

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

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[FR Doc. E9-28317 Filed 11-24-09; 8:45 am]

BILLING CODE 9110-12-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**RIN 0648-XS30**

**Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary orders; inseason orders; request for comments.

**SUMMARY:** NMFS publishes Fraser River salmon inseason orders to regulate salmon fisheries in U.S. waters. The orders were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by NMFS during the 2009 salmon fisheries within the U.S. Fraser River Panel Area. These orders established fishing dates, times, and areas for the gear types of U.S. treaty Indian and all citizen fisheries during the period the Panel exercised jurisdiction over these fisheries.

**DATES:** The effective dates for the inseason orders are set out in this document under the heading Inseason Orders. Comments will be accepted through December 10, 2009.

**ADDRESSES:** You may submit comments, identified by 0648-XS30 by any one of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

Fax: 206-526-6736

Mail: NMFS NWR, 7600 Sand Point Way NE, Seattle, WA 98115.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or

otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:**

Peggy Busby, by phone at 206-526-4323, [peggy.busby@noaa.gov](mailto:peggy.busby@noaa.gov)

**SUPPLEMENTARY INFORMATION:** The Treaty between the Government of the United States of America and the Government of Canada concerning Pacific Salmon was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631-3644.

Under authority of the Act, Federal regulations at 50 CFR part 300, subpart F provide a framework for the implementation of certain regulations of the Commission and inseason orders of the Commission's Fraser River Panel for U.S. sockeye and pink salmon fisheries in the Fraser River Panel Area.

The regulations close the U.S. portion of the Fraser River Panel Area to U.S. sockeye and pink salmon fishing unless opened by Panel orders that are given effect by inseason regulations published by NMFS. During the fishing season, NMFS may issue regulations that establish fishing times and areas consistent with the Commission agreements and inseason orders of the Panel. Such orders must be consistent with domestic legal obligations and are issued by Regional Administrator, Northwest Region, NMFS. Official notification of these inseason actions is provided by two telephone hotline numbers described at 50 CFR 300.97(b)(1) and in 74 FR 20610 (May 5, 2009). The inseason orders are published in the **Federal Register** as soon as practicable after they are issued. Due to the frequency with which inseason orders are issued, publication of individual orders is impractical. Therefore, the 2009 orders are being published in this single document to avoid fragmentation.

**Inseason Orders**

The following inseason orders were adopted by the Panel and issued for U.S. fisheries by NMFS during the 2009 fishing season. Each of the following inseason actions was effective upon announcement on telephone hotline numbers as specified at 50 CFR 300.97(b)(1) and in 74 FR 20610 (May 5, 2009); those dates and times are listed herein. The times listed are local times,

and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220-22.

*Order Number 2009-01: Issued 3 p.m., August 25, 2009*

Treaty Indian Fisheries

*Areas 4B, 5 and 6C:* Open to drift gillnets from 12 p.m. (noon), Wednesday, August 26, 2009 to 12 p.m. (noon) Saturday, August 29, 2009.

All Citizen Fisheries

*Areas 7 and 7A Reef net:* Open to pink salmon fishing with non-retention of sockeye salmon 5 a.m. to 9 p.m. on Wednesday, August 26, 2009, 5 a.m. to 9 p.m. on Thursday, August 27, 2009; and 5 a.m. to 9 p.m. on Friday, August 28, 2009.

*Order Number 2009-02: Issued 1:50 p.m., August 26, 2009*

Treaty Indian Fisheries

*Areas 6, 7, and 7A:* Open to drift gillnets and purse seine from 5 a.m., Friday, August 28, 2009 to 8 a.m., Saturday, August 29, 2009.

All Citizen Fisheries

*Area 7 Purse Seine:* Open to pink salmon fishing with non-retention of sockeye salmon 5 a.m. to 9 p.m. on Thursday, August 27, 2009.

*Area 7 Gillnet:* Open to pink salmon fishing with non-retention of sockeye salmon 8 a.m. to 11:59 p.m. (midnight) on Thursday August 27, 2009.

*Area 7 Purse Seine* Open to pink salmon fishing with non-retention of sockeye salmon 3 p.m. to 9 p.m. on Thursday, August 27, 2009.

*Area 7A Gillnet:* Open 3 p.m. to 11:59 p.m. (midnight) on Thursday August 27, 2009.

*Order Number 2009-03: Issued 12:15 p.m., August 28, 2009*

Treaty Indian Fisheries

*Areas 4B, 5 and 6C:* Open to drift gillnets from 12 p.m. (noon), Saturday, August 29, 2009 to 12 p.m. (noon) Wednesday, September 2, 2009.

