

2019-20 Rights Implementation and Fishery  
Management Plan

Sipekne'katik Mi'kmaq

Fisheries Department

Approved by Chief and Council – November 26, 2019

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# **Sipekne'katik Band Rights Implementation and Fishery Management Plan**

## **Preamble**

This Sipekne'katik Fisheries Management Plan provides clarity on the roles and responsibilities of the Sipekne'katik Band Council and community members with respect to implementing our inherent right to management fisheries.

The Sipekne'katik Fisheries Management Plan is a working document prepared to assist the Sipekne'katik community, Band Council and Fisheries Department in the development and implementation of livelihood fishing activities for Sipekne'katik community members. It has been prepared, adopted and implemented without prejudice to the Mi'kmaq Aboriginal and Treaty Rights and the inherent Rights and interests of Sipekne'katik Band and all members of the Mi'kmaq nation.

The document is built on multiple community meetings, round-table discussions, community surveys and interaction with other First Nations regarding established First Nations Fisheries Management Plans and should be read in its entirety.

The Sipekne'katik Band Council will seek to ensure that this Fisheries Management Plan is properly and fully communicated amongst Sipekne'katik Band members and with other Mi'kmaq First Nations in the effort to promote compliance and collaboration for the sustainable management of Mi'kmaq fisheries.

For the purposes of clarity, the term 'conservation' means protection and preservation of fisheries resources to ensure the Mi'kmaq Rights are protected in perpetuity.

Similarly, the term 'mentor' means any non-Sipekne'katik Band Member who is hired to provide training and advisory support to Fisheries Department staff, fishers, seafood buyers, or seafood processors from the Sipekne'katik Band.

This Fisheries Management Plan provides the framework for the management of the Sipekne'katik Livelihood Fishery. A 'livelihood' is more than employment and income which are terms that are often used to limit a 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 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.

## **Fisheries Management Objectives**

The Fishery Management Objectives have been defined by the Sipekne'katik Band and adopted by the Sipekne'katik Band Chief and Council. These objectives are consistent with and advance the principles defined in the United Nations Declaration on the Rights of Indigenous Peoples and form the basis for fishery decision making within the Sipekne'katik Band. The Objectives for the Sipekne'katik Fishery are as follows:

1. To ensure conservation of the resource to protect and exercise Mi'kmaq Treaty and Aboriginal Rights<sup>1</sup> to harvest natural resources for the benefit of the community and its members.
2. To alleviate family poverty and advance the size and security of the middle class within the Sipekne'katik community
3. To ensure community adherence to the traditional Mi'kmaq principles of Netukulimk.
4. To contribute to the social and economic well being of the community.
5. To develop and promote livelihood fishing activities that will provide stable and effective<sup>2</sup> employment and income<sup>3</sup> for community members.
6. Provide food to meet the nutritional and social needs of local Sipekne'katik Band members.
7. To ensure the public and harvester safety are protected.
8. To have economically self-sufficient fishing operations, including management and administration.

The Sipekne'katik Band has adopted gender equity principles for the fishery. Accordingly, efforts will be undertaken to avoid any gender barriers in the implementation of all fishery related activities.

## **Development of the Annual Fisheries Harvesting Plan and Coming into Force of the Fisheries Harvesting Plan**

1. The Sipekne'katik Band Council will establish a Local Fisheries Management Committee to monitor and oversee the implementation of this Plan. The

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<sup>1</sup> Protection of Treaty and Aboriginal Rights is dependent upon the sustainability of the resource; therefore, resource conservation is a priority management objective.

<sup>2</sup> Effective employment is defined as employment that will provide income levels sufficient to meet the moderate needs of fishers and their families.

<sup>3</sup> Effective income may be derived from multiple activities to which fishery incomes form part.

Committee will elect from their membership a chairperson. The Sipekne'katik Fisheries Director or his/her designate will act as the Chair of the Committee.

