

SUBCHAPTER J—FISH AND WILDLIFE

PART 241—INDIAN FISHING IN ALASKA

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AUTHORITY: 25 U.S.C. 2, 9; 43 U.S.C. 1457; sec. 15, 26 Stat. 1101, 48 U.S.C. 358; Presidential Proclamation, Apr. 28, 1916, 39 Stat. 1777; sec. 2, 49 Stat. 1250, 48 U.S.C. 358a; sec. 4, 72 Stat. 339, as amended 73 Stat. 141.

SOURCE: 28 FR 7183, July 12, 1963, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 241.1 Purpose.

The purpose of the regulations in this part is to regulate all fishing within the Annette Islands Reserve and to regulate Indian and other native commercial fishing in the Karluk Indian Reservation, but they shall not be construed to limit any rights of Indians or other natives of Alaska not specifically covered hereby.

§ 241.2 Annette Islands Reserve; definition; exclusive fishery; licenses.

(a) *Definition.* The Annette Islands Reserve is defined as the Annette Islands in Alaska, as set apart as a reservation by section 15 of the Act of March 3, 1891 (26 Stat. 1101, 48 U.S.C. sec. 358), and including the area identified in the Presidential Proclamation of April 28, 1916 (39 Stat. 1777), as the waters within three thousand feet from the shore lines at mean low tide of Annette Island, Ham Island, Walker Island, Lewis Island, Spire Island, Hemlock Island, and adjacent rocks and islets, located within the broken line upon the diagram attached to and made a part of said Proclamation; and also the bays of said islands, rocks, and islets.

(b) *Exclusive fishery.* The Annette Islands Reserve is declared to be exclusively reserved for fishing by the members of the Metlakatla Indian Community and such other Alaskan Natives as have joined or may join them in residence on the aforementioned islands, and any other person fishing therein without authority or permission of the Metlakatla Indian Community shall be subject to prosecution under the provisions of section 2 of the Act of July 2, 1960 (74 Stat. 469, 18 U.S.C. sec. 1165).

(c) *Licenses.* Members of the Metlakatla Indian Community, and such other Alaskan Natives as have joined them or may join them in residence on the aforementioned islands, shall not be required to obtain a license or permit from the State of Alaska to engage in fishing in the waters of the Annette Islands Reserve.

§ 241.3 Commercial fishing, Annette Islands Reserve.

(a) *Definition.* Commercial fishing is the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of such fish, shellfish, or other fishery resources or parts thereof for profit, or by sale, barter, trade, or in commercial channels.

(b) *Trap fishing sites; number and location.* During 1963, and until the Secretary of the Interior or his duly authorized representative determines otherwise, the Metlakatla Indian Community is permitted to operate not more than one trap per site for salmon fishing at any four of the following sites in the Annette Islands Reserve, Alaska:

(1) Annette Island at 55 degrees 15 minutes 09 seconds north latitude, 131 degrees 36 minutes 00 seconds west longitude.

(2) Annette Island at 55 degrees 12 minutes 52 seconds north latitude, 131 degrees 36 minutes 10 seconds west longitude.

(3) Annette Island at 55 degrees 02 minutes 47 seconds north latitude, 131 degrees 38 minutes 53 seconds west longitude.

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(4) Annette Island at 55 degrees 05 minutes 41 seconds north latitude, 131 degrees 36 minutes 39 seconds west longitude.

(5) Annette Island at 55 degrees 01 minute 54 seconds north latitude, 131 degrees 38 minutes 36 seconds west longitude.

(6) Annette Island at 55 degrees 00 minutes 45 seconds north latitude, 131 degrees 38 minutes 30 seconds west longitude.

(7) Annette Island at 54 degrees 59 minutes 13 seconds north latitude, 131 degrees 36 minutes 48 seconds west longitude.

(8) Ham Island at 55 degrees 10 minutes 13 seconds north latitude, 131 degrees 19 minutes 31 seconds west longitude.

(c) *Trap fishing season.* Fishing for salmon with traps operated by the Metlakatla Indian Community is permitted only at such times as commercial salmon fishing with purse seines is permitted by order or regulation of the Alaska Board of Fish and Game for Commercial Fishing in any part of the following area: from the point at which meridian 132°17'30", thence due east along said parallel to longitude 130°49'15", then due south along said meridian to the point at which it intersects with the United States-Canadian boundary, thence due west along said boundary to the point of beginning, provided, however, that the Secretary or his duly authorized representative may upon request by the Metlakatla Indian Community, authorize fishing for salmon with traps, at such other times as he shall prescribe, which authorization shall be based upon the following criteria:

(1) Number of fish required for spawning escapement and any other requirements reasonable and necessary for conservation;

(2) Fair and equitable sharing of the salmon resource with other user groups fishing in State waters under State law and within the State fisheries management system; and

(3) The federal purpose in the establishment and maintenance of the Metlakatla Indian Reservation.

