

PICTOU LANDING FIRST NATION, NS
NETUKULIMK LIVELIHOOD FISHERIES
POLICY AND PROTOCOL

-VERSION 7-

OCTOBER 2020

1 PREAMBLE

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 Mi'kmaq Livelihood Fisheries Policy and Protocol 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.

This Mi'kmaq Livelihood Fisheries Policy and Protocol provides the policies and protocols for the management of all aspects of the Mi'kmaq Netukulimk livelihood fishery and may include consumption and sharing of the harvest.

This Mi'kmaq Livelihood Fisheries Policy and Protocol has 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 Mi'kmaq Livelihood Fisheries Policy and Protocol should be read and interpreted in its entirety.

2 MANAGEMENT VALUES

2.1 Management values applied to the implementation of the Mi'kmaq Livelihood Fisheries Policy and Protocol will be:

2.1.1 Netukulimk

Netukulimk is defined as the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community by achieving adequate standards of community nutrition and economic and spiritual well-being without jeopardizing the integrity, diversity or productivity of the "natural bounty".

The principle of Netukulimk has been the foundation of sustaining Mi'kmaw families, communities and society since time immemorial.

2.1.2 Protection of Treaty Rights

The implementation of this Mi'kmaq Fisheries Management Plan including all harvesting and marketing activity will be undertaken in a manner that does not compromise, abrogate, or diminish the inherent and Treaty Rights of the Mi'kmaq nation. Accordingly harvesting shall not compromise the viability of individual species for harvesting by future generations.

2.1.3 Sustainability

Sustainability refers to the capacity of natural systems and Mi'kmaw society to coexist through ecological and societal balance. Sustainability involves five distinct factors: environmental, social, economic, cultural, and spiritual. Each of these are principal factors for the sustainability of a Mi'kmaq fishery livelihoods.

2.1.4 Economic

Economic sustainability is the long-term success of the structure and function of the Mi'kmaw economy through efficient and responsible use of natural resources in a sustainable manner through focus on the other components of sustainability (environmental, social, cultural, and spiritual).

2.1.5 Social

Social sustainability involves maintaining and improving Mi'kmaw social well-being across varying levels of social systems, including family, community, district or organization. Social indicators include equality, equity, poverty, education, and importantly, health and wellness.

2.1.6 Environmental

Environmental sustainability refers to the ability of the biophysical environment of Mi'kmaki to support long-term environmental quality through protection of natural capital (i.e. land, air, water, minerals, etc.). This involves human interaction with the environment in a manner to avoid depletion or degradation of natural resources and systems.

2.1.7 Cultural

Cultural sustainability is the long-term maintenance of Mi'kmaw cultural beliefs, practices, heritage, and rights through future generations. Cultural sustainability involves initiatives and actions taken to prevent the extinction of Mi'kmaq culture within Mi'kmaki where other components of sustainability threaten Mi'kmaq existence.

2.1.8 Spiritual

Spiritual sustainability is situated at the intersection of traditional spiritual and sustainable principles through an understanding of how the natural environment contributes to Mi'kmaw spiritual wellness. This component of sustainability focuses on maintaining connections between Mi'kmaq people and our environment.

2.1.9 Fairness

This Mi'kmaq Netukulimk Livelihood Fishery Plan will apply impartially to PICTOU LANDING First Nation and their members and will be implemented without favoritism or discrimination.

2.1.10 Equity

This Mi'kmaq Netukulimk Livelihood Fishery Plan will be applied in a manner that treats all communities and their members as equal and indivisible.

2.1.11 Gender Equity

This Mi'kmaq Netukulimk Livelihood Fishery Plan is based on the principles of gender equity in the fishery. Accordingly, efforts will be undertaken to remove any gender barriers in the implementation of all fishery related activities.

2.1.12 Transparency

The implementation of this Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol and the decisions made under it will be recorded and communicated to all Band members, regardless of their involvement in fisheries activities.