2. The Sipekne'katik Band Fisheries Director will prepare resource materials and hold public meetings for the purpose of establishing, where appropriate, common procedures, criteria and objectives for fisheries management.
3. The Fisheries Director will post a public notice for applications to the Sipekne'katik Lobster Livelihood Fishery and will accept written applications from Sipekne'katik Band members for access to the Sipekne'katik livelihood fishery at the Sipekne'katik Fishery Department Office.
4. 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 or alternative fishing equipment, name of buyer, and name and role of any mentor/trainers who will be involved with the fishing activity.
5. Complete applications will be reviewed by the Fisheries Management Committee within two weeks of application. Written notice of approval or disapproval will be provided to the applicant by the Fisheries Director.
6. Prior to the month of March of each year, the Fisheries Management Committee shall prepare a Draft Fisheries Harvesting Plan to govern natural resources management and fishing activity for the current year. The Annual Harvest Plan will include all approved allocations.
7. The Draft Fisheries Harvesting Plan shall be posted in plain public view in the Band Office and published in a community newsletter. The contents of the Fisheries Harvest Plan will include:
  1. Statement of the Community's Fisheries Objectives
  2. Rules and regulations concerning eligibility to access the Sipekne'katik Band fishery
  3. Harvest regulations and procedures for the livelihood fishery
  4. Marketing guidelines/procedures
  5. Vessel allocation rules and procedures
  6. Community support activities (contributions for development support)
  7. Food fishery rules and regulations
  8. Conflict resolution procedures
  9. A list of fishers designated for the current year, including details of the individual allocations
8. When the Band Council is satisfied that the membership has been consulted on the Fisheries Harvesting Plan, the Council shall by Resolution adopt the Fisheries Harvesting Plan for the current year, and by Resolution amend this Fisheries Management Plan to incorporate the Fisheries Harvest Plan as Annex A.

9. After adopting the Fisheries Harvesting Plan for the current year, the Council shall ensure that the adopted Fisheries Harvesting Plan is posted in plain and public view in the Band Office and is published in a Newsletter and is communicated, prior to the first day of fishing, to the membership and to such interested governments and interested user groups as the Council considers appropriate.
10. The Council may for extenuating circumstances be required to alter the annual Management Plan. All amendments will be made through an open public meeting and drafting of an Annex of Amendment to the Management Plan. The Council will provide public notice of any changes to this Plan by posting the Annex of Amendment in a conspicuous place at the Band Office, and through the issuance of a special community newsletter.

## **Region of Application**

11. This Management Plan and the Fisheries Harvesting Plans annexed as Schedule A shall apply in and throughout the watersheds within the traditional territory occupied by the members of the Sipekne'katik Band, including all rivers, streams, brooks, lakes, embayments, estuaries, within the traditional territory of Mi'kmaki and all near shore banks, offshore banks and all other ocean space adjacent to Mi'kmaki.
12. It is understood by Sipekne'katik that the Mi'kmaq were a semi-nomadic people who occupied on a seasonal basis all Mi'kmaki. Therefore, the Region of Application of this Management Plan is within the traditional territory comprised within the region now known as the Atlantic Province (traditional districts of Sipekne'katik, Kespukwitk, Eskikewa'kik, Epekiwitk Agg Piktuk, Unama'kik, Siknikt and Kespek).
13. This region of applicability is a shared jurisdiction with other Bands 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 Sipekne'katik Fishery Management Plan.

## **Management Regime**

14. The Sipekne'katik Band Council shall be solely responsible for the implementation of the Fisheries Harvesting Plan as provided in this Management Plan.
15. The Council shall exercise its responsibility in respect of the Fisheries Harvesting Plan.

16. The Sipekne'katik Band Council may enter into co-management arrangements with adjacent governments in the interest of conservation and management of fisheries resources.
17. The Sipekne'katik Band Council shall have responsibility to monitor the fishing activities of the Band members in the territory under its jurisdiction.
18. In the fulfillment of its mandate the Council may:
  - a) Promote traditional values and practices (Netukulimk) that protect the fishery and the environment;
  - b) Conduct resource assessments and inventories;
  - c) Engage in scientific activities for the purpose of establishing harvesting limits;
  - d) Identify special protection zones;
  - e) Conduct restoration and enhancement activities as required;
  - f) Examine alternative harvesting techniques;
  - g) Encourage the development of pre-and post-harvest commercial components to the Band's fishery;
  - g) Establish a 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; and,
  - h) Establish governance rules and regulations that will promote fisheries and other resource-based businesses within the community.
19. The Sipekne'katik Band Council may employ the necessary professional fisheries management personnel to oversee and implement the community management plan.
20. The Sipekne'katik Band Council may employ the necessary personnel to coordinate scientific activities and to coordinate initiatives with agencies outside of the Band.
21. Personnel employed in accordance with articles 14 and 15 must include Mi'kmaq persons in professional and managerial positions at all levels.