(d) *Size, construction and closure of fish traps*—(1) *Size.* When any part of a trap is in a greater depth of water than 100

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feet, the trap as measured from shore at mean high tide to the outer face of the pot shall not extend beyond 900 feet.

(2) *Construction.* Poles shall be permanently secured to the webbing at each side of the mouth of the pot tunnel and shall extend from the tunnel floor to a height at least four feet above the water. A draw line shall be reeved through the lower end of both poles and the upper end of one.

(3) *Method of closing.* The tunnel walls shall be overlapped as far as possible across the pot gap and the draw line shall be pulled tight and both secured so as to completely close the tunnel. In addition, 25 feet of the webbing of the heart on each side next to the pot shall be lifted or lowered in such manner as to permit the free passage of fish.

(e) *Other forms of commercial fishing.* All commercial fishing, other than with traps, shall be in accordance with the season and gear restrictions established by rule or regulation by the Alaska Board of Fish and Game for Commercial Fishing in any part of the previously defined area; provided, however, that the Secretary or his duly authorized representative may, upon request by the Metlakatla Indian Community authorize such other commercial fishing at such times as he shall prescribe, which authorization shall be based upon the following criteria:

(1) Number of fish required for spawning escapement and any other requirements reasonable and necessary for conservation;

(2) Fair and equitable sharing of the fishery resource with other user groups fishing in State waters under State law and within the State fisheries management system; and

(3) The Federal purpose in the establishment and maintenance of the Metlakatla Indian Reservation.

[28 FR 7183, July 12, 1963; 28 FR 12273, Nov. 20, 1963, as amended at 40 FR 24184, June 5, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982]

§ 241.4 Subsistence and sport fishing, Annette Islands Reserve.

(a) *Definitions.* (1) Subsistence fishing is the taking or attempting to take any species of fish or shellfish for purposes other than sale or barter, except

as provided for in paragraph (a)(2) of this section.

(2) Sport fishing is the taking or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line or by such means as defined by regulation or statute of the State of Alaska.

(b) *Restrictions.* Subsistence fishing within the Annette Islands Reserve shall be in accordance with the season, gear and bag restrictions established by rule or regulation of the Alaska Board of Fish and Game for Commercial Fishing in Fishing District No. 1. Sport fishing within the Annette Islands Reserve shall be in accordance with the season, gear and bag restrictions established by rule or regulation for Southeastern Alaska by the Alaska Board of Fish and Game. Both subsistence and sport fishing shall also be in accordance with such ordinances as may be adopted by the Council of the Metlakatla Indian Community and approved by the Secretary of the Interior.

§ 241.5 Commercial fishing, Karluk Indian Reservation.

(a) *Definition.* The Karluk Indian Reservation includes all waters extending 3,000 feet from the shore at mean low tide on Kodiak Island beginning at the end of a point of land on the shore of Shelikof Strait about 1¼ miles east of Rocky Point and in approximate latitude 57 degrees 39 minutes 40 seconds N., longitude 154 degrees 12 minutes 20 seconds W.; thence south approximately 8 miles to latitude 57 degrees 32 minutes 30 seconds N.; thence west approximately 12½ miles to the confluence of the north shore of Sturgeon River with the east shore of Shelikof Strait; thence northeasterly following the easterly shore of Shelikof Strait to the place of beginning, containing approximately 35,200 acres.

(b) *Who may fish; licenses.* The waters of the Karluk Indian Reservation shall be open to commercial fishing by bona fide native inhabitants of the native village of Karluk and vicinity, and to other persons insofar as the fishing activities of the latter do not restrict or interfere with fishing by such natives. Such natives shall not be required to obtain a license to engage in commer-

cial fishing in the waters of the Karluk Indian Reservation.

