

3.0 Licensing Criteria

There are a number of licensing criteria that the Board may factor into its assessment of licensing applications. The following sections explain these criteria in more detail. The Minister may also provide the Board with other criteria and direction.

3.1 Resource Availability

Resource availability changes dramatically from time to time and, as a result, the processing industry in Newfoundland and Labrador will continue to face challenges related to the quantity of fish that is available for processing. Government's licensing policy will aim to minimize the impacts of resource fluctuations and seek a degree of balance between regional resource availability and regional processing capacity so that viable fish processing activities can contribute positively to rural economic conditions. Processing capacity is influenced by many factors including seasonality, market conditions and technology. Addressing overcapacity is a challenge but managing processing licences subject to resource availability is a measure that should contribute to narrowing the gap between resource availability and processing capacity.

Applicants for new licences, licence transfers or changes of operator must clearly demonstrate that they have access to the fish resources they plan to process. This access should not negatively impact other processing operations or regions within the Province. For groundfish, pelagics, snow crab and shrimp, resource thresholds will determine whether there is ample resource available to justify the authorization of a new licence. This is explained in Section 3.4. For other species, the Board will have to assess whether or not there is ample resource available to warrant a new licence or licence transfer such as insufficient regional capacity, lack of sales outlets for harvesters or resource gluts that cannot be handled by current licence-holders.

3.2 Viable Business Plan

Proponents must demonstrate in their licensing application the viability of the proposed venture and provide detailed information on the following:

- Raw Material Sources (information to demonstrate the ability to access the amount of raw material necessary to maintain a viable operation);
- Physical Plant (a description of the plant and all of its features should be provided including pictures and a diagram of the production area, construction, layout and equipment to be utilized);
- Production Plan (description of production methods and product types to be processed);
- Marketing Plan (information should be provided to indicate the anticipated products to be produced, target markets, anticipated prices and promotional plans);
- Management (identify key staff needed for the successful operation of the enterprise);
- Employment (information indicating the number of persons who will be employed including operating periods and anticipated wages and salaries);

- Financing (information to demonstrate the ability to obtain the appropriate financing including demonstrations of personal reserves, and/or letters of assurance from banks if the project is equity financed);
- Previous Year's Financial Information (prepared by an accountant or other person competent to express an opinion on the financial information provided);
- Pro-forma Financial Information (Pro-forma financials should include financial data showing the projected cash flows on a monthly basis for the first year and on a yearly basis for the following 3 years. Pro-forma balance sheets and income statements should be prepared on a yearly basis for four years); and
- Copy of Articles of Incorporation and confirmation of being in good standing with Registrar of Companies.

3.3 Regional Balance

The Board must consider regional balance as a criterion in its assessment of all licensing applications. In its broadest context, regional balance refers to a matching of processing capacity to adjacent resources in a geographical area. The nature of the industry, however, prevents a mathematical formula approach to the application of this criterion. Therefore, the Board will have some discretion in its application of this concept.

Generally, regions can be based on geographic features such as peninsulas (e.g., Burin Peninsula, Northern Peninsula, Bonavista Peninsula and Avalon Peninsula). Each of these peninsulas or regions is adjacent to NAFO Management Zones (see Annex E) and adjacent harvesters are licensed to prosecute fisheries in the regions. Consideration should be given to the volumes of raw material landed in a region versus the number of plants in that region and the associated processing capacity.

Some regions will be net importers of raw material while others will be net exporters. As a general guide, applications for new licences and transfers should not normally be considered in regions that are net importers of a particular species of raw material. In addition, the fact that an area is a net exporter of raw material is not sufficient in and of itself to warrant the addition of a new species licence.

It must be kept in mind that many processing facilities process fish that is landed by harvesters from many areas of the province. As well, many harvesters in a region do not necessarily land their fish in the NAFO area in which the fish is caught. As such, caution is warranted when applying the principle of regional balance.

