

Int'l. Fishing and Related Activities

§ 300.91

[74 FR 57110, Nov. 4, 2009]

Subpart F—Fraser River Sockeye and Pink Salmon Fisheries

AUTHORITY: Pacific Salmon Treaty Act, 16 U.S.C. 3636(b).

§ 300.90 Purpose and scope.

This subpart implements the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631-3644) (Act) and is intended to supplement, not conflict with, the fishery regimes and Fraser River Panel regulations adopted under the Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon, signed at Ottawa, January 28, 1985 (Treaty).

§ 300.91 Definitions.

In addition to the terms defined in § 300.2 and those in the Act and the Treaty, the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2, the Act, or the Treaty, the definition in this section shall apply.

All-citizen means any person who is not a treaty Indian fishing in that treaty Indian's tribal treaty fishing places pursuant to treaty Indian tribal fishing regulations (whether in compliance with such regulations or not).

Authorized officer means, in addition to those individuals identified under *authorized officer* at § 300.2, any state, Federal, or other officer as may be authorized by the Secretary in writing, including any treaty Indian tribal enforcement officer authorized to enforce tribal fishing regulations.

Commission means the Pacific Salmon Commission established by the Pacific Salmon Treaty.

Consistent regulation or consistent order means any Federal, state, or treaty Indian tribal regulation or order that is in addition to and not in conflict with (at least as restrictive as) any regime of the Commission, Fraser River Panel regulation, inseason order of the Secretary, or these regulations.

Fishing gear—

(1) *Gill net* means a fishing net of single web construction, not anchored, tied, staked, placed, or weighted in such a manner that it cannot drift.

(2) *Purse seine* means all types of fishing gear consisting of a lead line, cork line, auxiliary lines, purse line and purse rings and of mesh net webbing fashioned in such a manner that it is used to encircle fish, and in addition prevent their escape under the bottom or lead line of the net by drawing in the bottom of the net by means of the purse line so that it forms a closed bag.

(3) *Reef net* means a non-self-fishing open bunt square or rectangular section of mesh netting suspended between two anchored boats fashioned in such a manner that to impound salmon passing over the net, the net must be raised to the surface.

(4) *Troll fishing gear* means one or more lines that drag hooks with bait or lures behind a moving fishing vessel.

(5) *Treaty Indian fishing gear* means fishing gear defined authorized, and identified under treaty Indian tribal laws and regulations in accordance with the requirements of Final Decision No. 1 and subsequent orders in *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash., 1974).

Fraser River Panel means the Fraser River Panel established by the Pacific Salmon Treaty.

Fraser River Panel Area (U.S.) means the United States' portion of the Fraser River Panel Area specified in Annex II of the Treaty as follows:

(1) The territorial water and the high seas westward from the western coast of Canada and the United States of America and from a direct line drawn from Bonilla Point, Vancouver Island, to the lighthouse of Tatoosh Island, Washington—which line marks the entrance of Juan de Fuca Strait—and embraced between 48° and 49° N. lat., excepting therefrom, however, all the waters of Barkley Sound, eastward of a straight line drawn from Amphitrite Point to Cape Beale and all the waters of Nitinat Lake and the entrance thereto.

(2) The waters included within the following boundaries: Beginning at Bonilla Point, Vancouver Island, thence along the aforesaid direct line drawn from Bonilla Point to Tatoosh Lighthouse, Washington, described in paragraph (1) of this definition, thence to the nearest point of Cape Flattery, thence following the southerly shore of

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Juan de Fuca Strait to Point Wilson, on Whidbey Island, thence following the western shore of the said Whidbey Island, to the entrance to Deception Pass, thence across said entrance to the southern side of Reservation Bay, on Fidalgo Island, thence following the western and northern shore line of the said Fidalgo Island to Swinomish Slough, crossing the said Swinomish Slough, in line with the track of the Great Northern Railway (Burlington Northern Railroad), thence northerly following the shoreline of the mainland to Atkinson Point at the northerly entrance to Burrard Inlet, British Columbia, thence in a straight line to the southern end of Bowen Island, then westerly following the southern shore of Bowen Island to Cape Roger Curtis, thence in a straight line to Gower Point, thence westerly following the shoreline to Welcome Point on Sechelt Peninsula, thence in a straight line to Point Young on Lasqueti Island, thence in a straight line to Dorcas Point on Vancouver Island, thence following the eastern and southern shores of the said Vancouver Island, to the starting point at Bonilla Point, as shown on the British Admiralty Chart Number 579, and on the U.S. Coast and Geodetic Survey Chart Number 6300, as corrected to March 14, 1930, copies of which are annexed to the 1930 Convention between Canada and the United States of America for Protection, Preservation, and Extension of the Sockeye Salmon Fishery in the Fraser River System as amended, signed May 26, 1930. [Note: U.S. Coast and Geodetic Survey Chart Number 6300 has been replaced and updated by NOAA Chart Number 18400.]

(3) The Fraser River and the streams and lakes tributary thereto.

(4) The Fraser River Panel Area (U.S.) includes Puget Sound Management and Catch Reporting Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7, 7A, 7B, 7C, 7D, and 7E as defined in the Washington State Administrative Code at Chapter 220-22 as of June 27, 1986.

Fraser River Panel regulations means regulations applicable to the Fraser River Panel Area that are recommended by the Commission (on the basis of proposals made by the Fraser

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River Panel) and approved by the Secretary of State.

Mesh size means the distance between the inside of one knot to the outside of the opposite (vertical) knot in one mesh of a net.

Pink salmon means *Oncorhynchus gorbuscha*.

Sockeye salmon means the anadromous form of *Oncorhynchus nerka*.

Treaty fishing places (of an Indian tribe) means locations within the Fraser River Panel Area (U.S.) as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), to be places at which that treaty Indian tribe may take fish under rights secured by treaty with the United States.

Treaty Indian means any member of a treaty Indian tribe whose treaty fishing place is in the Fraser River Panel Area (U.S.) or any assistant to a treaty Indian authorized to assist in accordance with §300.95(d).

Treaty Indian tribe means any of the federally recognized Indian tribes of the State of Washington having fishing rights secured by treaty with the United States to fish for salmon stocks subject to the Pacific Salmon Treaty in treaty fishing places within the Fraser River Panel Area (U.S.). Currently these tribes are the Makah, Tribe, Lower Elwha Klallam Tribe, Port Gamble Klallam Tribe, Jamestown Klallam Tribe, Suquamish Tribe, Lummi Tribe, Nooksack Tribe, the Swinomish Indian Tribal Community, and the Tulalip Tribe.

§ 300.92 Relation to other laws.

(a) Insofar as they are consistent with this part, any other applicable Federal law or regulation, or any applicable law and regulations of the State of Washington or of a treaty Indian tribe with treaty fishing rights in the Fraser River Panel Area (U.S.) will continue to have force and effect in the Fraser River Panel Area (U.S.) with respect to fishing activities addressed herein.

(b) Any person fishing subject to this subpart is bound by the international boundaries now recognized by the United States within the Fraser River Panel Area (U.S.) described in §300.91,