2.1.13 Conservation

This Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol will be implemented in a manner consistent with the Mi'kmaq standard of Netukulimk, supported by internationally accepted principles of conservation which emphasizes the integrity, diversity, and productivity of the natural resource.

2.1.14 Safety

This Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol aims to ensure and promote the safety of harvesters, other fisheries workers, and community members through prevention, education, monitoring and enforcement.

2.1.15 Community Benefit

Fisheries management activities are designed and implemented with the aim of enhancing and maximizing community benefit over the benefit of any one individual or enterprise.

2.1.16 Accountability

Without limiting or infringing on the Rights of PICTOU LANDING First Nation, fisheries management activities will be conducted in a manner that demonstrates good governance procedural principles and the sharing of information in a respectful manner, honoring the treaty relationship of collaborative co-existence.

2.1.17 Cooperation

If the Band Council wish to seek fishing opportunity's for band members in other districts outside of their traditional area of Unama'kik, the Band Council shall communicate respectfully with any other First Nation that may be affected and seek to accommodate any concerns it may have.

2.1.18 Peace

Without limiting or infringing on the Rights of the Mi'kmaq nation, communities and Band members, fisheries management activities will be conducted in a manner to promote and protect peaceful relations with adjacent communities.

3 PURPOSE AND INTERPRETATION

- 3.1 Mi'kmaq Netukulimk Livelihood fishing is a small scale, artisanal fishery with sale, trade and barter attributes, for any viable aquatic species, fished within and surrounding the traditional territory of Mi'kma'ki, using traditional and modern methods and techniques, non industrial vessels, practiced under the management and protection of First Nation Community Netukulimk livelihood fishery Plans, following the expectations of the Assembly of Nova Scotia Mi'kmaw Chiefs' Statement of Standards and the Mi'kmaq concept of Netukulimk, with the goal of improving the well-being of many Mi'kmaq individuals and their families.

Purpose

- 3.2 This Mi'kmaq Livelihood Fisheries Policy and Protocol provides clarity on the roles and responsibilities of the Band Councils and community members with respect to implementing our inherent right to manage fisheries.
- 3.3 This Mi'kmaq Livelihood Fisheries Policy and Protocol is a working document prepared to assist Mi'kmaq communities, Band Councils and Fisheries Department in the development and implementation of livelihood fishing activities for Mi'kmaq community members.

Interpretation

- 3.4 The PICTOU LANDING Chief and Council shall be solely responsible for the implementation of the PICTOU LANDING Mi'kmaq Livelihood Fisheries Policy and Protocol and associated Species-Specific Conditions and Harvest Plans for the members of the PICTOU LANDING community.
- 3.5 Individual Fisheries Harvest Plans and Conditions adopted by the PICTOU LANDING Chief and Council become part of this Mi'kmaq Livelihood Fisheries Policy and Protocol.
- 3.6 This Mi'kmaq Livelihood Fisheries Policy and Protocol comes into force on the date of the Band Councils' Resolution adopting the Plan. Subsequent Harvest Plans and Conditions for access and use of individual species the PICTOU LANDING Chief and Council will adopt fisheries on an annual basis or as needed from time to time.

- 3.7 This Netukulimk Livelihood Fisheries Management Plan intends to create limits that could reasonably be expected to produce a moderate livelihood for individual Mi'kmaq families at present day standards who wish to harvest and sell fish for the livelihood of themselves and their families.
- 3.8 PICTOU LANDING members wishing to engage in a moderate livelihood fishery may only do so in compliance with the PICTOU LANDING Netukulimk Livelihood Fisheries Plan.
- 3.9 Mi'kmaq Band Members registered to fish under this Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol are expected to conduct harvesting activities in accordance with this Plan and, as such shall demonstrate their commitment through formal acceptance of the terms and conditions of access
- 3.10 This Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol is without prejudice to the rights of Mi'kmaq Band Members.