22. Fishers are not, and shall not be deemed to be employees or agents of the Sipekne'katik Band nor Sipekne'katik Band Council and shall save harmless the Sipekne'katik Band Council and Sipekne'katik Band.

## **Compliance**

23. The Sipekne'katik Band Council shall have the responsibility to promote and encourage compliance with this Management Plan.
24. In order to promote and encourage compliance, the Council may:
  - a) Conduct monitoring activities in areas in which Sipekne'katik Band members conduct harvesting activities;
  - b) Conduct patrols, surveillance, investigations; and
  - c) Develop and promote fisheries education programs.
25. The Council, through the community management structure, may establish rules concerning monitoring and other measures that duly appointed Band Compliance Officers shall apply in situations of non-compliance with any provision of this Management Plan.
26. Any violation to any provision of this Plan recorded by duly appointed Band Compliance Officers shall be placed before the Council for resolution through a community Justice process.
27. No person or agency other than a duly appointed Band Compliance Officer shall interfere with or molest the Mi'kmaq in Fisheries harvesting activities pursuant to this Accord, unless requested in writing by the Council.
28. The Sipekne'katik Band Council may enter into a formal arrangement with appropriate private sector companies or federal/provincial government departments to provide compliance control (enforcement) services related to the Sipekne'katik Fisheries Management Plan.

## **Resource Allocation**

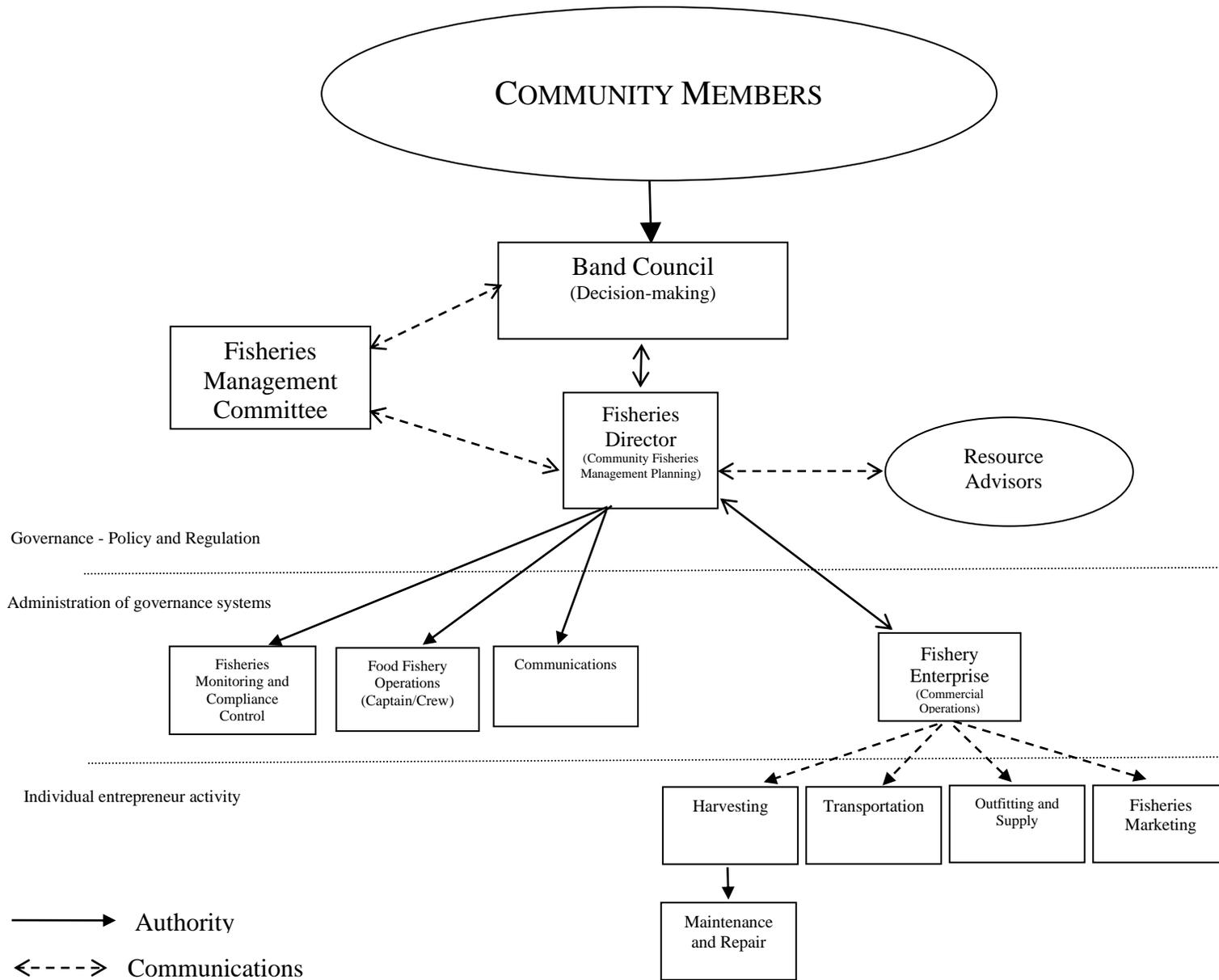
29. Subject to the other sections in this Part, only limits defined within Fisheries Harvest Plans shall apply to Fisheries harvesting by Sipekne'katik Band members for any given year.

