



Jakej/Lobster FSC Harvest Plan

Adopted by Millbrook First Nation
September 9, 2014

Background & Principles

Netukulimk is a Mi'kmaq understanding of our interconnectedness with every life form that brings with it a cultural responsibility to engage in and with the world in a respectful, caring, and sustainable manner. Netukulimk recognizes our reciprocal relationship with the natural world and demands that we take only what we need from the natural environment without compromising ecological integrity today and seven generations from now.

Millbrook First Nation (MFN) community members are united that any food, social and ceremonial fisheries must be guided by the concept of Netukulimk. They've also expressed concern with the Department of Fisheries and Oceans (DFO) approach to date, which attempts to regulate a constitutionally protected Aboriginal Right to fish and imposes unjustified restrictions on aspects of the food, social and ceremonial fishery (FSC) for Millbrook community members.

In October 2013, a community meeting explored the existing arrangement with DFO. A Millbrook Harvest Committee, comprised of the members of the Millbrook Community and Millbrook Chief and Council began to explore how access to food, and social and ceremonial fisheries could be improved. A survey was circulated early in 2014 to determine the level of interest in certain species among Millbrook Community members. This survey has helped focus our efforts in identifying priority species and any potential conservation concerns that may shape a plan of access to that species.

This plan is an interim step and is not meant to be the final say in how we harvest food social and ceremonial species. The work of the Millbrook Harvest Committee is ongoing and will take some time. The Chief and Council have firmly declined to sign an AFS agreement with DFO since 2018 and are moving forward instead under a self-governance approach to community fisheries management.

With substantial community input, we intend that this proposed plan will eventually serve to re-establish all our food, social and ceremonial (FSC) fisheries on the concept of Netukulimk, to ensure the protection of our natural life resources. Millbrook implemented the Jakej/Lobster Harvest Plan outside of an Aboriginal Fisheries Strategy signed Agreement with the DFO. This Plan addresses the priority access, conservation and management issues associated with our community accessing the Jakej/Lobster for FSC purposes.

In the meantime, and through community authority, this Plan will be the guide by which Millbrook First Nation community members will harvest salmon/plamu for sustenance for themselves, their families, and their community.

I encourage all Millbrook Community members to carefully read this Jakej/Lobster Harvest Plan and if you have any questions, be sure to get in touch with the Millbrook Fisheries office immediately answers to your questions at (902) 897-0435.



Jonathan Lowe
Director of Fisheries

Contact Information

Fisheries Admin. Coordinator/Admin. Assistant

The Fisheries Admin. Coordinator/Admin. Assistant works with each Millbrook Community member to get started on the Millbrook Interim Multi-Species FSC Harvest Plan, the Millbrook Atlantic Plamu/Salmon Harvest Plan, and the Millbrook Jakej/Lobster Harvest Plan. They also give out harvester registration cards, harvester report cards, and tags for all species. Please contact the Fisheries Administration Coordinator at any time if you have questions.

Dalas Tufts

dtufts@mfnfisheries.ca

Office: 1.902.897.0435

Cell: 1.902.956.1149

Food, Social and Ceremonial Fisheries and Your Rights

Section 35. (1) of the Constitution Act states that the *existing Aboriginal and Treaty Rights of the Aboriginal peoples of Canada are hereby recognized and affirmed*. When the *Constitution Act* was passed, section 35 was included after some intense political wrangling. Though section 35 marked a turning point for the recognition of Aboriginal Peoples in Canada, the provision did not explain much about what those Aboriginal and Treaty Rights were.

It was intended that Aboriginal and Treaty rights would be defined through further constitutional amendments, but that did not happen and instead, interpretation has fallen to the courts. *R v. Sparrow* was a seminal case dealing with the issue of whether a practice is a treaty or Aboriginal Right and whether a government could justify infringing that right, based on certain factors.

The facts of the *Sparrow* case are perhaps familiar to us in Mi'kma'ki: The Musqueam inhabited the Fraser River delta and depended on this river and fishing for sustenance for generations, but their rights were infringed upon as non-Aboriginal fishers and various levels of government took increasing control of the fishing industry. The provincial and later, the federal government introduced fishing licenses and restricted Aboriginal peoples to "food fishing", which means fishing strictly for their consumption. Despite these restrictions, Musqueam continued to fish - for food - as they always had.