Region of Application

- 3.11 This Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol and the NETUKULIMK LIVELIHOOD FISHERIES PLAN shall apply in and throughout the watersheds within the traditional territory of the Nova Scotia Mi'kmaq, including all rivers, streams, brooks, lakes, embayment, estuaries, within the territory of the Nova Scotia Mi'kmaq and all near shore banks, offshore banks and all other adjacent ocean space.
- 3.12 It is understood that the Mi'kmaq traditionally used and occupied all of their territory Mi'kmaki sustaining themselves from its resources and waters on a seasonal basis. Therefore, the Region of Application of this Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol is within the traditional territory comprised within the region now known as the Atlantic region of Canada (traditional districts of Sipekne'katik, Kespukwitk, Eskikewa'kik, Epekiwitk Agg Piktuk, Unama'kik, Siknikt and Kespek).
- 3.13 If the Band Council wish to seek fishing opportunity's for band members in other districts outside of their traditional area of Agg Piktuk, as per S. 2.1.17, the Band Council will further co-develop priorities, practices, conservation and conflict resolution policy's with effected First Nation in cooperation..

3.14 This region of applicability is a shared jurisdiction amongst the Mi'kmaq Nation and with the federal and provincial governments and will require effective communication and the development of collaborative arrangements to ensure the effective implementation of the Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol.

4 DEFINITIONS

- 4.1 **Aboriginal Rights:** Aboriginal Rights refer to the practices, traditions and customs that distinguish Mi'kmaq culture and result from our ancestor's longstanding use and occupancy of the land and waters. Aboriginal Rights are protected under s.35 of the *Constitution Act*, 1982.
- 4.2 **Access:** Access refers to the authorization of Band harvesters to harvest within the traditional Mi'kmaq territory in accordance with Band Management Plans.
- 4.3 **Allocation:** Allocation refers to the distribution of opportunity for the PICTOU LANDING Chief and Council and individuals to participate in livelihood fishing through the provisioning of fishery quotas according to species-specific harvest limits and total allowable catches.
- 4.4 **Assembly of Nova Scotia Mi'kmaw Chiefs:** The Assembly of Nova Scotia Mi'kmaw Chiefs is the highest level of decision making in the negotiation process.
- 4.5 **Band Council:** The PICTOU LANDING Chief and Council are responsible for the governance and administration of band affairs, including fishing activities, education, housing, water and sewer, roads, and other community businesses and services or may, upon direction from the Band Council, to indicate any authorized delegate/agent of the Band Council.
- 4.6 **Band:** PICTOU LANDING First Nation
- 4.7 **Band Member/ harvester:** an authorized band member of PICTOU LANDING First Nation
- 4.8 **Communal use:** Communal use includes the shared use of harvest for food, social and ceremonial purposes as set out by the Band Council.
- 4.9 **Community management structure:** to be defined
- 4.10 **Community Fishers Committee:** A band member established, Community endorsed, committee of harvesters, fishers, knowledge keepers, elders and youth.
- 4.11 **Conservation:** Conservation means protection and preservation of the integrity of the resource and its ecosystem. Conservation of fisheries resources is important for the protection of **Aboriginal Rights and Treaty Rights** in perpetuity.