30. No Fisheries allocations shall be established if it is determined by the Sipekne'katik Band Council that the harvesting activities of Band Members are exclusively responsible for endangering fish stocks or wildlife populations.
31. Based on recommendations from the Fisheries Management Committee the Council may for conservation or safety concerns alter the time, duration or areas in which Fisheries harvesting can occur by attachment of an Amendment to this Plan by Annex. The Council will provide public notice of any changes in fishing times, duration or areas that have been incorporated in this Plan by posting the Annex of Amendment at the Band Office in a conspicuous place, and through the issuance of a special community newsletter.

## **Use of Resource**

32. The use of all fishery harvests will be for the benefit of Sipekne'katik and its members in accordance with Fisheries Harvest Plan and the principles of Netululimk.

Sipekne'katik Bands Fisheries Management Structure



## **Livelihood Fishery Access and Eligibility**

### **Guidelines for access to the Lobster fishery:**

33. All lobster fishing operations will work under a sharing arrangement that will contribute to the community. This sharing arrangement will be a flat rate based on a percentage of gross landed value. This rate will be set annually for each season and area by the Fisheries Management Committee.
34. Access will only be provided to Designated Captains upon approval of a written proposal submitted to the Band Council through the Fisheries Director.
35. Only Sipekne'katik Band Members over the age of 18 will be eligible to be Designated Captains or crew.
36. To advance traditional intergenerational knowledge transfer, Sipekne'katik Band Members of 16 and 17 years of age will be authorized to fish in the accompaniment of eligible family members.
37. Proposals to request allocation must include:
  - the name and number of the vessel to be used for the access,
  - the number of traps or alternative fishing equipment that will be used,
  - a list of potential Band crew members to be employed on the vessel,
  - the port 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 non-Band trainers to be employed through the access as mentors, along with detailed mentorship training plan.
38. All Designated Captains will be responsible for the day to day operations, under the general supervision of the Fisheries Director.
39. Fishers are not, and shall not be deemed to be employees or agents of the Sipekne'katik Band nor Sipekne'katik Band Council and shall save harmless the Sipekne'katik Band Council and Sipekne'katik Band.
40. All vessels used in the Sipekne'katik Fishery must be insured as deemed appropriate and necessary by the Fisheries Director.

### **Safety Considerations:**

41. Lobster fishing is designated as a Safety Sensitive Occupation and will accordingly be subject to restrictions on the use of drugs and alcohol. The Committee may require proof of Fit for Work compliance.
42. All individual designated fishers must be 18 years or older. Sipekne'katik Band Members of 16 or 17 years of age may participate in the fisher in the accompaniment of eligible family members

**Eligibility requirements:**

43. All fishers must meet the following criteria:
  1. A member of the Sipekne'katik Band over the age of 18 years.
  2. Possess a valid MED certificate.
  3. Have demonstrated fishing experience<sup>4</sup>.
44. All Designated Captains must meet the following criteria:
  - a) Be a member of the Sipekne'katik Band over the age of 18 years.
  - b) Have a suitable and insured boat and gear available for the coming fishing season<sup>5</sup>.
  - c) Have a demonstrated capacity to operate the vessel to be used for the fishery.
  - d) Have a crew selected and prepared to fish at the start of the fishing season.
  - e) Pass a random drug and alcohol screening test that may be administered from time to time.

