



T'aaq-wiihak Policy and Procedures for Participation

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***T'aaq-wiihak* Policy and Procedures for Participation**

1 BACKGROUND

- 1.1 The Five Nations have an inherent, collective, and constitutionally protected Aboriginal Right to harvest and sell all fish within their *Ha-ha-houthlee* (except geoduck) that was recognized by the 2009 SCC Ahousaht decision. The implementation of this right is being negotiated between the Five Nations and Fisheries and Oceans Canada (DFO) and is currently being interpreted as:
- A non-exclusive multi-species fishery, to be conducted in their court defined area for fishing, which extends nine nautical miles offshore, using vessels of varying sizes, and aimed at wide community participation;
 - Providing predictable and long-term fishing opportunities; and
 - Allowing the sale of fish into the commercial marketplace with the objective, but not the guarantee, of sustainability and viability.
- 1.2 The Five Nations' right to harvest and sell fish has some limits, meaning their right to harvest and sell fish must be balanced with Canada's objectives and other societal interests in regulating the fishery, including other First Nations' current and future food and economic interests in the fishery. As well, the fisheries may be limited by management practices and/or other interests of the Five Nations and their Leadership. The *Ha'wiih* of the Five Nations identify conditions of participation and participants from their respective Nations to manage T'aaq-wiihak Fisheries consistent with the collective rights to harvest and sell fish. To be clear, the *Ha'wiih* of the Five Nations may limit participation in the fishery consistent with the level of available fisheries resources.
- 1.3 In January of 2020, the administration of the Five Nations Fisheries, for the benefit of the Five Nations, including operating, managing, monitoring, identifying and enforcing conditions of participation, planning, opening, closing, and coordinating as necessary with DFO or other government department or entity was delegated by the *Ha'wiih* of the Five Nations to the Ha'oom Fisheries Society (HFS).

2 PURPOSE

- 2.1 The purpose of this policy is to provide conditions of participation (i.e., eligibility requirements) on whom can harvest fish as part of the Five Nations Fisheries as well as

the parameters and procedures for HFS staff when registering or renewing a *T'aaq-wiihak* Card for *Muscim* from each of the Five Nations to participate in the Five Nations Fisheries.

- 2.2 In managing the Five Nations Fisheries, the *Ha'wiih* of the Five Nations aspire to foster an environment that promotes equal opportunities and prohibits discriminatory practices among the Five Nations.

3 SCOPE

- 3.1 This policy applies to all *Muscim*, individuals, applicants, and participants in any Five Nations Fisheries administered by HFS.
- 3.2 This *T'aaq-wiihak* Participation Policy and Procedures is approved by the Ha'oom Board of Directors and shall be implemented by the HFS staff unless otherwise directed by the Ha'oom Board of Directors via a motion.

4 DEFINITIONS

- 4.1 In this Policy:

“Ha-ha-houthlee” for the Five Nations means the Chiefly territories of Nations’ *Ha'wiih*, ranging from Grassy Island in the north to the Florencia Bay in the south with the ocean and mountains on either side. The *Ha-ha-houthlee* is managed by the *Ha'wiih*.

“Muscim” means the people that make up the community. There is no government without the people and no people without the resource.

“Ha'wiih/Ha'wilth” means the hereditary leadership of the Five Nations (Ahousaht, Ehattesah/Chinehkint, Mowachaht/Muchalaht, Tla-o-qui-aht, and Hesquiaht) that have the authority to determine which *Muscim* from their own Nation can participate in *T'aaq-wiihak*.

“Five Nations” means the five plaintiff Nations in the *Ahousaht et al* (2009) litigation proceedings and includes Ahousaht, Hesquiaht, Tla-o-qui-aht, Mowachaht/Muchalaht, and Ehattesah/Chinehkint First Nations.

“T'aaq-wiihak” means fishing with permission of the *Ha'wiih* in *Nuu-chah-nulth*.

“Member” means an individual on the registered Band list of one of the Five Nations.

“Requirements and Responsibilities Agreement” means an agreement with one of the Five Nations that outlines the requirements, responsibilities, and principles of

Hishukish tsa'walk and *lisaak* that each *Muscim* agrees to follow and can be found at <https://taaqwiihakfisheries.ca/resources/>.

“T’aaq-wiihak Card” means the card that *Muscim* are issued by the HFS to harvest fish as part of the Five Nations Fisheries.

“Good Standing” means meeting the conditions set out in section 5.1.1.

“Disciplinary Action” means such actions as a suspension of their *T’aaq-wiihak* Card for a defined period of time or retribution in the form of catch/delivery of food fish or an apology letter or restrictions on what fisheries or fishing area the fish harvester may harvest as a result of an infraction. Examples of infractions are fishing without a *T’aaq-wiihak* Card, landing fish at a non-designated site, unauthorized sale of fish, etc. HFS is in the process of developing a policy around disciplinary action that will replace this definition upon its approval.

“Eligible Individuals” means those that are eligible to get a *T’aaq-wiihak* Card under section 5.1.

“T’aaq-wiihak Card Registration List” means the list of approved *Muscim* with *T’aaq-wiihak* Cards in good standing.

“T’aaq-wiihak Card Registration Number” means the number that *Muscim* are provided on their *T’aaq-wiihak* Card.

“Business Day” means any day between Monday to Friday from 9:00 AM to 5:00 PM, except for statutory holidays.

“Licensing” means the conditions of participation to exercise the right to harvest and sell fish from the *Ha’wiih* of the Five Nations.

5 T’AAQ-WIIHAK CARD

5.1 Eligible Individuals must have a *T’aaq-wiihak* Card in good standing and be on the *T’aaq-wiihak* Card Registration List to fish with *T’aaq-wiihak*.

5.1.1 A *T’aaq-wiihak* Card **in good standing** requires the holder to:

- (a) Be an Eligible Individual as defined in section 6.1;
- (b) Sign and be in compliance with a Requirements and Responsibilities Agreement from their respective Nation;

- (c) Submit and keep up to date all of the documents outlined in the *T'aaq-wiihak* Card registration form to the Ha'oom Fisheries office;
- (d) If applicable, satisfy rationale or conditions related to Disciplinary Action identified by their respective Nation; and
- (e) If applicable, not be suspended or expelled or revoked from fishing by their respective Nation.

5.1.2 A *T'aaq-wiihak* Card is considered to be **not in good standing** if any of the conditions in section 5.1.1 have not been met.

5.1.3 A *T'aaq-wiihak* Card holder has 90 days to rectify non-compliance issues prior to being considered not in good standing.

5.1.4 A *T'aaq-wiihak* Card holder being considered for Disciplinary Action is considered in good standing until the process is concluded and the *Ha'wiih* have made a decision.

5.2 *T'aaq-wiihak* Card holders that are not in good standing may not harvest fish as part of the Five Nations Fisheries.

5.3 *T'aaq-wiihak* Card holders that allow unauthorized fishing from their respective vessels may face Disciplinary Action, sanctioning, or prohibitions from further fishing, including revocation of their *T'aaq-wiihak* Card.

5.4 *T'aaq-wiihak* Cards will be issued for two years, expiring at midnight, December 31st.

5.5 HFS staff, working with fisheries staff from the Five Nations, will maintain, and update as required, an online *T'aaq-wiihak* Card Registration List. The *T'aaq-wiihak* Card Registration List will be available to the Five Nations and DFO as requested and consistent with HFS privacy policies.

6 ELIGIBILITY FOR A *T'AAQ-WIIHAK* CARD

6.1 An individual is eligible for a *T'aaq-wiihak* Card if:

6.1.1 They are a Member; and:

- (a) At least 18 years of age; or

- (b) Between the ages of 0-18 years old and have the written permission of a parent or legal guardian;¹ or

6.1.2 They are not a Registered Member, and they provide a written and signed letter from a *Ha'wilt* accepting their harvest as part of that Nation's allocation to the HFS Office at the time of registration. The letter must clearly outline the parameters of authorization (for example, length of authorization, what species, how the catch will be allocated to a respective Nation(s) share, and/or any other relevant conditions).

7 T'AAQ-WIIHAK CARD REGISTRATION PROCEDURE

- 7.1 The *T'aaq-wiihak* Card registration period is between January 1st and March 31st of each year.
- 7.2 Eligible Individuals, as defined in section 6.1, are required to register themselves with the HFS for a two-year term during the registration period as per section 7.1.
- 7.3 Eligible Individuals may register for a *T'aaq-wiihak* Card by:
 - 7.3.1 Using the online registration form, available at www.taaq.ca; or
 - 7.3.2 Phoning the HFS office; or
 - 7.3.3 Going into the HFS office in person; or
 - 7.3.4 Attending a pre-season fishery meeting and contacting an HFS staff member.
- 7.4 Eligible Individuals must acknowledge that they have read and will follow this policy as part of completing the registration process.
- 7.5 Eligible Individuals must sign the Requirements and Responsibilities Agreement of their respective Nation as part of the registration process.
- 7.6 HFS staff will only process fully completed registration forms for a *T'aaq-wiihak* Card.

¹ The *Canada Shipping Act* sets out various safety and environmental requirements, regulations, and standards. Under the *Marine Personnel Regulations*, vessel owner must: have procedures for safe operation of the vessel in normal and emergency conditions; ensure that the crew is trained to carry out their duties (first aid, operator competency, and basic safety training) and maintain a training record. Individuals must be at least 16 years old to take the Small Vessel Operator Proficiency (SVOP) and Small Domestic Vessel – Basic Safety (SDV-BS) (formerly Marine Emergency Duties A3) which are required training for crew. To be the captain (sole operator) of a small commercial vessel, you must be at least 18 years old.

- 7.7 HFS staff will fix readily correctable errors to reflect the correct information in fully completed and submitted registration forms for a *T'aaq-wiihak* Card prior to sending the form to the respective Nation. If required information is missing from the registration form, the HFS staff will request the information from the Eligible Individual within two (2) business days.
- 7.8 Fully completed and submitted registration forms for a *T'aaq-wiihak* Card will be sent by HFS staff to the respective Nation for approval within two (2) business days of being fully completed and submitted as per section 7.3.
- 7.9 The respective Nation will have ten (10) business days upon receipt of the registration form to notify HFS staff that they approve or deny a request for a *T'aaq-wiihak* Card via email, phone, or mail. If HFS staff do not receive a response from the Nation, HFS staff will consider the *T'aaq-wiihak* Card as approved.
- 7.10 Fully completed and submitted registration forms for a *T'aaq-wiihak* Card will be processed by HFS staff within fifteen (15) business days.
- 7.11 The respective Nation must also sign the Requirements and Responsibilities Agreement signed by the Eligible Individual upon their approval of the registration form for a *T'aaq-wiihak* Card.
- 7.12 After HFS staff receive notification from the respective Nation or ten (10) business days have passed as per section 7.9, HFS staff will notify the Eligible Individual within two (2) business days:
- 7.12.1 If the registration form has been approved. Then, the HFS staff will enter the Eligible Individual onto the *T'aaq-wiihak* Card Registration List and provide a *T'aaq-wiihak* Registration Number to the Eligible Individual within two (2) business days; or
- 7.12.2 An Eligible Individual that is denied a *T'aaq-wiihak* Card needs to contact their respective Nation directly for the rationale for their denial. The Eligible Individual may submit a new registration form at their earliest convenience as per sections 7.3 to 7.6.
- 7.13 If an Eligible Individual would like to submit a registration form after the registration period in section 7.1, they must contact the HFS office. HFS staff may add a new *Muscim* to the *T'aaq-wiihak* Card Registration List at any time during the season.

8 VESSEL REGISTRATION

- 8.1 Eligible Individuals who own (or are authorized by their respective Nation to lease a vessel owned by an individual that is also a registered member of a *Nuu-chah-nulth* Nation) a vessel must have a *T'aaq-wiihak* Card in good standing before registering the vessel.
- 8.2 *T'aaq-wiihak* Card holders must register the vessel before they fish by:
- 8.2.1 Using the online registration form, available at www.taaq.ca; or
 - 8.2.2 Phoning the HFS office; or
 - 8.2.3 Going into the HFS office in person.
- 8.3 *T'aaq-wiihak* Card holders must use vessels that:
- 8.3.1 Satisfy Transport Canada regulations for small fishing vessels;
 - 8.3.2 Have fish holds that are Canadian Food Inspection Agency (CFIA) approved;² and
 - 8.3.3 Are owned by a Five Nations member or are approved by their respective Nation's designated authority in writing.
- 8.4 Fully completed and submitted vessel registration forms will be processed by HFS staff within seven (7) business days.
- 8.5 *T'aaq-wiihak* Card holders are not authorized to fish until their vessel registration has been confirmed by an HFS staff and they receive their decals.
- 8.6 The Ha'oom Board of Directors may change the vessel registration policies, section 8.1 to 8.5. If this happens, you will be notified by HFS.

² *T'aaq-wiihak* Card holders can find out more about the CFIA requirements for the *Safe Food for Canadians Regulations* by reviewing the guidance provided at: <https://inspection.canada.ca/preventive-controls/fish/maintenance-and-operation-of-a-vessel/eng/1564717053871/1564717054137>.

9 T'AAQ-WIIHAK CARD RENEWAL PROCESS

- 9.1 *T'aaq-wiihak* Card holders in good standing should renew their cards before March 31st of the year after their card expires (*T'aaq-wiihak* Cards expire at midnight, December 31st).
- 9.2 *T'aaq-wiihak* Card holders in good standing may renew their cards as per sections 7.3 to 7.5.
- 9.3 The *T'aaq-wiihak* Card registration form will be processed as per sections 7.10 to 7.13.
- 9.4 If a *T'aaq-wiihak* Card holder does not renew their registration, it expires at 11:59 PM on March 31st of the year identified on the card. Eligible Individuals have thirty (30) days to renew their *T'aaq-wiihak* Cards before their *T'aaq-wiihak* Card will be labelled as **not in good standing** by HFS staff on the *T'aaq-wiihak* Card Registration List. If Eligible Individuals are not on the *T'aaq-wiihak* Card Registration List, they may receive an infraction notice, may not be eligible for training and other opportunities, and they may not participate in Five Nations Fisheries.

10 T'AAQ-WIIHAK CARD REVOCATION PROCEDURE

- 10.1 The *Ha'wiih* retain the authority to revoke a *T'aaq-wiihak* Card at any time, without notice, for a breach of the *T'aaq-wiihak* Requirements and Responsibilities Agreement or other actions which are contrary to authority and direction of the *Ha'wiih*.
- 10.2 The respective Nation must notify the HFS via email to info@haoom.ca if a *T'aaq-wiihak* Card has been revoked. The HFS staff will suspend the *T'aaq-wiihak* Card on the *T'aaq-wiihak* Card Registration List immediately upon receiving notification from the respective Nation.
- 10.3 The revocation notice from the respective Nation must include the length of time (i.e., permanent, one season, one month, etc.) and species that the *Muscim* has lost *T'aaq-wiihak*.
- 10.4 HFS staff will notify the *T'aaq-wiihak* Card holder of the revocation within one (1) business day via email or phone. HFS staff will not provide a justification for the revocation. If no information on the length of time or species is provided as per section 10.3, HFS staff will revoke the *T'aaq-wiihak* Card for all fisheries until such as a time as written notice to the contrary is received by the HFS via email to info@haoom.ca from the respective Nation.
- 10.5 The individual whose *T'aaq-wiihak* Card has been revoked will be encouraged to contact their Nation directly for the rationale for the revocation or any conditions required to reverse the revocation.

- 10.6 The Eligible Individual may submit another registration form as per sections 7.3 to 7.5 after they have addressed the rationale or conditions from their respective Nation as per section 10.5. The registration form will be processed as per sections 7.6 to 7.12.

11 TRANSFER TO ANOTHER NATION

- 11.1 *T'aaq-wiihak* Card holders that transfer their Band registration must notify the HFS by phone, mail, or email at info@haoom.ca within 24 hours, and:

11.1.1 If they transfer to a Nation within the Five Nations, the transfer will come into effect on April 1st after their transfer, and a new *T'aaq-wiihak* Card will be issued with updated information; or

11.1.2 If they transfer to a Nation outside of the Five Nations, their *T'aaq-wiihak* Card will be revoked as per sections 10.4 to 10.6.

- 11.2 If HFS is notified that a *T'aaq-wiihak* Card holder has transferred their Band membership to a Nation outside of the Five Nations, they will contact that *T'aaq-wiihak* Card holder and their *T'aaq-wiihak* Card will be immediately revoked until HFS staff receive proof from the individual that they are a Member.

12 OOMAS

- 12.1 At this time, there are no *oomas* (tribute/tax) for a *T'aaq-wiihak* Card. The Five Nations or HFS may require *oomas* in the future.

13 DATABASE AND DATA MANAGEMENT

- 13.1 HFS will store *T'aaq-wiihak* Card registration forms for seven (7) years, after which time they will be destroyed in compliance with privacy laws of British Columbia.
- 13.2 HFS may use email addresses and/or phone numbers provided on *T'aaq-wiihak* Card registration forms to correspond with people regarding their registration form or to share information on Five Nations Fisheries.
- 13.3 HFS will not share information provided on *T'aaq-wiihak* Card registration forms with outside parties without the consent of the individual that completed the form.
- 13.4 HFS uses a third party (MailChimp) to provide email list hosting and management services. MailChimp collects and stores personally identifiable information, including but not limited to email addresses and names. MailChimp also collects information about emails that are opened, and links that are clicked. HFS may use this information to provide and improve email content.

- 13.5 *T'aaq-wiihak* Card holders may remove their name from the registration email and/or phone list at any time by sending a request to HFS at info@haoom.ca.
- 13.6 If *T'aaq-wiihak* Card holders have multiple *T'aaq-wiihak* Card Registration Numbers, only their most current number will be kept by HFS. Records from multiple *T'aaq-wiihak* Card Registration Numbers will be merged into one record by HFS staff.
- 13.7 HFS protects Members' information consistent with privacy laws of British Columbia and uses reasonable security measures, taking into account the types of information collected and stored, and the types of risks faced.
- 13.8 HFS will only collect, use, and disclose personal information for the purpose for which it was obtained and will not release the information to a third party without the express written consent of the individual (unless required by provincial and/or federal legislation).

14 LIABILITY

- 14.1 *Ha'wiih*, Five Nations fisheries staff, HFS staff, or agents of HFS are not liable for any loss of income, damage to property, or person that may occur as a result of participation in any Five Nations Fisheries.
- 14.2 DFO is responsible for enforcing its Fisheries Agreements.
- 14.3 *T'aaq-wiihak* Card holders are responsible for adhering to Licence Conditions set out in the DFO Fishing Agreement or risk sanction or legal liability.
- 14.4 Canada and British Columbia are wholly responsible for enforcing their own laws, regulations, and policies.

15 AMENDMENTS

- 15.1 This policy may be amended at any time by a consensus of the HFS Board of Directors.