

Policy for Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries

The [new inshore regulations](#) replaced this content on April 1, 2021.

The [Commercial Fisheries Licensing Policy for Eastern Canada](#) has been updated to reflect these new regulations.

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Message from the Minister

As Canada's Minister of Fisheries and Oceans, I believe strongly that an independent inshore commercial fishing fleet is an important element of an economically prosperous Atlantic Canada. I am pleased to present the Policy for Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries (PIIFCAF). This Policy underscores this Government's commitment to building a foundation of economic strength for Atlantic coastal communities.

The PIIFCAF Policy affirms the Government of Canada's commitment to support an independent inshore fleet through the creation of circumstances for resource users to be more self-reliant, economically viable and self-sustaining on a long-term basis. The PIIFCAF Policy is part of Fisheries and Ocean's comprehensive approach to enhance the economic prosperity of fishers and fleets through the Fisheries Renewal initiative. This approach is based on promoting stability, predictability and transparency in fisheries management decision-making.

The goal of the PIIFCAF Policy is to strengthen the Owner-Operator and Fleet Separation Policies to ensure that inshore fish harvesters remain independent, and that the benefits of fishing licences flow to the fisher and to Atlantic coastal communities.

I am confident that this Policy will form an important basis from which the hard-working men and women in the Atlantic inshore fisheries industry can enjoy the economic benefit of their labour.

I look forward to continuing the important work of this government in support of economically prosperous coastal communities.

The Honourable Gail Shea, P.C., M.P.
Minister of Fisheries and Oceans

1. Policy Statement

The Policy on Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries (PIIFCAF) promotes a commercial fishery in Atlantic Canada with a strong independent inshore sector. The Policy includes a comprehensive approach to assist fish harvesters to retain control of their enterprises, enhance access to capital from traditional lending institutions and maintain the wealth generated from fish harvesting in coastal communities.

Established by DFO under the authority of the *Department of Fisheries and Oceans Act*, which grants the Minister the management and direction of the Department, the PIIFCAF Policy is part of the Fisheries Renewal initiative. Under Fisheries Renewal, DFO seeks to promote conditions and develop mechanisms to support and foster a robust and diverse fisheries sector.

During the Atlantic Fisheries Policy Review (AFPR), the most extensive public engagement exercise ever undertaken by DFO, inshore fish harvesters repeatedly noted that the use of Controlling Agreements in the Atlantic inshore fishery was undermining many licensing policies, including the Fleet Separation and Owner-Operator policies. These agreements often give influence or control over the licence holder's decision to request the issuance of a replacement licence to another person. In addition, these arrangements made it increasingly difficult to determine who was committed to, had a direct attachment to and an active interest in protecting and preserving the fishery resource for current and future generations.

The PIIFCAF Policy strengthens the Owner-Operator and Fleet Separation policies by addressing issues concerning Controlling Agreements and ensures that those who are benefiting from the privilege of the licence are those who are actively engaged in the fishery and the consultative process.

The objectives of this Policy are to:

- reaffirm the importance of maintaining an independent and economically viable inshore fleet;
- strengthen the application of the Owner-Operator and Fleet Separation policies;
- ensure that the benefits of fishing licences flow to the fish harvester and the coastal community; and

- assist fish harvesters to retain control of their fishing enterprises.

With this aim, the Policy creates the Independent Core category as new eligibility criteria for the receipt of new or replacement vessel-based fishing licences in the inshore sector of Atlantic Canada after April 12, 2007.

The Independent Core category is available to inshore fish harvesters who are not party to Controlling Agreements with respect to the vessel-based fishing licenses issued in their name. Please refer to Section 2 – Definitions for additional information.

The PIIFCAF Policy applies to fish harvesters in DFO's Newfoundland and Labrador, Maritimes, Gulf, and Québec Regions in the inshore vessel-based fishery who, are heads of Core enterprises.

The PIIFCAF Policy does not apply to fishing licences issued under the *Aboriginal Communal Fishing Licences Regulations* (ACFLR) and licences issued to individuals in the Exempted Fleets identified in Section 8 Policy Exemptions.

