

Licence No.: 2018-FSC-MEMBERTO-01

2018 ABORIGINAL COMMUNAL FISHING LICENCE

This licence is issued under authority of the *Fisheries Act* and sub-section 4(1) of the *Aboriginal Communal Fishing Licences Regulations*.

This licence does not define an Aboriginal right to fish or its scope; however, for the 2018/2019 fishing season, it is intended to provide a mechanism, for reasons of proper management and control of the fisheries and conservation and protection of fish, requiring compliance with the provisions of this licence.

Access to other species and gear type not included in the attached schedules and access to fishing areas not specified in the attached schedules is open to negotiation.

Nothing in this licence affects any applicable federal requirements under the *Species at Risk Act S.C. 2002, c-29*.

This licence confers on the Membertou First Nation, subject to the *Fisheries Act* and regulations made thereunder, the authority to fish under the following conditions:

Definitions:

“DFO” means the Department of Fisheries and Oceans

“First Nation” means Membertou First Nation.

“Jigging” means fishing by manipulating one or more hooks so as to pierce a fish in any part of the body instead of luring the fish to take the hook or hooks into its mouth.

“Length” means

(a) in relation to a lobster, the distance from the rear of either eye socket to the rear end of the carapace, measured along a straight line parallel to the centre line of the carapace of the lobster; and,

(b) in relation to a clam, mussel or oyster, the distance measured in a straight line through the longest part of the shell.

“Shell height”, in relation to a scallop, means the distance from the outer edge of the shell at the midpoint of the hinge to the farthest point on the outer edge of the shell opposite to the hinge, measured in a straight line.

“Tag(s) Validated by DFO”, for the purpose of this licence, means only those tags approved and identified by DFO in this licence during the period from the date of issuance to May 31, 2019.

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Species, Quantities, Locations, Gear and Methods, Dates and Times, and Other Conditions

Subject to amendments to the conditions of this licence and subject to close times as may be varied by the Regional Director General, Maritimes Region, DFO, in accordance with the *Fishery (General) Regulations*, the species of fish set out in Column I of an item of the attached Schedule I are permitted to be taken;

- a) in the quantities set out in Column II of that item;
- b) in the location set out in Column III of that item;
- c) during the dates and times set out in Column IV of that item;
- d) using the gear or method set out in Column V of that item; and
- e) in accordance with any other conditions set out in Column V of that item.

Where a Regional Director General has reason to believe that fish of any species in any area are contaminated, the Regional Director General may issue an order prohibiting fishing in that area for that species and, notwithstanding any other regulations made under the *Fisheries Act*, where a Regional Director General issues an order in respect of an area, no person shall fish for or catch and retain any species of fish specified in the order in that area.

Any nets authorized for use under Schedule I shall be set at least 200 meters apart, and at least 200 meters away from any fishery gear previously set.

Any salmon caught incidentally while fishing other species under the Schedule shall be immediately returned to the water in a manner that causes it the least harm.

Subject to the period of time set out in the attached Schedule, the authority to fish under this licence is valid from June 1, 2018 and will expire on May 31, 2019.

Disposition of Fish:

Without prejudice to future arrangements or regulations, fish harvested under this licence are for food, social and ceremonial purposes, and shall not be sold, traded or bartered.

Designation:

All persons fishing under the authority of this licence shall carry proof of designation and shall produce it on request of a Fishery Officer or a Fishery Guardian.

For the purpose of these licence conditions, proof of designation includes a certification or card indicating membership in the Membertou First Nation, and, for individuals who are not members of Membertou First Nation, it means any document that can verify his or her identity against a list of designated individuals provided by Membertou First Nation to DFO. The list of designated individuals must be the list in effect at the time of the fishing.

Documents that constitute proof of designation are personal and non-transferable.

Monitoring and Catch Reporting:

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Catch monitoring will be conducted by DFO and the Membertou First Nation. Where, in any month, fishing is carried out under this licence, the Membertou First Nation will provide DFO with trap counts and catch information on the fishing activities before noon on the first Monday of the following month. The information will include the total number of traps used in the fishing, the total hours fished and the total catch. The information will be forwarded to Vera Pierro, DFO ENS Area Office by fax at (902) 564-7398 or email at vera.pierro@dfo-mpo.gc.ca.

Other Provisions:

This licence does not provide to any member of the Membertou First Nation any authorization to trespass on any property.

This licence does not allow fishing or assisting in fishing by jigging in inland waters or assisting in landing fish that have been caught by jigging in inland waters. Any designated fisher who catches a smallmouth bass, landlocked salmon, salmon and trout by hooking it in a part of its body other than the mouth shall forthwith return the fish to the water from which it was caught and, where the fish is alive, release the fish in a manner that causes the least harm to it.

All fishing gear must be tagged with a tag validated by DFO and attached in the manner in which the tag was designed.

All gillnets, trap nets and fishing gear must be set in a manner so that one-third of the width of any river or stream and not less than two-thirds of the width of the main channel at low tide in every tidal stream shall be always left open, and no kind of net or other apparatus, logs or any material of any kind shall be used or placed therein.

All references in this communal licence to fishing areas and to length, width, shell height, size and weight of fish must be determined in accordance with the relevant provisions of the *Fisheries Act* and the regulations made pursuant thereto.

Compliance with the relevant provisions of the Fisheries Act and the regulations made thereunder is a condition of this licence.