In 1984, Ronald Sparrow was arrested for fishing with a drift net of 45 fathoms in length, 20 fathoms longer than permitted by the Band's fishing license under the *Fisheries Act*. Sparrow defended himself on the grounds that he was exercising his Aboriginal Right to fish under section 35(1) of the Constitution Act, 1982.

Though *Sparrow* is important because it confirms the right to a food social and ceremonial fishery for First Nations peoples, it also says that the government can infringe those rights under certain conditions, the most significant of which is conservation.

You need to understand as you harvest and as we go forward in designing our food, social and ceremonial fishery plans that our collective right is not absolute and will always be subject to conservation concerns. If a Millbrook community member was caught fishing in an area closed for conservation and these conservation issues were made known to the community member, arguing you were simply exercising your rights will not likely help in your defense.

We will continue to talk to address all identified real conservation or management issues for the interim Lobster FSC fishery.

Please note that Salmon and other aquatic natural life species harvesting guidelines and community management measures are being developed under the same principles and objectives of this Lobster Harvest plan and will be included within this overall plan when completed. In the interim and only until such guidelines are completed by Millbrook First Nation (MFN), historical access levels and management measures for Salmon and other aquatic species (e.g., Striped Bass) that are shown to address conservation and management must be abided to by all community members. As an interim guide to member access, all aquatic natural life species can be harvested year-round for individual, family and community food, social and ceremonial purposes - specific species harvests and management measures set out or that will be set out in these guidelines must be followed by all MFN members.

Netukulimk - Netukulimk is the Mi'kmaq understanding of our interconnectedness with every life form that brings with it a cultural responsibility to engage in and with the world in a respectful, caring, and sustainable manner. Netukulimk recognizes our reciprocal relationship with the natural world and demands that we take only what we need from the natural environment without compromising ecological integrity today and seven generations from now.

Msit No'kmaq - Msit No'kmaq is another key Mi'kmaq belief. It has been translated as "all my relations". The Mi'kmaq viewed the entire created world as members of his/her own family or kin; be it birds, trees, insects, fish, water, or the four-legged ones. We are all related. They are not just things or inanimate objects. There are living beings with their own life and spirit within them, a life we all share. If we harm them, we harm ourselves. (Former Senator Dan Christmas)

Two-Eyed Seeing - Two-Eyed Seeing refers to learning to see from one eye with the strengths of Indigenous ways of knowing and from the other eye with the strengths of Western ways of knowing and to using both of these eyes together. (Bartlett, Marshall, & Marshall, 2012, p. 335) Two-Eyed Seeing intentionally and respectfully brings together our different ways of knowing, to motivate people to use all our gifts so we leave the world a better place and do not compromise the opportunities for our youth (Bartlett, Marshall, & Marshall, 2007). The concentration on the common ground between Indigenous and Western ways of knowing means that one does not have to relinquish either position but can come to understand elements of both. The place-based learning experience - Ik ka nutsu follows a two-eyed approach

Netukulimk – A Mi'kmawey concept which includes the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community at large.

Netukulimkwe'l – Refers to the practices, customs and code of conduct governing the way Netukulimk is exercised.

Netukli'tite'wk – Refers to the hunters, fishers, gatherers, trappers, and those others exercising Netukulimk.

Millbrook First Nation Lobster Harvesting Guidelines

1. I want to fish for Lobster for my family. What do I need to do?

All Millbrook community members who request to be issued tags to harvest FSC Lobster under this plan must first complete a 2024 MFN FSC Jakej (Lobster) Harvester Registration Card and be approved by the Millbrook Fisheries Department to be issued tags. Under this interim plan, only Millbrook First Nation Band Members are eligible to register.