**Loss of access:**

45. Specific criteria (indicators) will be determined by the Fisheries Committee to determine whether fishers are fishing to an acceptable manner. In the interim period access may be removed for fishing in a manner contrary to the Band's Management Plan.
46. In the event that there is an accident or incident attributed to proven intoxication by drugs or alcohol the captain and crew will lose access.
47. Fishing activity will be monitored by the Sipekne'katik Fisheries Director and reported to the Band Council.

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<sup>4</sup>Priority will be given to Band members with the higher level of experience

<sup>5</sup> All vessels must have a Band approved inspection prior to issuance of access. This inspection will consist of a written expert evaluation of the vessel hull, engine, hydraulics, wiring and navigational systems.

48. Fishers who do not fish to an acceptable manner, as determined by the Sipekne'katik Fisheries Director, may have their access to the Sipekne'katik Livelihood Fishery temporarily restricted or suspended.
49. In the instance of repeated instances of improper fishing, the Band Council may permanently remove a Band Member's access to the Sipekne'katik Livelihood Fishery.

**Non-native Participation in the Fishery:**

50. Non-natives will not be eligible to access the Sipekne'katik Livelihood Fishery except as a pre-approved mentor in accordance with a detailed Mentorship Plan prepared by the allocation holder.
51. Mentorship plans will be reviewed and approved or rejected by the Fisheries Management Committee.
52. Mentors may only be involved with individual access allocations for a single season (one year). Based on circumstances and upon request by the allocation holder the Fisheries Committee may review the mentorship results and consider use of a mentor by the allocation holder for a second year.
53. Non-natives will not be permitted to work as crewmembers.

**Lobster Livelihood Fishery Regulations**

**General Considerations:**

54. No member shall conduct Livelihood fishing activities without authorization from the Fisheries Director approved by the Band Council. This permit will provide the harvesters name, vessel name, vessel registration number, harvesters Band number and designated fishing season. This permit must always be available on the vessel while conducting fishing activity. Livelihood permits are not transferable.
55. Permits will be issued only to Sipekne'katik Band Members. All fishing activity must be conducted by the permit holder. If the authorized fisher is unable to attend the gear and vessel for medical or other extenuating circumstances, a special authorization can be issued by the Fisheries Director to a designate. Designates must be a member of the Band.

56. All fishers will conduct their fishing activity in a manner that protects the interests and reputation of Sipekne'katik, and safe harmless the Sipekne'katik community, Council, and Fisheries Department.
57. No Band member, who is determined to be qualified and available by the Captain, shall be displaced from a crew to permit non-Band fisher's access to the fishery.
58. Non-native fishers are not permitted to benefit from employment or income from the Sipekne'katik Livelihood Fishery except as approved mentors.
59. Before the commencement of fishing the Council shall establish designated Landing Sites that shall be posted in conspicuous places on the Reserve.
60. No person fishing under the auspices of the Sipekne'katik Band shall land lobsters at any place other than the Landing Sites designated by the Band Council.
61. Before the commencement of fishing the Council shall establish a list of designated buyers to whom vessel captains will be instructed to sell all catches.

**Harvest Regulation:**

62. Lobster fishing will be by trap, unless otherwise permitted in writing by the Band Council. Written permission shall specify the fishers 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.
63. The number of livelihood fishery traps permitted by individual fishers will be determined by the Fisheries Committee based on the best available scientific and economic information, and the specific circumstances in the fishing area.
64. Fishers 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.
65. All allocation holders must be on the vessel while fishing activity occurs.
66. All allocation holders must ensure all vessels are equipped with the required safety equipment.
67. All allocation holders must ensure that fishing gear is properly and safely stowed while not actively fishing.

68. All allocation holders must ensure that fishing vessels are fully and properly insured prior to commencement of fishing activities to protect the financial interests of the Sipekne'katik community.
69. All allocation holders must ensure each fisher is properly trained and fully certified and insured prior to commencement of fishing activities.
70. Retention of Lobsters with eggs attached is prohibited.
71. Retention of lobsters of a size less than a size deemed appropriate by the Fisheries Committee
72. Retention of molting (soft-shelled) lobsters is prohibited. Areas where molting lobsters have been observed must be reported to the Fisheries Director.
73. Retention of lobsters during closed periods as determined by the Band Council is prohibited. Areas may be closed for periods of time due to conservation or safety considerations, including inclement weather, public unrest, etc.