This policy will eventually be integrated into a consolidated Commercial Fisheries Licensing Policy.

PIIFCAF is a policy which guides the Minister. It is not binding on the Minister nor does it fetter his/her discretion to issue licences granted under Section 7 of the *Fisheries Act*.

2. Definitions

Community Development Board (CDB) or Community Development Organization (CDO), for the purposes of PIIFCAF, means a community development board or organization whose sole source of funding is from federal/provincial/municipal governments and whose objectives do not conflict with PIIFCAF.

Controlling Agreement (CA) means an agreement between a licence holder and a person, corporation or other entity that permits a person, other than the licence holder, to control or influence the licence holder's decision to submit a request to DFO for issuance of a "replacement" licence^{Footnote1} to another fish harvester (commonly referred to as a "licence transfer"). Agreements between the licence holder and a Recognized Financial Institution (RFI) are not Controlling Agreements if (1) there is no third party involved in the Agreement or (2) any co-signor, guarantor or other surety involved in an agreement does not control or influence the licence holder's decision to submit a request to DFO for the issuance of a "replacement" licence to another fish harvester.

Core Enterprise is a fishing unit composed of a fish harvester (head of enterprise), registered vessel(s) and the licences he or she holds, and which has been designated as such in 1996 under the approved criteria.

Head of a Core Enterprise is the person who is named on the licence and is in charge of a core enterprise.

Independent Core (IC) is the category assigned to the head of a Core enterprise who is not party to a Controlling Agreement with respect to the licences issued in his or her name.

Inshore refers to the fishing sector where fish harvesters are restricted to using vessels less than 19.8m (65') Length Over All (LOA), and in the Newfoundland and Labrador Region, where fish

harvesters may be permitted to use a vessel less than 27.4m (90') LOA when specific conditions are met.

Recognized Financial Institution (RFI) for the purposes of PIIFCAF, includes:

- a. Canadian financial institutions as defined in the *Bank Act*;
- b. The Business Development Bank of Canada;
- c. Export Development Canada;
- d. Provincial Loan Boards: Fisheries Loan Guarantee Program (Newfoundland and Labrador); Direct Loans for Commercial Fishing Program (New Brunswick); Fisheries and Aquaculture Loan Board (Nova Scotia); P.E.I. Lending Agency (P.E.I.); Commercial Fishery Financing Program (Québec); Programme d'allégement temporaire du remboursement des prêts aux entreprises de la pêche (Québec).

Regional Review Committee is a committee responsible to assess eligibility for the Independent Core category and is comprised of a minimum of three (3) departmental middle/senior managers.

3. Categorization

The concept of a core group of a maximum number of multi-licensed enterprises was introduced in the 1996 *Commercial Fisheries Licensing Policy for Eastern Canada*. A Core Enterprise is a fishing unit composed of a fish harvester who is head of the enterprise, his or her registered vessel(s) and the licences he or she holds. A licence holder was required to meet four criteria to qualify as a member of the core group:

- Be the head of an enterprise,
- Hold key licences,
- Have an attachment to the fishery, and
- Be dependent on the fishery.

Under this concept, entry into the core group was possible only by replacing an existing enterprise.

The PIIFCAF Policy creates two new categories of fish harvester:

1) Independent Core

Heads of Core enterprises who are not party to a Controlling Agreement with respect to any inshore vessel-based fishing licences issued in their name, will be eligible to obtain the Independent Core category where the fish harvester:

- a. Has filed the Declaration (duly signed and witnessed) stating that he/she is not party to a Controlling Agreement with respect to inshore vessel-based licence(s) issued in his/her name; and
- b. Has not been categorized as Under Review.

The **Independent Core** category is an eligibility criteria for the receipt of new or replacement inshore vessel-based licences.

Fish harvesters who have been categorized as Independent Core are required to maintain their status by not entering into Controlling Agreements with respect to inshore vessel-based licences issued in their name.

2) Under Review

DFO reserves the right to review the licence holder's categorization through the Regional Review Committee if at any time DFO has reason to believe that the licence holder has been categorized as Independent Core but does not meet the criteria for the Independent Core category. Once the review process is initiated, the fish harvester will be categorized as Under Review.