- 4.12 **Designated Captain:** The person who is responsible for the day to day operations of a vessel during fishing activities, under the general supervision of the Band Council or their designate.
- 4.13 **Livelihood:** Livelihood refers to any and all means of securing the necessities of life, including food, water, shelter, clothing, and other desirables. A livelihood is more than employment and income which are terms that are often used to limit a livelihood. A livelihood is made up of the capabilities, activities, and assets, including material and social resources that contribute to a means of living in a comfortable, secure, socially, and culturally relevant way.
- 4.14 **Management:** Management is the application of specific rules and regulations designed to meet the goals and objectives set by communities for our fisheries.
- 4.15 **Mentor:** Mentor means any person (Band member only) who is hired to provide training and advisory support to fisheries staff, harvesters, seafood buyers, or seafood processors from the Bands.
- 4.16 **Personal Use:** Personal use includes use of harvest for food, social and ceremonial purposes.
- 4.17 **Treaty Rights:** Treaty Rights arise from constitutionally recognized and negotiated agreements between the Crown, Indigenous peoples, and provinces or territories that define ongoing rights and obligations of all parties (also known as treaties). Mi'kmaq Treaty Rights emerge from those set out in the Covenant Chain of Treaties (1725-61). These include the right to harvest and sell all those resources harvested and sold by Mi'kmaq at the time the treaties were signed.
- 4.18 **UNDRIP:** The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a non-legally binding resolution passed by the UN General Assembly in September 2007 that outlines protection of the rights of Indigenous peoples. Canada has committed to the principles of UNDRIP, further referenced in September 23, 2020 throne speech, delivered by Gov. Gen. Julie Payette.

5 OBJECTIVES

5.1 The Fishery Management Objectives are established to ensure the effective sustainable management of the fishery. These objectives are consistent with the principles of Netukulimk and advance those defined in the United Nations Declaration on the Rights of Indigenous Peoples, the terms outlined in the 1999 Supreme Court of Canada Marshall decision and form the basis for fishery decision making within Mi'kmaq First Nations.

5.2 The Objectives for the **Mi'kmaq Netukulimk Livelihood Fishery** are as follows:

- To ensure conservation of the resource to protect and exercise Mi'kmaq Treaty and Aboriginal Rights to harvest natural resources for the benefit of the community and its members.
- To conduct the Netukulimk livelihood fishery in a manner consistent with the limits outlined in the Marshall II clarification decision (666 (SCC), [1999] 3 SCR 533), in particular,
 - Fishing of species of historical importance and evidence (para 19-20)
 - Consideration of the conservation of the resource (para 42)
 - Consideration of first access of Aboriginal rights to the resources (para 38)
 - Respecting traditional fishing grounds (para 38)
 - Using catch limits needed to acquire necessities (para 37)
- To conduct the Netukulimk livelihood fishery in a manner consistent with the opportunities outlined in the Marshall decision, in particular,
 - Recognition of the authority of the Mi'kmaq community (para 17) [could also add “and DFO’s responsibility and authority to manage the fisheries” to honor the intent of a treaty relationship]; and
 - Incorporation of Mi'kmaq conservation and management techniques (para 44(e)).
- To alleviate family poverty and advance the size and security of the grass roots within the Mi'kmaq communities.
- To ensure community adherence to the traditional Mi'kmaq principles of Netukulimk.
- To contribute to the social and economic well being of the community.
- To develop and promote livelihood fishing activities that will provide stable and effective employment and income for community members.
- To provide food to meet the nutritional and social needs of local Band members.
- To contribute to the spiritual well-being of Band members through the exercise of traditional activities and Rights.
- To ensure the community and harvester safety are protected.
- To have economically self-sufficient fishing operations, including management and administration.
- To ensure gender equity in the fishery.

