

Bureau of Indian Affairs, Interior

§ 249.4

Secretary of the Interior deem necessary for effective fishery management.

§ 249.3 Identification cards.

(a) The Commissioner of Indian Affairs shall arrange for the issuance of an appropriate identification card to any Indian entitled thereto as prima facie evidence that the authorized holder thereof is entitled to exercise the fishing rights secured by the treaty designated thereon. The Commissioner may cause a federal card to be issued for this purpose or may authorize the issuance of cards by proper tribal authorities: *Provided*, That any such tribal cards shall be countersigned by an authorized officer of the Bureau of Indian Affairs certifying that the person named on the card is a member of the tribe issuing such card and that said tribe is recognized by the Bureau of Indian Affairs as having fishing rights under the treaty specified on such card. Copies of the form of any identification card authorized pursuant to this section and a list of the authorized Bureau of Indian Affairs issuing or countersigning officials shall be furnished to the fisheries management and enforcement agencies of any State in which such fishing rights may be exercised.

(b) No such card shall be issued to any Indian who is not on the official membership roll of the tribe which has been approved by the Secretary of the Interior. *Provided*, That until further notice, a temporary card may be issued to any member of a tribe not having an approved current membership roll who submits evidence of his/her entitlement thereto satisfactory to the issuing officer and, in the case of a tribally issued card, to the countersigning officer. Any Indian claiming to have been wrongfully denied a card may appeal the decision in accordance with part 2 of this chapter.

(c) No person shall be issued an identification card on the basis of membership in more than one tribe at any one time.

(d) Each card shall state the name, address, tribal affiliation and enrollment number (if any) of the holder, identify the treaty under which the holder is entitled to fishing rights, contain such additional personal identi-

fication data as is required on fishing licenses issued under the law of the State or States within which it is used, and be signed by the issuing officer and by the holder.

(e) No charge or fee of any kind shall be imposed by the Commissioner of Indian Affairs for the issuance of an identification card hereunder: *Provided*, That this shall not prevent any Indian tribe from imposing any fee or tax which it may otherwise be authorized to impose upon the exercise of any tribal fishing right.

(f) All cards issued by the Commissioner of Indian Affairs pursuant to this part 249 shall be and remain the property of the United States and may be retaken by any Federal, State, or tribal enforcement officer from any unauthorized holder. Any card so retaken shall be immediately forwarded to the officer who issued it.

(g) The failure of any person who claims to be entitled to the benefits of a treaty fishing right to have such a card in his immediate personal possession while fishing or engaging in other activity in the claimed exercise of such right to display it upon request to any Federal, State, or tribal enforcement officer shall be prima facie evidence that the person is not entitled to exercise an Indian fishing right under a treaty of the United States.

(h) No person shall allow any use of his identification card by any other person.

(5 U.S.C. 301; R.S. 463 and 465)

[32 FR 10434, July 15, 1967, as amended at 46 FR 4873, Jan. 19, 1981. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 48 FR 1052, Jan. 10, 1983]

§ 249.4 Identification of fishing equipment.

All fishing gear or other equipment used in the exercise of any off-reservation treaty fishing right shall be marked in such manner as shall be prescribed in regulations issued pursuant to § 249.2 hereof to disclose the identity of its owner or user. In the absence of proof to the contrary, any fishing gear which is not so marked or labeled shall be presumed not to be used in the exercise of an off-reservation treaty fishing right and shall be subject to control or seizure under State law.