Where a licence holder has been placed Under Review, DFO will not process any of the following:

- A request to file a new Declaration;
- A request to receive new or replacement licences;
- A request for the re-issuance of a replacement vessel-based licence issued in the fish harvester's name; and
- A request to transfer quota for more than one fishing season for the vessel-based licence(s) issued in the fish harvester's name.

The fish harvester will be given written notification that he or she is Under Review.

[Examples of indicators that could result in DFO reviewing a licence holder's categorization](#)

4. Filing Declarations

All heads of Core enterprises that existed as of April 12, 2007, were required to file a Declaration with DFO by March 31, 2008. As the Independent Core category has become eligibility criteria for the receipt of inshore vessel-based licences, DFO also requires that a Declaration be filed every time a fish harvester requests new or replacement inshore vessel-based licences.

A Declaration is not required from Estates.

5. Policy Implementation

The PIIFCAF Policy was announced on April 12, 2007 and implementation ensued.

Licence holders who were a party to Controlling Agreements, with respect to the licence(s) issued in their name, on or before April 12, 2007, have until **April 12, 2014** to comply with this Policy.

As described in Section 4 above, Declarations are to be filed with DFO. The following are the implications that could ensue:

a) Implications if Licence Holder Declares *No Controlling Agreement*

Where a licence holder declares not to be a party to a Controlling Agreement with respect to inshore vessel-based licence(s) issued in his or her name, and there is no reasonable basis to

question and no information that could be relied upon to establish that the licence holder has filed a false Declaration, the licence holder will be eligible to be categorized as Independent Core. A licence holder who is categorized as Independent Core will be eligible for all benefits previously available to heads of Core enterprises.

b) Implications if Licence Holder Declares Having Entered into a *Controlling Agreement* on or Before April 12, 2007

Where a licence holder declares that on April 12, 2007 he or she was a party to a Controlling Agreement with respect to the inshore vessel-based licence(s) issued in his or her name, the licence holder will be required to **terminate** the Controlling Agreement or **amend** the agreement to bring it into compliance with the PIIFCAF Policy by **April 12, 2014** in order to be eligible to continue to hold these licences.

The following consequences will apply to the licence holder as long as he or she remains a party to the Controlling Agreement (before April 12, 2014); the licence holder:

- Will continue to have his/her enterprise categorized as Core;
- Will continue to be eligible to apply for the issuance of a new licence for the subsequent fishing season (“licence renewal”);
- Will not be eligible to be categorized Independent Core; and,
- Will not be eligible to be issued new or replacement licences.

However, he or she will be eligible to request the issuance of a replacement licence(s) to an eligible Independent Core recipient, including the licence(s) that are subject to a Controlling Agreement.

Once a licence holder has demonstrated to the satisfaction of DFO that he or she is no longer party to a Controlling Agreement with respect to the inshore vessel-based licence(s) issued in his or her name, the licence holder may file a new Declaration and will be considered for the Independent Core category.

Fish harvesters will be advised in writing of their categorization based on the submission of the Declaration.

c) Implications if Licence Holder Does Not File a Declaration

Licence holders who do not file a Declaration will *not* be eligible to be re-categorized. After March 31, 2008 and until a Declaration is filed, DFO will not process requests made by the licence holder for the following licensing transactions:

- Renewal notices for Personal Fisher Registration (PFR), vessel registration and licences;
- Issuance of fishing tags in relation to licences;
- Issuance of licences or licence conditions related to licences;
- Requests for vessel registration / transfer / replacements;

- Issuance of fish harvester's registration commonly referred to as the Personal Fisher Registration (PFR);
- Requests for the issuance of a replacement licence; and,
- Issuance of new licences.

6. Entering a Controlling Agreement after April 12, 2007

The following consequences will apply to a licence holder who enters into a Controlling Agreement after April 12, 2007; the licence holder:

- Will not be eligible to be categorized as Independent Core;
- Will not be eligible to be issued the licence that is subject to a Controlling Agreement in the following, or subsequent years;
- Will not be eligible to request the issuance of a replacement licence that is subject to a Controlling Agreement; and,
- Will continue to be eligible to request the renewal of licences that are not the subject of a Controlling Agreement.