6 ROLES AND RESPONSIBILITIES

- 6.1 The PICTOU LANDING Chief and Council or its designate will be responsible for establishing Band-specific policy regarding the purpose and procedures for fish harvesting by community members.
- 6.2 The PICTOU LANDING Chief and Council or its designate will establish Band-specific governance rules and regulations that will promote fisheries and other resource-based businesses within the community.
- 6.3 The PICTOU LANDING Chief and Council or its designate will be responsible for the determination species-specific harvest limits and total allowable catches which could reasonably be expected to produce a moderate livelihood. These limits may be determined through:
- Band-led research
 - Negotiation amongst and between First Nations
 - Negotiation with the Government of Canada
- 6.4 The PICTOU LANDING Chief and Council or its designate will be responsible for developing and adopting access and harvesting conditions and harvest plans for each individual fisheries species that may be harvested by Band members for their consumption and sharing or livelihood use.
- 6.5 The PICTOU LANDING Chief and Council or its designate may establish criteria for the sharing of catches from species-specific harvesting activities to ensure sustainability and acquisition of family necessities in accordance with the principles of this Plan.
- 6.6 The PICTOU LANDING Chief and Council or its designate may enter into co-management arrangements with Crown in Right of Canada and the Crown in Right of Nova Scotia in the interest of conservation and management of fisheries resources.
- 6.7 The PICTOU LANDING Chief and Council or its designate may designate specific buyers based on acceptance of proposals from independent companies. The main objectives are to:
- Address unauthorized buying activities
 - Gather information from harvesters and buyers in order to support enforcement and compliance
 - Promote the principles of conservation, equity, fairness, and community benefit
 - Promote Bands' processing capacity

- 6.8 The PICTOU LANDING Chief and Council or its designate may enter into business arrangements within commercial enterprises in accordance with the principles of this Mi'kmaq Livelihood Fisheries Policy and Protocol.
- 6.9 The PICTOU LANDING Chief and Council or its designate may establish criteria for species-specific harvesting activity that will promote intergenerational traditional knowledge transfer amongst Band members.
- 6.10 The PICTOU LANDING Chief and Council or its designate will monitor the harvesting activities of the Band members conducting activities under this Plan. The Band Council may hire personnel or expand the capacity of Aboriginal Guardians, to conduct monitoring activities.
- 6.11 The PICTOU LANDING Chief and Council or its designate will have the responsibility to promote and encourage compliance with this Management Plan. Accordingly, Band Councils, appointed personal or Aboriginal Guardians, may conduct patrols, surveillance, and enforcement activities.
- 6.12 The PICTOU LANDING Chief and Council or its designate may enter into a formal arrangement with appropriate private sector companies or federal/provincial government departments to provide compliance control (enforcement) services related to this Plan.
- 6.13 The PICTOU LANDING Chief and Council or its designate may employ the necessary professional fisheries management personnel to oversee and implement the community management plan.
- 6.14 The PICTOU LANDING Chief and Council or its designate may employ the necessary personnel to coordinate scientific activities and to coordinate initiatives with agencies outside of the Band.
- 6.15 The PICTOU LANDING Chief and Council or its designate may for conservation or safety concerns alter the time, duration or areas in which fisheries harvesting can occur.
- 6.16 The PICTOU LANDING Chief and Council or its designate will provide public notice of any changes to the NETUKULIMK LIVELIHOOD FISHERIES PLAN including, but not limited to changes to fishing times, duration, or areas. Notice will be provided to registered fishers in writing and a notice will be posted on the community bulletin board at the Band Office, or another acceptable space for member access.
- 6.17 In the fulfillment of its mandate the PICTOU LANDING Chief and Council may also:

- Promote traditional values and practices (Netukulimk) that protect the fishery and the environment;
- Conduct resource assessments and inventories;
- Engage in scientific activities for the purpose of establishing harvesting limits;
- Identify special protection zones;
- Conduct restoration and enhancement activities as required;
- Examine alternative harvesting techniques;
- Encourage the development of pre-and post-harvest commercial components to the Band's fishery; and,
- Establish a Netukulimk livelihood fishery management committee, which will be chaired by the Fisheries Director. The Council at their discretion may invite representatives from other Mi'kmaq agencies, federal and provincial government departments, or commercial fishers' associations to participate on the committee.