**Limits and Seasons:**

74. For the purpose of good governance and fisheries administration, the Sipekne'katik Band will take into consideration the lobster fishing areas used by Fisheries and Oceans Canada for lobster fishery management. Specifically, the Sipekne'katik Band will operate in all the following areas (dates of non-native commercial fishing season are provided for information purposes only):

<b>Lobster Fishing Area:</b>	<b>Dates of Non-Indigenous Commercial Fishing: (See Map Below)</b>
LFA 9 to 12	April 20-July 30
LFA 13 a-b	April 20-July 5
LFA 17	June 5-August 5
LFA 19	May 5-July 9
LFA 20a, 22, 23, 24, 26a, b	April 30-June 30
LFA 20b, 21	May 8-July 7
LFA 25	August 9-October 10

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LFA 27	May 15-July 15
LFA 28	May 9-July 9
LFA 29	May 10-July 10
LFA 30	May 19-July 20
LFA 31a	April 9-June 30
LFA 31b, 32	April 20 - June 20
LFA 33	Last Mon. in Nov. - May 31
LFA 34	Last Mon. in Nov. - May 31
LFA 35	Oct 15 - Dec 31 & March 1 - July 31
LFA 36, 37	March 31-June 29 & 2 <sup>nd</sup> Tues. Nov-Jan 14
LFA 38	2 <sup>nd</sup> Tues. Nov-Jan 29
LFA 41	All Year

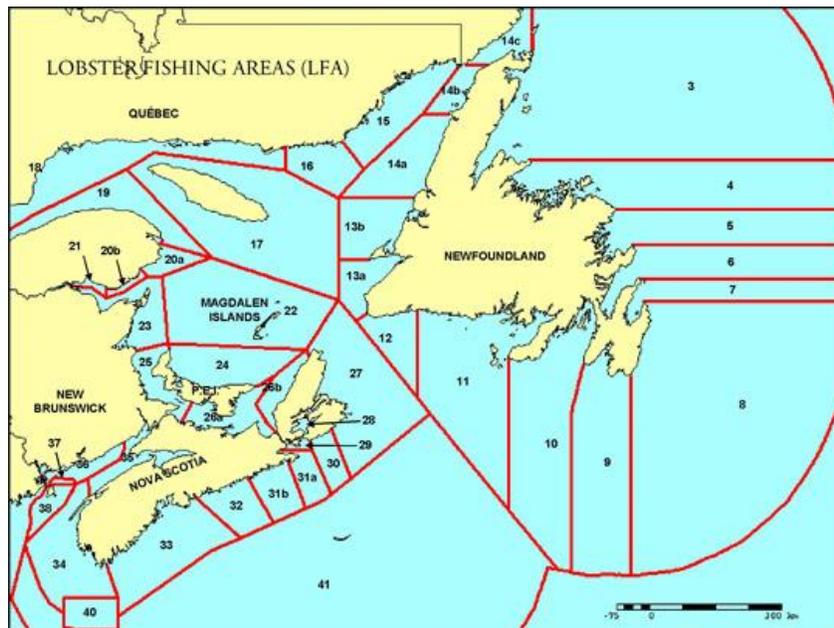


Figure 1: Map of Lobster Fishing Areas

75. The livelihood fishery trap allocations will be determined by the Fisheries Committee based on the best available scientific and economic information, and the specific circumstances in the fishing area.
76. Unless otherwise determined by the Fisheries Committee, all fishers will be eligible to use 50 lobster traps approved by the Fisheries Director.
77. Where and when Sipekne'katik fishers are operating in an area open for non-native commercial fishing the fisher will be permitted to increase their traps limit by 30 traps for the duration of the commercial non-native lobster season.
78. All fishers will be notified of the specific opening and closing dates by the Fisheries Director.
79. All lobsters harvested by a Band member pursuant to the Plan shall be taken to a designated Landing Site as established by the Fisheries Director and the Band Council, where they will be counted by a Band-designated monitor, or a duly authorized representative of the Band Fishery Administration, who will then issue to the Member a landing slip specifying:
  - a. The date and time of landing;
  - b. The Members name and particulars of his or her designation to fish;
  - c. The weight and number of lobsters landed; and,
  - d. The Monitor or Fisheries Administration representative's name.

**Buyers:**

80. The Band Council shall identify designated buyers based on acceptance of proposals from independent companies.
81. All designated buyers will be expected to provide economic support to the community either through profit sharing or through an access fee established by the Band Council.