Millbrook community members who register to harvest Lobster and who are issued tags by the Millbrook Fisheries office are responsible for Lobster Monthly Harvest Report Cards that were provided to them at the time of tag

issuance. These report cards must be submitted to Millbrook Fisheries at least once a month, even if the harvester was not successful in their harvest efforts. ***If a community member fails to submit a report card, their tags could be cancelled.*** In addition, if a community member refuses to submit a monthly report, he or she will not receive any further tags from Millbrook Fisheries for any future FSC fisheries, until such time they become compliant with these guidelines.

2. When can I catch Lobster for my family?

The harvest season for Lobster for all Millbrook Community members will be open all year round (365 days) and in all Lobster Fishing Areas (LFA) surrounding the province of Nova Scotia. The harvest season may be varied by Millbrook Fisheries if real conservation and/or management concerns are made known and agreed to by Millbrook.

Please note, that lobster access levels in ***LFA 28 (Bras d'Or Lake)*** are currently being discussed to address issues raised by members of the Mi'kmaw communities in Unama'ki.

As such, Millbrook Chief and Council requests that all community members voluntarily refrain from harvesting FSC Lobster in this area until these discussions conclude, and you are further notified of outcomes.

3. Where can I fish for Lobster?

The harvest areas for Lobster will be LFA's: 25, 26A 26B, 27, 28 (please see note in number 2 above), 30, 31 A, 31B, 32, 33, 34, and 35. All registered Millbrook community members issued tags may harvest FSC Lobster in any of these LFA's and under this management plan.

4. How many tags can I receive under the interim plan?

Millbrook will issue a maximum three (3) Lobster Hoop Net tags per member for all LFA areas surrounding NS or three (3) Lobster trap tags to be fished in **LFA 34, three (3) Lobster trap tags for LFA 33 and 35 or four (4) Lobster trap tags for all other LFA's** (for a total of 10 lobster trap tags) issued to each Millbrook community member who applies for and is approved to harvest FSC Lobster under this plan. ***Millbrook community members are not permitted to harvest three hoop net tags and 10 lobster trap tags at the same time and must apply for only one Lobster harvest method annually.*** Only tags for one LFA will be issued at a time to a person. If you would like to change LFAs, you must bring in your current tags and exchange them for the new area you would like.

For the 2024 year, Millbrook will issue a maximum of 5,340 Lobster Hoop Net tags (three per member with text 2024 MFN FSC LOBSTER HOOP) and 17,800 Lobster Trap tags. **MFN will collaboratively share with DFO a list of Lobster tag requirements annually and on or before the end of March 31 of that year, and in a manner as set out in Section # 4 of these guidelines and as listed below.**

1483 tags for LFA's: 25, 26A, 27, 30, 31 A, 31B, 32, 33, 34, and 35.

1487 tags for LFA 26B.

The Hoop Net Tags will be numbered 000000 – 005340. These will be administered by Millbrook Fisheries and collaboratively shared with DFO as set out in Millbrook's Interim Lobster Harvest Guidelines.

Lobster trap tags will be labelled and numbered as follows:

Tag Colour	Text	Starting #	Ending #	Quantity/set
Red	2024 MFN FSC LOBSTER LFA 25	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 26A	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 26B	0000001	0001487	1487
Red	2024 MFN FSC LOBSTER LFA 27	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 30	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 31A	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 31B	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 32	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 33	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 34	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 35	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER LFA 28	0000001	0001483	1483
Red	2024 MFN FSC LOBSTER HOOP	0000001	0005340	5340

All other traditional or preferred FSC methods for harvesting lobster are permitted with due respect for conservation and Netukulimk. (e.g., Diving).

Please Note: For the interim 2024 year MFN will issue tags. New tags have been ordered to match the tag text protocol above and will be issued to replace the interim tags when received

5. How much Lobster can I catch under these guidelines?

Millbrook community members are permitted to harvest the number of Lobsters under these guidelines that are required for FSC purposes for themselves and their families with due respect for conservation and the protection of the resource. Harvest amounts set out in these guidelines or that will be set out in these guidelines in the future are over and above a Millbrook community member's access to the same resource as a Canadian Citizen that may be set out in Government Acts or Regulations (e.g., through a trout license).