Species-specific Harvest Plans and Conditions

- 6.18 The PICTOU LANDING Chief and Council or its designate will provide limits defined within NETUKULIMK LIVELIHOOD FISHERIES PLAN Species-specific Harvest Plans and Conditions that shall apply to fisheries harvesting by Band members for any given year.
- 6.19 The PICTOU LANDING Chief and Council or its designate may establish Local Fisheries Management Committees or authorized delegate/agent of the Band Council to monitor and oversee the implementation of fisheries management activities. The Fisheries Director or his/her designate may act as the Chair of the Committee.
- 6.20 The PICTOU LANDING Chief and Council or its designate may prepare resource materials and hold public meetings or meet with a organized group of Band fisher representatives, or established Community Fishers Committee, for the purpose of establishing, where appropriate, common procedures, criteria, and objectives for individual species harvesting activities, which will be set out in the form of Species-specific Harvest Plans and Conditions.
- 6.21 One month prior to the commencement of any species-specific harvesting activity the PICTOU LANDING Chief and Council, with recommendations from the Community Fishers Committee, will prepare a draft NETUKULIMK LIVELIHOOD FISHERIES PLAN to govern and manage fishing activity for the season. The NETUKULIMK LIVELIHOOD FISHERIES PLAN will include all approved allocations.
- 6.22 Draft NETUKULIMK LIVELIHOOD FISHERIES PLAN will be posted in plain public view in Band Offices and published in community newsletters. The contents of the NETUKULIMK LIVELIHOOD FISHERIES PLAN may include:

- Statement of the Community's Fisheries Objectives
- Rules and regulations concerning eligibility to access the Band fishery
- Harvest regulations and procedures for the Netukulimk livelihood fishery
- Marketing guidelines/procedures
- Allocation rules and procedures
- Safety requirements and procedures
- Community support activities (contributions for development support)
- Food fishery rules and regulations
- Conflict resolution procedures
- A list of fishers designated for the current year, including details of the individual allocations

6.23 When the PICTOU LANDING Chief and Council or its designate is satisfied that the membership, and Community Fishers Committee, has been consulted on the NETUKULIMK LIVELIHOOD FISHERIES PLAN, the Council shall by Resolution adopt the Species-specific Harvesting Plan for the current year, and by Resolution amend this Mi'kmaq Netukulimk Livelihood Fisheries Policy and Protocol to incorporate the NETUKULIMK LIVELIHOOD FISHERIES PLAN SPECIES CONDITIONS .

6.24 After adopting the SPECIES CONDITIONS for the current year, the Band Council shall ensure that the adopted NETUKULIMK LIVELIHOOD FISHERIES PLAN is posted in plain and public view in the Band Office and is published in a Newsletter, online or other public forums and is communicated, prior to the first day of fishing, to the membership and to such interested governments and interested user groups as the Band Council considers appropriate. All plans will be posted 14 days before the first day of fishing.

6.25 The Band Council may, due to extenuating circumstances, be required to alter the Species-specific Harvest Plans and Conditions during the season. All amendments will be made through the Community Fishers Committee, and an open public meeting and drafting of an Annex of Amendment to the Harvest Plans. The Council will provide public notice of any changes to the Harvest Plan by posting the Annex of Amendment in a conspicuous place at the Band Office, and through the issuance of a special community newsletter.

7 ACCESS AND ALLOCATION

Registration

- 7.1 Band members who desire to conduct livelihood fishing activity under this Plan must register with the Band Council.
- 7.2 The PICTOU LANDING Chief and Council will communicate to the Community Fishers Committee and post a public notice for applications for access to Species-specific livelihood fisheries. Public notice will include explanation of application procedures.
- 7.3 All applications shall contain, as a minimum, the names of the of all persons who will be involved with the access allocation (captain and crew), intended location of the fishing activity, start and end date of fishing, name and specifications of the vessel, number of traps and/or fishing gear, name of buyer, and name and role of any mentor/trainers who will be involved with the fishing activity.
- 7.4 Complete applications will be reviewed within two weeks of application. Written notice of acceptance will be provided to the applicant.

