

# PICTOU LANDING FIRST NATION, NS NETUKULIMK LIVELIHOOD FISHERIES PLAN

*-VERSION 7-*

OCTOBER 2020

# 1 PREAMBLE

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The Members of Mi'kmaq First Nations in Nova Scotia are beneficiaries of the Covenant Chain of Treaties made with the Crown between 1725 and 1761, including the Treaties of 1760-61 that were the subject of the 1999 Supreme Court of Canada decision in the case of Donald Marshall, Jr.

In accordance with these Treaties Mi'kmaq in Nova Scotia have the right to harvest and sell fish for the purpose of earning a moderate livelihood. Accordingly, the Mi'kmaq Band Councils in Nova Scotia recognize the obligation to manage fisheries activities of the Mi'kmaq communities' members in Nova Scotia.

The Band Council will seek to ensure that this Netukulimk Livelihood Fisheries Plan is properly and fully communicated amongst Band members and Bands in the effort to promote compliance and collaboration for the sustainable management of Mi'kmaq fisheries.

In accordance with the Mi'kmaq Livelihood Fisheries Policy and Protocol, this Netukulimk Livelihood Fisheries Plan provides the framework for the management of all aspects of the Mi'kmaq Netukulimk livelihood fishery and may include consumption and sharing of the harvest.

This Netukulimk Livelihood Fisheries Plan and the associated Mi'kmaq Livelihood Fisheries Policy and Protocol have been prepared, adopted, and implemented without prejudice to the Mi'kmaq Aboriginal and Treaty Rights and the inherent Rights and interests of Bands and all members of the Mi'kmaq nation.

This Netukulimk Livelihood Fisheries Plan should be read and interpreted in its entirety.

## 2 SPECIES CONDITIONS – JAKEJ (LOBSTER, *HOMARUS AMERICANUS*)

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All harvesting activity for lobster under this management plan must comply with all of the following conditions.

### *DEFINITIONS:*

- 2.1 **Authorization**- A document issued to the harvester by the Band Council clearly indicating that they are fishing under the authority of the Band in accordance with the Band's Fisheries Management Plan.
- 2.2 **Carapace** – A carapace is the armour-like body of the crustacean with the claws, knuckles and tail removed. Lobsters are measured by shell length.
- 2.3 **Harvester** – A Band member who is registered and authorized to fish for a livelihood under the Band's Fisheries Management Plan.
- 2.4 **Maritimes Region** – The region of Eastern Canada consisting of the waters adjacent to the coastal areas of New Brunswick, Nova Scotia, and Prince Edward Island.
- 2.5 **Trap** – A portable trap for lobsters that is constructed of wire and wood, or metal and netting or rigid plastic. Entrances of the traps are designed to be one-way entrances only.
- 2.6 **Vessel** – A boat or ship used to catch lobster.

### *COMPLIANCE*

- 2.7 Any violation to any provision of this Plan recorded by duly appointed personnel shall be placed before the Band Council for Resolution through a community justice process.

### *REGISTRATION & IDENTIFICATION:*

- 2.8 In accordance with terms of the NETUKULIMK LIVELIHOOD FISHERIES POLICY AND PROTOCOL, of this Plan, all harvesters must register with the Band Council to fish lobster under the terms and conditions of this Fisheries Management Plan. This registry will include:
  - Band members name
  - Band number
  - Tag numbers issued
  - Fishing area
  - Vessel name/registration number

- 2.9 The Band Council or its designate will issue a certificate of registry with the harvester's name, tag numbers issued, and vessel name used for fishing to the harvester.
- 2.10 The Band Council may require a registration fee or in accordance with NETUKULIMK LIVELIHOOD FISHERIES POLICY AND PROTOCOL, another form of compensation, to ensure responsible management practices are maintained, or in the event administration of governance systems are unable to obtain funding through established methods.
- 2.11 Lobster fishing will be by trap, unless otherwise permitted in writing by the Band Council. Written permission shall specify the harvesters name and Band number, description of the permitted gear type, amount of said gear that is permitted, and specific fishing period that said gear can be used.
- 2.12 Harvesters employing a method of fishing lobsters other than traps must always carry permission documents with them while fishing and transporting lobsters caught with the gear for which permission was granted, and show said documents to a Band designated monitor or Guardian upon request.
- 2.13 In accordance with 7.13 of the NETUKULIMK LIVELIHOOD FISHERIES POLICY AND PROTOCOL, all harvesters must be on the vessel for which they are registered while fishing activity occurs.
- 2.14 All harvesters must have the registration certificate on the vessel during all fishing activities.
- 2.15 All traps must be clearly marked with a tag issued by the Band Council. Each tag will be distinctly numbered and will be recorded against the name of the harvester.
- 2.16 All harvesters will indicate in writing their agreement and commitment to the terms and conditions of this Plan upon receipt of the tags. The Band may provide a form letter for signature by the harvester.
- 2.17 Harvesters are not permitted to haul traps other than those with tags issued in their name unless otherwise authorized in writing by the Band Council, after consultation with Community Fishers Committee.