7. Appeal Process

Fish harvesters have the opportunity to appeal decisions relating to the categorization assessment through the DFO Atlantic Fisheries Licence Appeal System pursuant to section 34(1) of the existing *Commercial Fisheries Licensing Policy for Eastern Canada*.

8. Policy Exemptions

Fleets may be exempted from the application of the PIIFCAF, Owner-Operator and Fleet Separation Policies if they meet the criteria set out in [Annex 1](#).

The following fleets in the Maritimes Region have been exempted from the Owner-Operator, Fleet Separation and PIIFCAF policies as of August 16, 2007:

- Groundfish fixed gear ITQ 45-65'
- Groundfish mobile gear ITQ <65'
- Swordfish longline
- Herring purse seine
- Full Bay scallop
- Scotian Shelf shrimp mobile gear ITQ <65'

9. Notice and Acknowledgement System

The PIIFCAF policy introduced a Notice and Acknowledgement System developed in conjunction with the financial community to assist fish harvesters to retain control of their enterprises and enhance access to capital from traditional lending institutions.

The system is available for use with Recognized Financial Institutions and is also available for use with Community Development Boards or Organizations, provided that DFO has determined that the objectives and interests of the board or organization do not conflict with the PIIFCAF Policy, that the sole source funding of the board or organization is from federal/provincial/municipal governments and that there is no Controlling Agreement between the fish harvester and the board or organization.

The Notice and Acknowledgement System is used to notify DFO of an agreement between the fish harvester and the Recognized Financial Institution and/or the Community Development Board or Organization.

The Notice form allows the Recognized Financial Institution and/or the Community Development Board or Organization to notify DFO that they have an arrangement with a particular licence holder. When a Notice is on file, an Acknowledgement form, signed by the Recognized Financial Institution and/or the Community Development Board or Organization, is required at the time of request for licence re-issuance, acknowledging that both parties are aware of the proposed transaction.

[Notice and Acknowledgement forms](#) are also available in DFO Licensing Offices.

10. Policy Flexibility

Under extenuating circumstances, to support PIIFCAF, transition operator privileges were authorized for licence holders who declare to be in a CA. These privileges were valid until March 31, 2009, in order to allow the licence holder to participate in fishing activity on another vessel or to pursue alternative employment activities. As of March 31, 2009, these privileges are no longer available.

11. For Further Information

[Further information regarding PIIFCAF](#). Questions should be referred to local DFO Licensing Officials.

Annex 1: Eligibility Criteria for Fleet Exemptions Under PIIFCAF

The criteria for consideration for exemption from the application of the PIIFCAF Policy are used to determine the instances where the application of these policies would be more disruptive than beneficial from a fisheries management point of view.

A fleet seeking exemption must demonstrate that they meet the following criteria:

- There was an Individual Transferable Quota (ITQ) program in place for at least 5 consecutive years;
- One of the reasons for requesting the ITQ program was to assist the fleet in self-rationalization objectives;
- The fleet experienced significant restructuring and self-rationalization as a result of the ITQ program;
- There was significant quota transfer activity under quota transfer regimes; and,

- A significant number of licences fall within paragraph 11(7) of the *Commercial Fisheries Licensing Policy for Eastern Canada*, 1996, that is to say, a significant number of licence holders are not required to fish their licences personally because they had previously designated an operator for one or more of their vessels and continued to do so under a grandfather clause.

The fleet must also demonstrate:

- How an exemption would benefit the fleet;
- That an exemption for the fleet will not have significant negative impacts on other fleets;
- That an exemption will not have a negative effect on the conservation of the resource or the sustainability of fisheries; and,
- How the fleet established consensus regarding the introduction of the ITQ regime.

Footnotes

Footnote 1

as outlined in Section 16 of the *Commercial Fisheries Licensing Policy for Eastern Canada*

[Return to footnote1referrer](#)

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