3.4 Resource Thresholds

The Dunne Commission report recommended a resource threshold approach be adopted to guide the issuance of new licences. The establishment of thresholds will provide the Licensing Board with clear, measurable criteria in their assessment of applications. The report noted that: *“One of the major deficiencies in licensing actions to date has been the lack of any clear or explicit connection to the amount of raw material required by existing or newly licensed facilities. Licences have been issued with no apparent assessment of whether the necessary raw material would be available on an incremental basis or would simply come from an already fully subscribed supply. In all too many cases, the latter was the reality.”*

The resource threshold approach is meant to provide a balance between the available resource and the ability of plants to process fish harvested. The inshore sector is seasonal and, as such, the number of processing licences and the amount of fish processed must coincide with the landings pattern, market demand and relative capacity utilization in the industry. In considering the issuing of new licences, the Board will examine the applicable resource threshold as a means to assess whether existing licence holders’ resource requirements have been reasonably accommodated.

The thresholds proposed will be periodically reviewed by government with an automatic review triggered when the average raw material available for processing per active plant in a given year reaches 85 percent of the threshold levels outlined. This is to ensure that the established thresholds continue to meet government policy objectives.

The following resource thresholds have been established for shrimp, snow crab, groundfish and pelagics. These thresholds are summarized in Table 2.

Shrimp – Based on recent industry studies, the resource threshold for shrimp has been set at 8,000 tonnes.

Snow Crab - Given historical performance and the current state of the snow crab industry, the resource threshold for snow crab has been set at an average of 2,200 tonnes of raw material per year per active licence.

Groundfish – Based on historical landings and low utilization rates, the resource threshold for groundfish has been set at 2,500 tonnes per year per active licence.

Pelagics - Based on peak historical landings of capelin, herring and mackerel, the resource threshold for pelagics has been set at 2,400 tonnes of raw material per year per active licence. At this time, squid and smelt will not be included in the calculation of the resource threshold for pelagics.

Table 2. Summary of Resource Thresholds

Species/Species Group	Average Tonnes Per Active Licence	Review Level (tonnes)
Shrimp	8,000	6,800
Snow Crab	2,200	1,870
Groundfish	2,500	2,125
Pelagics*	2,400	2,040

* *excluding squid and smelt*

Other species/species groups: Other species and species groups not listed in Table 1 have no resource thresholds at this time. New licences for other species and species groups will be based on resource availability which will have to be demonstrated by applicants in submission of their licensing applications and business plans.

3.5 Location Criteria

Applications for new licences and licence transfers should meet the following criteria:

- Proximity to resources to be processed;
- Proximity to an adequate area labour pool;
- Existing processing facilities;
- Existing harbour facilities for landing, offloading and tie-up requirements;
- Existing industrial infrastructures; and
- Proximity to acceptable levels of social, educational, health, telecommunications and commercial services.

The assessment process could involve the comparison of a number of applications for a new licence for the same species in which case the proposal(s) that best meets the above criteria may be issued a licence. As well, a stand-alone application could be assessed on its own merit.

3.5.1 Proximity to Resources

A licensing application for a given species will be assessed based on the proposed processing facility's proximity to the fish resource. An adjacent facility would normally be defined by NAFO area. When a border of a NAFO area is defined by a land area, the land area is adjacent to the NAFO area. Where no border of a NAFO area is defined by land, as is the case in areas 3N, 3O and 4Vs, then the land area geographically closest to these areas would be identified as the adjacent area. Recognition must also be given to historical participation and, therefore, community dependence on a given species. In this way, the historical attachment of areas which have traditionally relied on particular fish stocks will be protected.

3.5.2 Proximity to Adequate Area Labour Pool

It is the responsibility of the applicant to demonstrate that there is an adequate area labour pool to justify the new licence or transfer. This would require a sufficient population base upon which the facility could draw the required number of appropriately skilled or trainable workers. As well, characteristics such as age, gender, education level and occupation types would have to match the profile of the workers required for the operation. It is also important for the available workforce to be sustainable over the longer term. For example, projections may show that the demographics of a certain area are expected to change drastically in the future which could affect the available labour pool. The applicant must show in the application how this can be alleviated.

3.5.3 Existing Processing Facilities

The purpose of this criterion is to try to deal with the ongoing challenge of excess processing capacity in the province. In an effort to utilize existing capacity and avoid investment in further capacity, first priority will be given to existing, active plants. At the same time, the facilities must be suitable for the species licence being requested. The applicant must provide the following details on the existing facility:

A. Current Overview of the Plant

- History of plant;
- Species processed;
- Infrastructure (e.g., icing, freezing, offloading, processing equipment, etc.);
- Capacity (e.g., volume production/day, frozen storage capacity, etc.);
- Number of employees, duration of employment, wages and salaries paid;
- Level of processing;
- Length of season; and
- Plans for future expansion/development.

B. Projections for New Species/Licence

- Species to be processed;
- Infrastructure to be utilized (e.g., icing, freezing, offloading, processing equipment, etc.);
- Capacity (e.g., volume production/day, frozen storage capacity, etc.);
- Number of employees, duration of employment, wages and salaries to be paid;
- Level of processing;
- Length of season; and
- Plans for future expansion/development.

3.5.4 Existing Harbour Facilities

It is important that a processing facility is in close proximity to adequate harbour facilities. The Board will review the following information in its assessment:

- Location of closest harbour facilities for the species to be purchased;

- Types of facilities and services (e.g., offloading wharves, handling devices for offloading, handling system from dockside to transportation or holding units, trucking operation at wharf, fish holding units, refrigeration, transportation to processing facilities, supply of ice, electric power supply, salt/pickled storage, fresh and salt water supply);
- Function, dimensions, capacity;
- Proximity to other infrastructure;
- Ability of site to handle landings; and
- Anticipated changes required based on species or species group(s) requested.

Wherever possible, it is important that a new licence goes to a facility with adequate harbour facilities already in place and in close proximity. Otherwise, there is a substantial cost involved in setting up the necessary infrastructure or upgrading existing facilities. Also, without adequate harbour facilities in close proximity, there are potential delays in handling and transportation of fish to the processing facility which affects quality and safety.

3.5.5 Existing Industrial Infrastructure

The premise of this criterion is to avoid putting a fish processing licence in an area that does not have the existing industrial infrastructure to sustain the operation or is unable to accommodate the operation without negatively affecting the services of existing users. At the same time, government does not want to encourage developing this infrastructure and duplicating services when there may be excess capacity in other areas of the Province.

The applicant must show that the industrial infrastructure listed below is sufficient for the operation and there will be no detrimental impact on existing systems and no substantial public cost required in supplying this infrastructure.

- Adequate volume of fresh and salt water for operation;
- Appropriate electrical power (e.g., three-phase);
- Adequate waste disposal services; and
- Sufficient transportation network

Consultation with the Department's regional staff, as well as other government departments, may be necessary to confirm the information in the application and to provide the input necessary in determining whether the proposal meets this criterion.

3.5.6 Proximity to Social, Educational, Health, Telecommunications and Commercial Services

Factors such as personal health, cost of living, social and environmental setting, community services, education, and telecommunications all play a key role in contributing to the quality of life within a community. The applicant must demonstrate the availability of community services, hospitals, schools, telecommunications services and commercial services and the relative proximity of these services to the proposed operation and its workforce.

3.6 Corporate Concentration

The Board must review the level of concentration of ownership as it considers requests for changes of operator, licence transfers, and the issuance of new licences. The intent of this policy is to ensure that any one company or corporate group does not acquire a position within the industry that could result in it having an undue influence in day-to-day dealings with harvesters or other processors.

Most of the product produced in the province is destined for export markets, and as such, the Board should not normally be concerned with the impact of a firm's behaviour on the price the fish products receive in the marketplace. The main focus of the Board should be on the impact of corporate concentration on the price paid for raw material and provision of services in the region(s) where fish is to be purchased.

Wherever possible, a region will be defined relative to the actual sales and purchases of fish products between harvesters and buyers in a given geographic area. When assessing applications, the Board should consider the buying patterns of companies within the region where the company will operate. The Secretariat will compile this information which should help indicate the level of activity within an area and the potential impact within a region.

If the Board believes that the degree of corporate concentration associated with an application is of concern, it should take the following factors into consideration:

- geographic area;
- potential for influence on raw material price or services;
- collective bargained versus non-bargained species;
- degree of competition as indicated by the number of buyers operating in an area;
- anticipated degree of potential impact;
- Competition Bureau regulations and guidelines pertaining to mergers. (If the Competition Bureau is reviewing a merger notification, the Board should await the outcome before making a recommendation on the application.); and
- other relevant information.

In order for the Board to do its work, all applicants must provide a profile of company ownership. This must include a complete list of all shareholders. For non-publicly traded companies, any shareholder that has a five percent or greater interest in the company and also operates its own fish processing company in the province must indicate their interests in that company or companies.