Dated: MAY 28 2018



Mary-Ellen Valkenier
Regional Director General
Maritimes Region

SCHEDULE I

ITEM	COLUMN I SPECIES	COLUMN II QUANTITIES	COLUMN III LOCATION	COLUMN IV DATES AND TIMES	COLUMN V GEAR and METHODS and OTHER CONDITIONS
1	Lobster	As required for food, social and ceremonial needs	Lobster Fishing Areas (LFA) 27, 28 and 29 as set out in the <i>Atlantic Fishery Regulations, 1985</i>		Lobster traps and/or diving. All lobster traps must be tagged with valid lobster trap tags issued by DFO.
				LFA 27: June 1, 2018 to July 15, 2018 LFA 28: June 1, 2018 to July 1, 2018 LFA 29: June 1, 2018 to July 9, 2018	250 Light Blue Tags inscribed with “MEMBERTOU FN – FSC LOBSTER – 2017/2018” Numbered 0000001 to 0000250 shared among LFA 27, 28 and 29
				LFA 27: September 1, 2018 to May 31, 2019 LFA 28: September 1, 2018 to May 31, 2019 LFA 29: September 1, 2018 to May 31, 2019	250 Light Green Tags inscribed with “MEMBERTOU FN – FSC LOBSTER – 2018/2019” Numbered 0000001 to 0000250 shared among LFA 27, 28 and 29
					All lobster traps being fished or onboard a vessel must have in the exterior walls of each parlour in the trap and not more than 76 mm in LFAs 28 and 29 and not more than 250 mm in LFA 27 from the floor of each trap at least: (a) two unobstructed circular openings the diameter of each of which is not less than 57.2 mm. or: (b) one unobstructed rectangular opening the height and width of which is not less than 44 mm. (height) by 127 mm (width). 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.
					No person shall fish with, or have on board a vessel, a lobster trap unless the trap; (a) has in one exterior wall of each parlour an escape panel that provides, when removed, an unobstructed opening not less than 89 mm in height and 152 mm in width and that is fastened to the lobster trap with; (i) untreated cotton or sisal twine that does not exceed 4.8 mm in diameter, or

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					<p>(ii) uncoated ferrous metal wire, other than of stainless steel, that does not exceed 1.6 mm in diameter; or</p> <p>(b) is a wooden lobster trap that has in one exterior wall of each parlour two softwood laths that are adjacent to each other and that are not treated with a wood preservative.</p> <p>No person shall possess any claw, tail or meat that has been separated from the thorax or carapace of a lobster.</p> <p>Possession of lobster with eggs attached is prohibited.</p> <p>No person shall catch and retain or possess in Lobster Fishing Areas 28 or 29, any female lobster 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.</p> <p>The possession of lobsters of a length less than specified in this licence is prohibited. In LFA 27, the minimum length is 81.5mm. In LFA 28 and 29, the minimum length is 84mm.</p>
2	Striped Bass	50 fish	Mira River and Bras d'Or Lakes	July 6, 2018 to May 31, 2019	<p>Angling, Spearing, Snaring and/or Dip Netting</p> <p>No fishing for Striped Bass in waters that empty into the Gulf of St. Lawrence</p>
3	Mackerel	As required for food, social and ceremonial needs	Mackerel Fishing Areas 17, 18 and 19 as set out in the <i>Atlantic Fishery Regulations, 1985</i>	June 1, 2018 to May 31, 2019	Angling and/or Gillnet with a mesh no larger than 89 mm
4	American Eel	As required for food, social and ceremonial needs	In tidal waters of Cape Breton	June 1, 2018 to May 31, 2019	5 fyke nets, angling, spearing and/or dip netting

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5	Smelt	As required for food, social and ceremonial needs	In tidal waters and tributaries of Cape Breton	June 1, 2018 to May 31, 2019	Angling and dip netting
6	Halibut, Pollock and Flounder	As required for food, social and ceremonial needs	In tidal waters of Cape Breton	June 1, 2018 to May 31, 2019	Angling and handline
7	Cod and Haddock	Aggregate limit of 5 fish per day per person	In tidal waters of Cape Breton	June 1, 2018 to May 31, 2019	Angling and handline
8	Clams (Bar Clams, Bay Quahaugs, Razor Clams and Soft-shell Clams)	As required for food, social and ceremonial needs	Inland and tidal waters of the Province of Nova Scotia	June 1, 2018 to May 31, 2019	Rakes, shovels or diving No person shall catch and retain from the waters set out in column III of this item any clam which is less than the minimum length as set out for the species below: Soft-shell clam minimum shell length 44 mm Bay Quahaug minimum shell length 38 mm Bar clam minimum shell length 76 mm
9	Crab (Jonah, Red, Rock, Stone and Green)	As required for food, social and ceremonial needs	Inland and tidal waters of the Province of Nova Scotia	June 1, 2018 to May 31, 2019	Rakes, shovels or diving
10	Mussels	As required for food, social and ceremonial needs	Inland and tidal waters of the Province of Nova Scotia	June 1, 2018 to May 31, 2019	Rakes, shovels or diving
11	Oysters	As required for food, social and	Inland and tidal waters of the Province of Nova	June 1, 2018 to May 31, 2019	Rakes, shovels or diving

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ITEM	COLUMN I SPECIES	COLUMN II QUANTITIES	COLUMN III LOCATION	COLUMN IV DATES AND TIMES	COLUMN V GEAR and METHODS and OTHER CONDITIONS
		ceremonial needs	Scotia		