

November 9, 2018

Jason Akeeagok, Executive Director
Nunavut Wildlife Management Board
PO Box 1379, Iqaluit, NU
X0A 0H0

Re: Final approval of the draft revised Nunavut Wildlife Management Board Allocation Policy for Commercial Marine Fisheries

Dear Jason,

The members of the Nunavut Fisheries Association (NFA) are pleased to provide the following submission to the written hearing on the draft revised *Nunavut Wildlife Management Board Allocation Policy for Commercial Marine Fisheries*. This submission details issues upon which the members of NFA have been able to reach a consensus for consideration by the NWMB. Individual industry members will also avail of the opportunity to provide input on specific issues of interest to their operations.

NFA members reached a level of consensus on the following issues:

- *Linkage between scoring and allocation recommendations*
- *Culpable negligence*
- *FAC composition*
- *Verification reports*
- *Requirement for delivery of audited financial statements by July 31st*
- *Scoring inconsistencies: Scoring items 7.3.1d, 7.4.1a, 7.5.2 and 7.2.6a*

Details on each of these issues and the position of NFA members on these issues is outlined in the following pages.

Thank you for the NWMB Board's consideration of the NFA's input on the above issues. We look forward to the results of the NWMB Board's deliberations and the completion and implementation of the revised policy.

Sincerely,



Lottie Toomasie
Chair, Nunavut Fisheries Association

cc: Jerry Ell, NFA Vice-Chair
Sakiasie Sowdlooapik, NFA Secretary-Treasurer
Jerry Ward, NFA Director

NFA Consensus on Allocation Policy Issues

Linkage between scoring and allocation recommendations

At present, there is no connection between scores and allocations beyond the minimum qualifying threshold of 60%, which exists in the current Policy. Beyond that, the FAC and applicants have no direction on how to interpret scores and what they will mean in terms of recommendations to NWMB. For instance, what score will subject an applicant to a quota reduction instead of maintaining their allocation or receiving an increase? Or will applicants' scores be ranked?

From the NFA's perspective, it is critical to outline the link between scores and allocations to increase the transparency of the Policy. Without such a mechanism, this two-year policy review will have generated an elaborate and labour-intensive application and scoring process that ultimately still does not inform the NWMB, the FAC, or stakeholders how allocation recommendations are determined.

Based on the discussions held in July/August, it was evident that there was a desire to balance the fairness and transparency of the allocation process with a degree of discretion for the FAC and by extension, the NWMB. The goal of linking scores to allocations is to objectively identify who qualifies to maintain or increase their allocations based on their score rather than how well one enterprise scored relative to another (i.e. ranked scores). However, the FAC will have the freedom to recommend the specific quantity of an allocation increase based on their judgement of the merits of the qualifying applicants. Under such a system, applicants and the NWMB will be able to understand quickly and objectively why an enterprise did or did not maintain their allocation or qualify for a quota increase (if available), simplifying the FAC's explanation of their rationale.

Finally, NFA believes that the implementation of such a link between scores and quotas will support financing applications to lending agencies because it should create greater certainty than the existing policy. Enterprises will be able to demonstrate that the retention or increase of quotas will be dependent solely on that enterprise's internally-controlled performance, rather than be subject to external factors such as the relative performance of other allocation holders.

In summary, NFA members agree that it is critical that scoring of enterprises be linked to allocation recommendations. Members were unable to agree on the scoring thresholds that would be implemented in order to maintain or increase allocations.

Culpable negligence

The current policy outlines that culpable negligence would be applied to penalties (loss of quota) associated with the Annual Report, but it does not extend to quota losses during an application process.

NFA members agreed, for transparency and understanding, that a clear definition of culpable negligence must be included in the policy, as well as how this penalty measure would be implemented throughout the policy. NFA requests this information such that its members can provide a reasoned response to this issue.

FAC composition

A new addition has been included in Appendix A, Section 3.1 (page 43) regarding the composition of the FAC. The appointing agencies of the FAC (i.e. NWMB, NTI and GN) may no longer appoint employees of their own organization “to avoid potential conflicts of interest and apprehensions of bias”. NFA supports this change as being consistent with the issues brought forward by the NFA and its members and the need for greater industry and business expertise on the FAC. However, a footnote to this clause states all incumbent members may fulfill the remaining length of their term (i.e. a grandfather clause). In keeping with the spirit of the new policy provision, the NFA wishes to ensure that the implementation of this provision will not be delayed for an extended period of time.

Verification reports

Under this draft Policy, allocation holders are now expected to procure their own Verification Reports from Fisheries and Oceans Canada (DFO) and Transport Canada (TC). Based on the discussions held at the July-August 2018 workshop, the intent behind this change to the Policy is to avoid potential conflicts with federal privacy regulations that may arise if the NWMB requests these reports.

NFA members are concerned that they may be penalized if DFO and TC are late in providing these documents, even though members have no control over the timing of these entities. To ensure fair and equitable treatment by all participants, NFA is requesting that the NWMB continue to request the verification reports for each entity from DFO and TC and that, as required, NFA members will provide a written release to enable these documents to be provided directly to the NWMB.

Requirement for delivery of audited financial statements by July 31st

The timing for final delivery of audited financial statements for member organizations can vary based on the structure and complexity of the organization and the auditors’ timelines. Some NFA members have indicated that it will not be possible to have their final approved statements delivered by a July 31st deadline. All members agree that audited statements will be submitted as soon as possible after completion but want to ensure that they are not penalized due to timing circumstances beyond their control.

Scoring inconsistencies: Scoring items 7.3.1d, 7.4.1a, 7.5.2 and 7.2.6a

7.3.1d Present plan to improve employment opportunities and promotion within your enterprise for Inuit, Nunavut, and senior employment

On the scoresheet distributed to members on August 2, guideline 7.3.1d had its total score increased from 2 to 4 points. However, in the current draft, the guideline total has reverted to 2. The highest points awarded in this Policy are currently associated with Inuit and Nunavummiut employment, and the consensus at the workshop was that if this principle is valued so highly, having a plan to improve employment figures should also be rewarded. Similarly, by increasing the score to 4 points, it would place the evaluation on the same scale as the governance plans evaluated in section 7.2, rendering the FAC's review of applications more consistent.

7.4.1a Identify degree of ownership/sponsorship by RWOs, HTOs or Nunavut Communities

The greatest disparity in scoring is guideline 7.4.1a regarding Inuit ownership. It was negotiated at the summer workshop that this guideline was significantly undervalued at 3 points, especially compared to the points available for Inuit and Nunavummiut employment (a combined total of 15).

The consensus at this workshop was that this guideline should be worth 12 points (calculated by multiplying the existing point descriptors by 4). This was reflected on the scoresheet distributed following the July-August workshop on August 2nd. Unfortunately, the current draft still uses the original total score of 3. NFA is requesting that this scoring be changed to 12 points.

7.5.2 Demonstrate other (non-cash) benefits provided to Nunavut owner(s)/community(ies)/industry(ies) in total dollars and percentage of total fisheries related profits

In scoring guideline 7.5.2a, applicants are asked to link their non-cash benefits to their audited financial statements. Based on the understanding of the discussion of the July-August workshop and the current draft Policy, scoring guideline 7.5.1a asks for cash and cash-equivalent benefits (i.e. those that can be quantified with a specific cash value) and guideline 7.5.2a asks for a list of items that have no cash-equivalent value. Because this guideline is specifically looking for a list of benefits that cannot be quantified with cash values, they are not possible to include on audited financial statements. As such, NFA is requesting a change in wording such that this non-existent link is removed.

7.2.6a Demonstrate adherence to and achievement of business plans, goals, and objectives

In this scoring guideline, applicants are asked to demonstrate their adherence to their previous business plan, with points awarded based on the percentage of goals met. While we understand this guideline is intended to ensure accountability in quota holders from one application to the next, in practice the lack

of flexibility permitted in the evaluation of this guideline will place the industry at a significant competitive disadvantage.

The allocation cycle lasts for a period of five years. Although applicants will endeavour to prepare a reasonable business plan for that time, it is well understood that business plans require revision and updating over time as projections become less accurate the further into the future they extend. This is particularly true in fisheries. Even if business plans are well-aligned with the fishing stock's health and market conditions at the time of an application's submission, those conditions will change over the course of the allocation cycle, sometimes drastically. For example, consider the Newfoundland cod fishery during the late 1980s, or more recently, the shrimp fishery in area 6.

Although applicants are instructed to explain any changes in their business plan and outline reasons for not achieving their goals, the score descriptions do not permit any judgement on whether such adjustments will be permitted. It is imperative that greater flexibility be written into this guideline, otherwise Nunavut's enterprises will be forced to choose between scoring well to maintain their future allocations or adapting in a timely and fiscally responsible manner to dynamic conditions. Requiring such a choice will constrict the ability of the fishing industry to compete with enterprises from southern Canada, to the detriment of Nunavut. Modifying this scoring guideline will bestow a degree of flexibility, allowing enterprises to take advantage of opportunities that could not have been predicted when the application was submitted.

Consequently, we suggest that the scoring descriptions be modified as follows:

0 points = no or few goals met, with no evidence of adaptation to changing business conditions if required

1 point = met 60% or more of goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved 60% of the modified goals

2 points = met 80% or more of goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved 80% of the modified goals

3 points = met 90% or more of goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved 90% of the modified goals

4 points = met all goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved all of the modified goals