(c) *Salmon fishing; restrictions.* Commercial fishing for salmon by native inhabitants of the native village of Karluk and vicinity in the waters of the Karluk Indian Reservation shall be in accordance with the seasonal and gear restrictions of the rules and regulations of the Alaska Board of Fish and Game for Commercial Fishing in the fishing district embracing the Karluk Indian Reservation except that:

(1) Beach seines up to 250 fathoms in length may be used northeast of Cape Karluk; and

(2) Prior to July 1, fishing shall be permitted to within 100 yards of the Karluk River where it breaks through the Karluk Spit into Shelikof Strait.

§ 241.6 Enforcement; violation of regulations; corrective action; penalties; closure of restrictions, Annette Islands Reserve.

(a) *Enforcement.* The regulations in this part shall be enforced by any duly authorized representative of the Secretary of the Interior. Any fish trap, vessel, gear, processing establishment or other operation or equipment subject to the regulations of this part shall be available for inspection at all times by such representative.

(b) *Violation of regulations.* Whenever any duly authorized enforcement representative of the Secretary of the Interior has reasonable cause to believe any violation of the regulations of this part relating to fish traps has occurred, he shall direct immediate closure of the trap involved and shall affix an appropriate seal thereto to prevent further fishing. The matter shall be reported without delay to the Area Director, Bureau of Indian Affairs, who shall thereupon report and recommend to the Secretary of the Interior appropriate corrective action.

(c) *Corrective action.* Any violation of the regulations of this part relating to fish traps shall be ground for the temporary or permanent closure, as the Secretary of the Interior may determine, of any or all traps authorized by § 241.3(a), or the withdrawal and rescission of the right to fish for salmon with traps at any or all sites authorized thereby.

(d) *Penalties.* Any person who violates any of the regulations of this part shall be subject to prosecution under section 2 of the Act of July 12, 1960 (74 Stat. 469, 18 U.S.C. sec. 1165), which provides as follows:

Whoever, without lawful authority or permission, willfully and knowingly goes upon any land that belongs to any Indian or Indian tribe, band, or group and either are held by the United States in trust or are subject to a restriction against alienation imposed by the United States, or upon any lands of the United States that are reserved for Indian use, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, shall be fined not more than \$200 or imprisoned not more than ninety days, or both, and all game, fish, and peltries in his possession shall be forfeited.

(e) *Closure or restriction, Annette Islands Reserve.* The Commissioner of Indian Affairs, after consultation with officials of the Metlakatla Indian Community, is authorized and directed, upon a determination of the necessity to promote sound conservation practices, to restrict or close to commercial, subsistence or sport fishing any portion of the Annette Islands Reserve by notice given appropriate local publicity.

[28 FR 7183, July 12, 1963, as amended at 30 FR 5742, Apr. 23, 1965. Redesignated at 47 FR 13327, Mar. 30, 1982]

PART 242—COMMERCIAL FISHING ON RED LAKE INDIAN RESERVATION

Sec.

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AUTHORITY: 25 U.S.C. 2; 5 U.S.C. 301.

SOURCE: 25 FR 7784, Aug. 16, 1960, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 242.1 Definitions.

As used in this part:

(a) “Secretary” means the Secretary of the Interior or his authorized representative.

(b) “Council” means the General Council of the Red Lake Band of the Chippewa Indians as recognized by the Secretary of the Interior.

(c) “Association” means the Red Lake Fisheries Association, incorporated under the laws of the State of Minnesota, and whose articles of incorporation and bylaws and any amendments thereto have been approved by the Council and the Secretary of the Interior.

(d) “Member of Association” means as defined in the Association by-laws.

(e) “Commercial fishing” means the catching of any fish for sale directly or indirectly to others than Indians on the reservations or licensed traders on the reservation for resale to Indians.

§ 242.2 Authority to engage in commercial fishing.

No person shall engage in commercial fishing in the waters of the Red Lakes on the Red Lake Indian Reservation in the State of Minnesota except the Red Lake Fisheries Association, a corporation organized and incorporated under the laws of Minnesota, and its members, and then only in accordance with the regulations in this part. The authority hereby granted to the Association and its members to engage in commercial fishing may, at any time, be canceled and withdrawn and these regulations may be modified and amended.

§ 242.3 Authority to operate.

The association may conduct commercial fishing operations on the reservation under authority of its articles of incorporation and by-laws only in accordance with the regulations in this part.

§ 242.4 Fishing.

(a) Enrolled members of the Red Lake Band of Chippewa Indians may take fish at any time except as prohibited by § 242.6 from waters of the Red Lakes on the Red Lake Indian Reservation for their own use and for sale to: