inc.  Nunavik Marine Regional Wildlife Board  Makivik  Government of Nunavut</p>	
<p>NAFO Subarea 0  Greenland Halibut (Fixed  and Mobile Gear)</p>	<p>Nunavut Wildlife Management Board  Nunavut Fishery Association (NFA)  Eastern Arctic Groundfish Stakeholders  Advisory Committee (EAGSAC)  Nunavik Tunngavik Inc.  Nunavik Marine Regional Wildlife Board  Makivik  Government of Nunavut</p>	<p>NFA – DFO Meeting (Dec  2018)</p> <p>EAGSAC Stakeholder  Advisory Meeting (Feb  2019)</p> <p>Request for comment prior  to submission (May 2019)</p> <p>EAGSAC Stakeholder  Advisory Meeting (Feb  2020)</p>
<p>SMU 0, 1, EAZ, WAZ  Shrimp</p>	<p>Nunavut Wildlife Management Board  Northern Shrimp Advisory Committee  (NSAC)  Nunavik Tunngavik Inc.  Nunavik Marine Regional Wildlife Board  Makivik  Government of Nunavut</p>	<p>NSAC Meeting (Mar 2019)</p> <p>Request for comment prior  to submission (May 2019)</p> <p>NSAC Stakeholder  Advisory Meeting (2020)</p>
<p>All LOFF Fisheries –  Status Update</p>	<p><u>Community Hunters and Trappers  Organizations/Associations:</u> Cambridge  Bay, Issatik (Whale Cove), Arviq/Naujaat  (Repulse Bay), Aqigiq (Chesterfield Inlet),  Aiviit (Coral Harbour), Arviat, Rankin  Inlet, Baker Lake, Ikajutit (Arctic Bay),  Pond Inlet, Clyde River, Igloodik, Hall  Beach, Resolute Bay, Grise Fiord, Iqaluit  HTO, Mayukalik (Kimmirut), Nattivak  (Qikiqtarjuaq), Sanikiluaq, Gjoa Haven,  Kurairojuark (Kugaaruk), Kugluktuk,  Taloyoak, Bathurst Bay, Pangnirtung  <u>Regional Wildlife Organizations:</u>  Kitikmeot, Qikiqtaaluk, Kivalliq  <u>Government Organizations/Boards:</u>  Nunavut Wildlife Management Board,  Nunavik Marine Region Wildlife Board,</p>	<p>Regional Conference Call  and Summary (Nov 2019)</p> <p>Regional Conference Call  and Summary (Mar 2020)</p> <p>Regional Conference Call  and Summary (Apr 2020)</p> <p>Notification of pre-  consultation for proposed  amendments to the Marine  Mammal Regulations (July  2020)</p>

	<p>Makivik, Nunavut Tunngavik Inc.,  Government of Nunavut,  Nunavut Development Corporation,  Fisheries Joint Management Committee,  Inuvialuit Game Council, Gwich'in  Renewable Resource Board</p> <p><u>Processors/Companies/Other:</u> Kitikmeot  Foods Ltd., Atuqtuarvik Corp., Kilabuk  Outfitting, Pangnirtung Fisheries Ltd.,  Arctic Fisheries Alliance, Nunavut  Country Foods, Nunavut Fisheries  Association, Baffin Fisheries Coalition,  Cumberland Sound Fisheries, Qikiqtaaluk  Corporation, Iglugili, Kivalliq Arctic  Foods Ltd., Eastern Arctic Groundfish  Stakeholders</p>	
All LOFF Fisheries	<p>Nunavut Wildlife Management Board  Nunavik Marine Region Wildlife Board</p>	<p>Regular Meeting  Submission – Information  Note (June 2019)</p>