## *SAFETY:*

- 2.18 Harvesters must follow Band recommended safety requirements, including as a minimum Transport Canada Life Saving Equipment Requirements based on vessel size and classification, found in Appendix I.
- 2.19 As per section 7.6 of the NETUKULIMK LIVELIHOOD FISHERIES POLICY AND PROTOCOL, minimum age for access to Netukulimk Livelihood Fishery will be 18 years of age at the time of registration.
- 2.20 Unless the level of operator competency required is a Pleasure Craft Operator Card (PCOC), each crew member must also obtain a certificate in basic safety training, also known as MED or Marine Emergency Duties, before completing six months of sea service.

## *CONSERVATION AND CATCH PROHIBITIONS*

- 2.21 Lobsters are not a species at risk provincially or federally. Vulnerability to increasing ocean temperatures are hypothesized to be mitigated through conservation measures to protect the reproductive potential of lobsters (Le Bris et al., 2018). The lobster fishery in Atlantic Canada is considered healthy, with record high landings occurring the Maritimes Region (DFO, 2016b, 2016a, 2018, 2019).
- 2.22 Effort or harvest level conservation practises will be determined by the Band Council based on Community, science and co-management recommendations as defined in the Mi'kmaq Livelihood Fisheries Policy and Protocol.
- 2.23 The maximum trap limits are set less than the commercial fishery. Current limits are less than category B licences in which the allowable number of traps is 30% of the traps of a category A licence (DFO, 2020c).
- 2.24 Retention of lobsters with eggs attached is prohibited.
- 2.25 Retention of lobsters of a size less than a size deemed appropriate by the Band Council is prohibited.

- 2.26 Retention of molting lobsters is prohibited.
- 2.27 Retention of lobsters during closed periods as determined by the Band Council is prohibited.
- 2.28 No person shall possess, any claw, tail or meat that has been separated from the thorax or carapace of a lobster.
- 2.29 The harvester is prohibited from retaining or possessing any female lobster of 110 mm carapace length or greater with an impression (with or without setal hairs) on the bottom outside edge of the right flipper (uropod) next to the middle flipper (telson) that affects the natural shape of that flipper. The natural shape of the flipper would also be altered with the removal of all or a portion of the bottom outside edge of the right flipper. The right flipper shall be determined when the underside of the lobster is down, and its tail is toward the person making the determination.
- 2.30 All livelihood fishing will be closed during summer lunar cycles when lobsters molt in coastal waters. During this period, all harvesters must remove all lobster traps from the water and are prohibited from setting lobster traps.

*AUTHORIZED FISHING GEAR:*

- 2.31 The harvester is prohibited from having on board a vessel or fishing with a trap unless a valid tag with a unique identification number is securely attached to the frame of the trap in the manner for which the tag was designed and in a manner such that the tag is readily visible when the trap is being removed from the water or being prepared for loading or unloading from the vessel.
- 2.32 A trap that is being fished under this authorization must have only one tag attached to it.
- 2.33 While fishing under the authority of the Band Council, the harvester is prohibited from fishing with more traps at any one time than the maximum number of traps specified in their registration and certification documents.

*Traps*

- 2.34 The harvester is prohibited to fish with or have on board the vessel a lobster trap unless that trap has in the exterior walls of each parlour in the trap and not more than 76 mm from the floor of each trap at least:

(a) one unobstructed rectangular opening the height and width of which is not less than 47 mm (height) by 127 mm (width).

(b) one exterior wall of each parlour, a biodegradable mechanism that provides, when removed, an unobstructed opening that meets the requirements set out in 2.34 (a).

(c) When using a trap with a rigid parlour (e.g. wire mesh), the biodegradable mechanism, when removed, must provide an unobstructed opening not less than 89 mm in height and 148 mm in width. The mechanism shall be attached to either the outside or inside of an exterior side wall of each parlour and it shall only be fastened at a maximum of four points (looped once) and shall be interlaced once through each mesh using only 100% natural untreated cotton not greater than 2.5 mm in diameter. The mechanism shall not be hinged at any points of contact;

(d) When using a trap with a non-rigid parlour (e.g. nylon mesh), a minimum of five meshes must be cut and the biodegradable mechanism, when removed, must provide an unobstructed rectangular horizontal opening not less than 89 mm in height and 148 mm in width. The mechanism to fasten the opening must be made of 100% natural untreated cotton twine not greater than 2.5 mm in diameter fastened at each end (looped once) of the opening and interlaced once through each mesh of the opening.

(e) No person shall fish with or have on board a vessel a lobster trap that exceeds:

a) 125 cm in its greatest length;

b) 90 cm in its greatest width; or

c) 50 cm. in its greatest height.

2.35 All actively fishing traps must be hauled within a 72-hour period unless prohibited by weather.

#### *Trap Allotment*

2.36 A standard allotment of traps will be issued to each harvester by the Band Council. Numbers of traps allocated to individual harvesters will be in accordance Section 2.41.

#### *Buoys and Marking*

2.37 All floats and buoys must clearly indicate the vessel registration number or harvester name.

2.38 Where a secondary buoy is used to mark the gear at the surface, the rope attaching the main buoy to the secondary buoy shall be no longer than 3.7 metres.

*Other*

- 2.39 No person shall use stainless steel cable(s) on any portion of their lobster trap or any of the associated ground lines, buoy lines or lines attaching a trap to a ground line (trawl gear).
- 2.40 The distance between traps on a trawl or between a trap and an adjacent anchor must be no greater than 55 metres (30 fathoms).



FISHING AREA:

2.41 Fishing Area Conditions Table

<u>Fishing District(s)</u>	<u>Lobster Fishing Area (LFA) #</u>	<u>Number of Traps per Harvester</u>	<u>Season Closed Periods</u>	<u>Minimum carapace Length of Lobster</u>
Sikniktewa	LFA 25 LFA 35	No Access Currently, To Be Determined	Closed- TBD	73 mm (LFA 25) 82.5 mm (LFA 35)
<u>Epekiwitk Agg Piktuk</u>	LFA 26A LFA 26B	Maximum of <b>30</b> per individual, subject to safety and vessel size.	12:00 am July 1, 2020 or closure date of Commercial Season until 12:00 am on October 1, 2020 & 12:01 am- December 14, 2020 until 12:00 am May 1, 2021 or Opening Day of Commercial Season.	80 mm (LFA 26A) 82.5 mm (LFA 26B)
Unama'kik	LFA 26B LFA 27 LFA 28 LFA 29 LFA 30 LFA 31A	No Access Currently, To Be Determined	Closed- TBD	81 mm (LFA 26B, 27) 84 mm (LFA 28, 29) 82.5 mm (LFA 30, 31A)
Sipekne'katik	LFA 31B LFA 32 LFA 33 LFA 35	No Access Currently, To Be Determined	Closed- TBD	82.5 mm
Kespukwit	LFA 33 LFA 34 LFA 35	No Access Currently, To Be Determined	Closed- TBD	82.5 mm

- 2.42 Multiple harvesters (more than one) may conduct fishing activity from a single vessel provided the maximum number of traps does not exceed the total of 30 traps per individual.
- 2.43 The maximum number of traps fished from any single vessel with multiple harvesters shall not exceed a total of 90.
- 2.44 No harvester shall be in possession of lobster with a carapace length shorter than the minimum length when harvested within the Lobster Fishing area indicated in the below table.

#### *REPORTING*

- 2.45 Harvesters will be required to provide reports on the location of harvesting activity, selling activity and catches to the Band Council or authorized delegate/agent of the Band Council.
- 2.46 Monitoring may be conducted through the collection of Band log sheets, logbooks or online applications that are provided by the Band Council or other methods determined by the Band Council.

#### *Lost Gear Reporting*

- 2.47 The harvester must report any lost fishing gear to the Band Council or its designate within 24 hours of discovering that gear has been lost. The distance between traps on a trawl or between a trap and an adjacent anchor must be no greater than 55 metres (30 fathoms).
- 2.48 The harvester must report the retrieval of any of their own previously reported lost gear to the Band Council or its designate within 24 hours of retrieving gear previously reported as lost, or within 24 hours of arriving at port for trips less than 5 days. Retrieval can only occur by an authorized Band harvester and only in relation to the specific type of gear authorized to be used.

#### *Marine Mammal Reporting*

- 2.49 The harvester must provide information regarding all lethal and non-lethal marine mammal interactions during fishing trips.
- 2.50 The harvester must report all incidents of interactions with marine mammals to the Band Council or their designate.

## *Bycatch*

- 2.51 The harvester is required to return incidentally caught fish that are not intended to be used for food or bait, and those fish species that are protected by the Species at Risk Act.