Guidelines for access:

- 7.5 All harvesters must agree to sharing arrangements set by the PICTOU LANDING Chief and Council for livelihood fishing activity.
- 7.6 The PICTOU LANDING Chief and Council may establish minimum ages for individuals to access the Netukulimk livelihood fishery. Minimum ages for access will be set out in the NETUKULIMK LIVELIHOOD FISHERIES PLAN Species Conditions.
- 7.7 Harvesters are not and shall not be deemed to be employees or agents of the Band nor Band Council and shall save harmless the Band Council and Band.
- 7.8 Any and all vessels used in the fishery must be insured as deemed appropriate and necessary by Band Councils.

- 7.9 All harvesters must possess fishing gear or demonstrate the capacity to obtain required fishing gear or equipment prior to the granting of access by the Band Council.
- 7.10 All harvesters must agree to the following criteria:
- Be a member of the Band.
 - Possess a valid MED certificate.
 - Have demonstrated fishing experience, or willingness to fish with a mentor.
 - Have demonstrated capacity to use and operate vessels and/or gear to be used in the fishery.
 - Any other criteria that may be established by the PICTOU LANDING Chief and Council with agreeance of the Community Fishers Committee, from time to time.
- 7.11 The PICTOU LANDING Chief and Council may waive the requirement of valid MED certificates for an individual harvester depending on the size of vessel used by the harvester and the time or location of fishing activity. Waiver of the requirement will be provided to the harvester in writing by the Chief and Council.
- 7.12 Designated captains shall be in charge of all vessel operations during harvesting activities. Designated Captains are not employees or agents of the Band or Band Council.
- 7.13 All registered harvesters must be on the vessel for which they are registered during all harvesting activities unless otherwise agreed upon in writing by the Band Council.
- 7.14 All Band members must have their Band card and fishery registration papers with them during harvesting activities.

Safety Considerations:

- 7.15 For Fisheries that require the use of a fishing vessel, 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](#).
- 7.16 Harvesters are to demonstrate Certification that shows that a crew has at least the minimum level of training required that is mandatory for all non-pleasure vessel crews in three areas:
- 7.16.1 *First aid* – At least one crew member must hold a valid certificate in marine basic first aid while a vessel is engaged on a Near Coastal Voyage, Class 2, or Sheltered Waters Voyage. A valid marine advanced first aid course is required for vessels engaged on a Near Coastal Voyage, Class 1. In some cases, a first aid training course (2 days as a minimum) recognized by a province or territory is acceptable

7.16.2 *Operator competency* – The operator of the vessel must be certified at the appropriate level, or higher, for the size and type of vessel and the voyage that is being undertaken.

7.16.3 *Basic safety training* – The owner and operator must make sure that all crew members receive on board familiarization and safety training before they start to perform any assigned function.

7.17 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.

Guidelines for allocation

7.18 No fisheries allocations shall be established if it is determined by the PICTOU LANDING Chief and Council that the harvesting activities by Band Members may be responsible for endangering fish stocks or wildlife populations.

7.19 Total allocation of harvest limits will not exceed the total amount set by the Band Council with recommendations from the Community Fishers Committee, through research and negotiation.

7.20 Registered harvesters with designated access must request an allocation from the Band Council. Request for allocation must include:

- The name and number of vessel and/or gear to be used for the access,
- The amount of fishing gear that will be used,
- A list of all Band members who will be involved in a specific harvesting activity,
- The port or location from which fishing activity will be conducted,
- The name and location of the buyer for the catch selected from a list of Fisheries Committee approved buyers, and
- The names of any Band trainers to be employed through the access as mentors, along with detailed mentorship training plan.

Loss of access:

7.21 Specific criteria (indicators) will be determined by the PICTOU LANDING Chief and Council and the Community Fishers Committee, to determine whether fishers are fishing in an acceptable manner. In the interim period, until such a time that a graduated sanctions policy is developed, access may be removed or suspended for fishing in a manner contrary to the Mi'kmaq Livelihood Fisheries Policy and Protocol.

- 7.22 In the event that the Band or Band Council become aware of or have reasonable cause to believe by Harvesters or Designated Captains are using or under the influence of drugs, alcohol or other intoxicants, then for safety purposes, PICTOU LANDING Chief and Council may suspend, remove or deny access to the Mi'kmaq Netukulimk Livelihood Fishery
- 7.23 Harvesters who do not conduct fishing activities in a manner that is consistent with the principles and objectives of this Plan, as determined by Band Councils, may have their access to the Netukulimk livelihood fishery temporarily restricted or suspended.
- 7.24 In the instance of repeated instances of improper fishing based on PICTOU LANDING community standards and understandings or serious conservation or safety issues, the PICTOU LANDING Chief and Council may suspend or permanently remove a Band member's access to the PICTOU LANDING Netukulimk livelihood fishery.

8 HARVEST UTILIZATION

- 8.1 The use of all fishery harvests will be for the benefit of the harvesters and their families in accordance with the principles and objectives of this Plan and Species-specific Harvest Plans. The PICTOU LANDING Chief and Council may, before commencement of the season, direct harvesters to contribute benefits of their harvesting activities to the community.
- 8.2 Persons designated as buyers will provide an equitable process for all harvesters authorized to fish under this Plan in accordance with rules Bands' may have to regulate buying and processing of the harvest.
- 8.3 Harvesters may freely share their catch within the community and may only sell their catch to designated buyers. Designated buyer regulations will be developed by the Band Council with consultation with the Community Fishers Committee.
- 8.4 All designated buyers will be expected to provide economic support to the community either through profit sharing or through an access fee established by Band Councils.

9 MONITORING

- 9.1 All fisheries will be monitored to determine fishery performance (economic, social), state of the fishery (biological, economic), contribution to the family and community spiritual and cultural well-being, and identification of new opportunities for the community.
- 9.2 Harvesters will be required to provide reports on the location of harvesting activity and catches to the Band Council or authorized delegate/agent of the Band Council.
- 9.3 Monitoring may be conducted through the collection of Band log sheets or logbooks that are provided by the Band Council or other methods determined by the Band Council.
- 9.4 No person or agency other than personnel duly appointed by the PICTOU LANDING Chief and Council or its designate shall monitor or enforce activities pursuant to this Plan, unless requested in writing by the Band Council.
- 9.5 In some instances, all catches may be logged by a designated Band personnel at the point of landing as set out in the Species-specific Harvest Plans.
- 9.6 In some instances, electronic monitoring procedures may be required including, but not limited to video logs of harvesting activities or dockside monitoring of unloading catch as set out in the Species-specific Harvest Plans.
- 9.7 All harvesters must provide access to their vessels and activities to Band-hired Monitors for the purposes of observing and monitoring.
- 9.8 All data and information compiled by monitoring activities will be reviewed and stored by the Band Council or their designate.
- 9.9 Information regarding individual harvesters or individual harvesting activities will be treated as confidential and will not be released to the public, including necessary data for stock assessments that align with DFO science collection/reporting deadlines. Only aggregated data from monitoring may be released to any third-party.

10 COMPLIANCE

10.1 In order to promote and encourage compliance, the Band Council may:

- may hire personnel or expand the capacity of Aboriginal Guardians
- Conduct monitoring activities in areas in which Band members conduct harvesting activities;
- Conduct patrols, surveillance, investigations; and
- Develop and promote fisheries education programs.

10.2 The Band Council, through the community management structure, may establish rules concerning monitoring and other measures that duly appointed personnel hired by the Band Council shall apply in situations of non-compliance with any provision of this Management Plan.

10.3 The Band Council through consultation with the Community Fishers Committee, will develop a set of graduated sanctions as repercussions for violations against the PICTOU LANDING Netukulimk Livelihood Fisheries Plan.

10.4 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.