6. What if I lose my tags, or my tags are stolen?

Lobster Trap or Lobster Hoop Net replacement tags will be issued to community members who report their tags lost, destroyed, or stolen to the Millbrook Fisheries office. The member must first complete a "Lobster Replacement Tag Application" and agree to not fish these tags as they will be voided when replacement tags are issued, with notice given to the Millbrook Fish and Wildlife Conservation Team.

7. Will Millbrook Chief and Council organize a Community Harvest of Lobster for all interested community members?

Some Millbrook Community Members have requested that Millbrook Chief and Council organize an FSC Community Harvest of Lobster and make these Lobsters available to the membership for free throughout the year. Millbrook Chief and Council are currently working with Millbrook Fisheries to develop a process to allow for a Community Harvest in 2024. Millbrook Chief and Council will inform its membership when this process is complete, and applications are available.

8. What if my family or a friend cannot fish their tags because they do not have a boat, or because they cannot do the physical work associated with harvesting lobster? Am I allowed to fish for them?

Some Millbrook community members have noted certain limitations when FSC Lobster harvesting such as not having a suitable boat, not being physically strong enough to pull traps having certain medical conditions that require a companion present or not having proper boat navigational knowledge.

To address these safety issues, we are open to allowing a "harvest on behalf of" or a "special circumstances" Lobster harvesting arrangement, under certain criteria and with some limits. *Processes are currently being developed in collaboration with the Millbrook Fish and Wildlife Conservation Team and all community members will be notified when these processes are completed and available to be used.*

The maximum number of tags allowed per vessel is 12. Millbrook Chief and Council along with Millbrook Fisheries will inform its membership when this process is **complete**, and applications are available for Community members to apply to have other community members harvest their Lobster tags.

9. Is there a size limit to the Lobster I can catch under this plan?

Millbrook community members will not harvest a Lobster with a carapace size less than 2 3/4 inches (70mm) in LFA Areas 25 and 26B and 27, which includes an area described from New Brunswick to Cape Garbarus, Nova Scotia. In LFA 26A, Millbrook Community members will not harvest a Lobster with a carapace size less than 73mm.

Millbrook community members will not harvest a Lobster with a carapace size less than 3 1/4 inches (82mm) in LFA Areas: 27, 29, 30, 31, 32, 33, 34, and 35, which includes an area described as Cape Garbarus, Cape Breton to and including the entire Bay of Fundy.

These sizes are or have been accepted by industry conservation guidelines for minimum carapace sizes in the non-Aboriginal commercial fishery. In the interest of working with other resource users, MFN community members will abide by these size restrictions at this time. Conservation guidelines for minimum carapace sizes for an FSC fishery have not yet been developed and further discussions are needed.

10. Lobster Escape Hatches and Biodegradable Panels

Lobster traps must be equipped with escape hatches and biodegradable panels, which is important since traps can be lost. These specifications for hatches and panel sizes are being reviewed and we will include these specifications in the final draft of this plan.

In the interest of working with industry, MFN community members will abide by these size restrictions at this time. Conservation guidelines for Lobster Escape Hatches and Biodegradable Panels for an FSC fishery have not yet been developed and collaborative discussions are needed with DFO.

11. What if I catch a lobster that is V Notched or is bearing eggs?

Release it! If you catch a Lobster with a V notch in the tail, it indicates that the lobster is a female and will bear eggs. If you find this kind of lobster in your traps, you must return it immediately to the water from which they came, safely and unharmed.



12. Why do I need to report my harvest?

Under this plan, a list of all Lobster Trap tags and Hoop Net tags issued to or replaced for Millbrook community members will be shared collaboratively with DFO in a format and time frame that is agreed to.

Also, as a condition of receiving tags for FSC fisheries, you must report your harvesting efforts every month, even if you do not catch anything. This will assist us in developing Millbrook-specific data on our FSC fishery. We need to strengthen our reputation and capacity for self-management. By doing so we will address many lingering misconceptions about our management and conservation of lobster.

MFN has developed a community Lobster Harvest effort database and reporting process.

12. What if I do not report my catch?

The MFN community feels that there should be a penalty for this. In addition to the reporting responsibilities of community members covered above in #1, additional sanctions for lack of reporting may need to be included within these guidelines if non-reporting by members becomes a pattern.

13 Do I have to tag all my Lobster traps or Lobster Hoop Nets?

Yes. Millbrook Community members shall not possess on board a fishing vessel in any LFA a Lobster trap or Hoop Net that is not tagged properly by a valid MFN-issued Lobster Trap or Lobster Hoop Net tag(s).

14. How often do I have to check my Lobster Pots?

Millbrook community members are required to check their set lobster trap pots every **72 hours** or earlier. Leaving unattended lobster pots may lead to conservation issues such as lobsters eating one another, ghost fishing or fishing gear becoming problematic for other fish species that share our waters.

15. What if I only like part of the Lobster? Can I catch one, take the parts I like and then throw the rest back?

No. The catch on your boat must be live lobsters, not lobster parts. Possessing lobster parts on a vessel in an LFA is not permitted. The Millbrook Fish and Wildlife Conservation Team or anyone designated under this plan to monitor your catch would not be able to determine that what you had on board was legal (i.e., size, no v-notch or egg-bearing, etc.) if they cannot see the lobster itself.

Additionally, the principles of Netukulimk, Msit No'kmaq and Two-Eyed Seeing dictate that we use what we need, but that we are mindful of the need to not harvest with unnecessary waste.

Commercial Fishing - MFN has had access to **communal-commercial and commercial fishing** licenses for over 25 years. These are commercial licenses, many of which the MFN has bought with its own source revenue and fishes through various arrangements. The commercial fishery we operate is not based on, nor is intended to have any bearing on collective Aboriginal or Treaty Rights to fish.

Treaty Livelihood - You may have heard much about our right as Mi'kmaw to fish for a "**livelihood**" stemming from *R v. Marshall*. While Mi'kmaw won this right over 24 years ago, DFO has not yet fully acknowledged their legal obligations or what this right means in the lives of Mi'kmaw people. There is consultation forthcoming on this matter, but the FSC fishery will not be part of this discussion.

Food, Social and Ceremonial fishery will allow you to fish for yourself and your family for food, social and ceremonial purposes only.

16. Breaching Community Guidelines

When harvesting under a plan approved by the MFN, the harvester consents to routine inspections by the Millbrook Fish and Wildlife Conservation Team or their designees of the vessels, cars, catches, and logbooks/paperwork. A major violation of the Community Plan will result from noncompliance, in which case all information will be sent to the Director of Millbrook Fisheries and handled appropriately.

If a Millbrook community member is accused under reasonable grounds of harvesting contrary to these community guidelines or where the reported conduct of a community member in the exercise of their FSC harvesting, amounts to a breach of these guidelines, the Millbrook Harvest Committee shall strike a panel of its members to investigate such allegations. The panel shall make recommendations to the Harvest Committee as to any sanctions against the community member, including, but not limited to, suspension or cancellation of tags, restorative, and educational measures to ensure the community member understands and remains in compliance with these guidelines.

MFN is currently collaborating with the Millbrook Fish and Wildlife Conservation Team to develop a process to ensure all required information on such incidents is reported in a formalized and timely manner so that a reasonable and timely resolution can be reached. MFN in the interim will follow the below process:

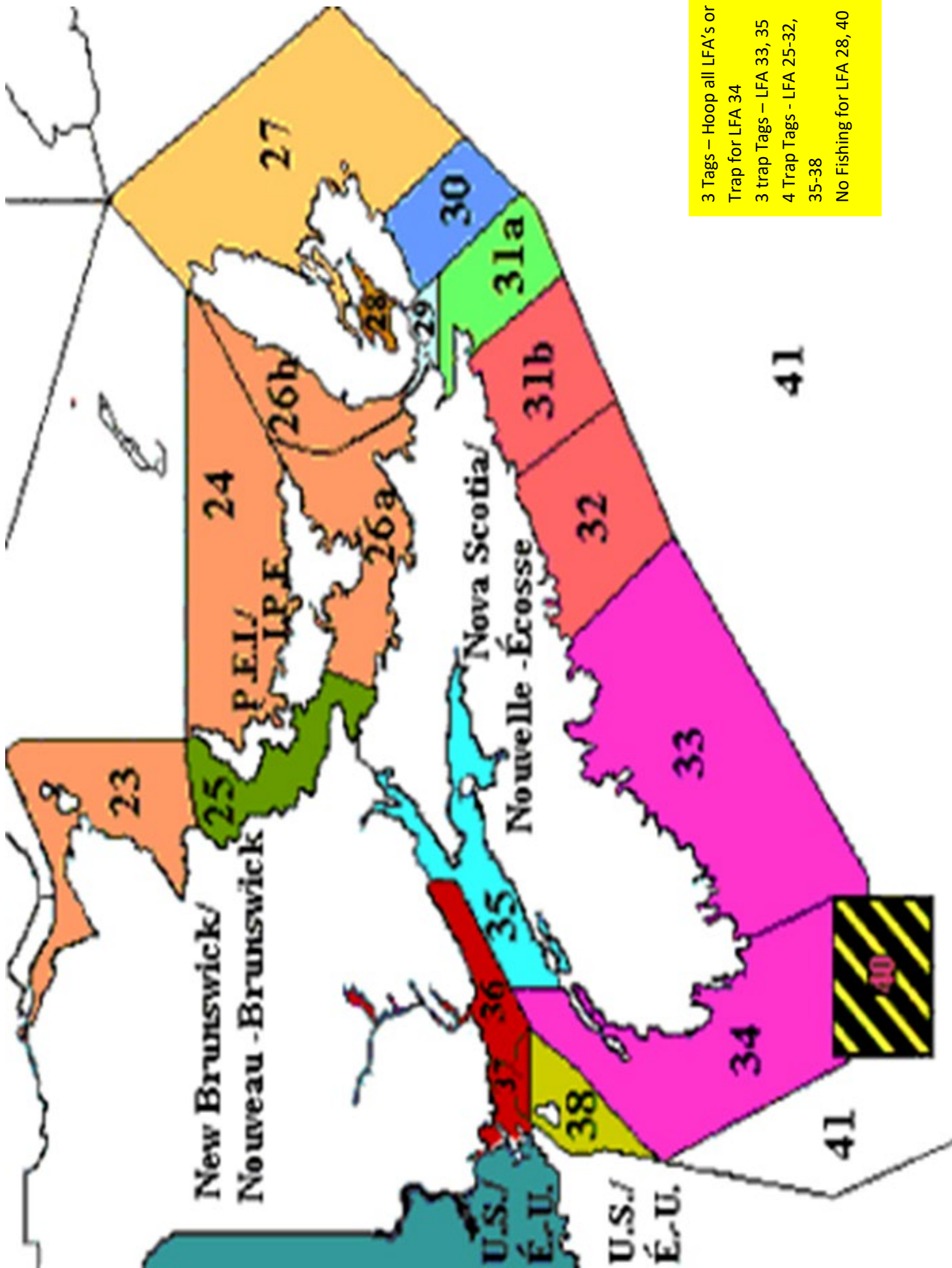
- A Millbrook community member is accused under reasonable grounds to be harvesting contrary to these community guidelines or reported conduct of a community member in the exercise of their FSC lobster harvesting, which amounts to a potential breach of these guidelines.

Millbrook Fish and Wildlife Conservation Team personnel who identify the potential breach will complete a written report of the incident detailing all details (date, time, those involved, tags, area, alleged activities, etc.).

- The incident details will be forwarded to the Millbrook Harvest Committee.
- The Millbrook Harvest Committee will immediately strike a panel to review the alleged community guideline breach details.
- The panel will make recommendations to the Harvest Committee as to any sanctions against the community member including, but not limited to, suspension or cancellation

of tags, restorative, and educational measures to ensure the community member understands and remains in compliance with these guidelines. External parties, including DFO as resource co-managers, input into such recommendations will be welcomed at this stage.

- As a last resort, MFN reserves the right to proceed with any court action regarding the incident deemed necessary under a competent court of jurisdiction.



3 Tags – Hoop all LFA's or
 Trap for LFA 34
 3 trap Tags – LFA 33, 35
 4 Trap Tags - LFA 25-32,
 35-38
 No Fishing for LFA 28, 40