*Areas 6, 7, and 7A:* Open to drift gillnets and purse seine from 5 a.m., Sunday, August 30, 2009 to 8 a.m., Monday, August 31, 2009; and from 5 a.m., Tuesday, September 1, 2009 to 8 a.m., Wednesday, September 2, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

## All Citizen Fisheries

*Areas 7 and 7A Purse seine:* Open to pink salmon fishing with non-retention of sockeye salmon 5 a.m. to 9 p.m., Saturday, August 29, 2009 and Monday, August 31, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Areas 7 and 7A Gillnet:* Open to pink salmon fishing with non-retention of sockeye salmon 8 a.m. to 11:59 p.m. (midnight) on Saturday, August 29, 2009 and Monday, August 31, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Areas 7 and 7A Reef net:* Open to pink salmon fishing with non-retention of sockeye salmon 5 a.m. to 9 p.m. on Saturday, August 29, 2009; 5 a.m. to 9 p.m. on Sunday, August 30, 2009; 5 a.m. to 9 p.m. on Monday, August 31, 2009; and 5 a.m. to 9 p.m. on Tuesday, September 1, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Order Number 2009-04: Issued 12:30 p.m., September 1, 2009*

## Treaty Indian Fisheries

*Areas 4B, 5 and 6C:* Open to drift gillnets from 12 p.m. (noon) Wednesday, September 2, 2009 to 12 p.m. (noon) Saturday, September 5, 2009.

*Areas 6, 7, and 7A:* Open to drift gillnets and purse seines from 8 a.m., Wednesday, September 2, 2009 to 11 a.m., Saturday, September 5, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

## All Citizen Fisheries

*Areas 7 and 7A Purse seine:* Open to pink salmon fishing with non-retention of sockeye salmon 10 a.m. to 9 p.m. Thursday, September 3, 2009; and 5 a.m. to 9 p.m. Friday, September 4; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance

to Active Pass in the province of British Columbia.

*Areas 7 and 7A Gillnet:* Open to pink salmon fishing with non-retention of sockeye salmon 10 a.m. to 11:59 p.m. (midnight) on Thursday, September 3, 2009; and 8 a.m. to 11:59 p.m. (midnight) on Friday, September 4, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Areas 7 and 7A Reef net:* Open for pink salmon fishing with non-retention of sockeye salmon 5 a.m. to 9 p.m. on Wednesday, September 2, 2009; 5 a.m. to 9 p.m. on Thursday, September 3, 2009; and 5 a.m. to 9 p.m. on Friday, September 4, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Order Number 2009-05: Issued 12:05 p.m., September 4, 2009*

## Treaty Indian Fishery

*Areas 4B, 5 and 6C:* Open to drift gillnets from 12 p.m. (noon) Saturday, September 5, 2009 to 12 p.m. (noon) Wednesday, September 9, 2009.

*Areas 6, 7, and 7A:* Open to drift gillnets and purse seines from 11 a.m., Saturday, September 5, 2009 to 11 a.m. Wednesday, September 9, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

## All Citizen Fisheries

*Areas 7 and 7A Purse seine:* Open to pink salmon fishing with non-retention of sockeye salmon 10 a.m. to 9 p.m. Monday, September 7, 2009; and 5 a.m. to 9 p.m. Tuesday, September 8; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Areas 7 and 7A Gillnet:* Open to pink salmon fishing with non-retention of sockeye salmon 10 a.m. to 11:59 p.m. (midnight) on Monday, September 7, 2009; and 8 a.m. to 11:59 p.m. (midnight) on Tuesday, September 8, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the

entrance to Active Pass in the province of British Columbia.

*Areas 7 and 7A Reef net:* Open to pink salmon fishing with non-retention of sockeye salmon 5 a.m. to 9 p.m. on Saturday, September 5, 2009; 5 a.m. to 9 p.m. on Sunday, September 6, 2009; 5 a.m. to 9 p.m. on Monday, September 7; and 5 a.m. to 9 p.m. on Tuesday, September 8, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Order Number 2009-06: Issued 2:15 p.m., September 8, 2009*

## Treaty Indian Fisheries

*Areas 4B, 5 and 6C:* Open to drift gillnets from 12 p.m. (noon) Wednesday, September 9, 2009 to 12 p.m. (noon) Saturday, September 12, 2009.

*Areas 6, 7, and 7A:* Open to drift gillnets and purse seines from 11 a.m. Wednesday, September 9, 2009 to 11 a.m. Saturday, September 12, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

## All Citizen Fisheries

*Areas 7 and 7A Purse Seine:* Open to pink salmon fishing with non-retention of sockeye salmon 10 a.m. to 9 p.m. Thursday, September 10, 2009; and 5 a.m. to 9 p.m. Friday, September 11; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Areas 7 and 7A Gillnet:* Open to pink salmon fishing with non-retention of sockeye salmon 10 a.m. to 11:59 p.m. (midnight) on Thursday, September 10, 2009; and 8 a.m. to 11:59 p.m. (midnight) on Friday, September 11, 2009; southerly and easterly of a straight line drawn from the Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Areas 7 and 7A Reef net:* Open to pink salmon fishing with non-retention of sockeye salmon 5 a.m. to 9 p.m. on Wednesday, September 9, 2009; 5 a.m. to 9 p.m. on Thursday, September 10, 2009; and 5 a.m. to 9 p.m. on Friday, September 11, 2009; southerly and easterly of a straight line drawn from the

Iwersen Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

*Order Number 2009-07: Issued 1:45 p.m., September 10, 2009*

#### All Citizen Fisheries

*Areas 7 and 7A Purse Seine:* Will remain closed after 9 p.m. Thursday, September 10, 2009; and will not reopen Friday, September 11, 2009.

*Areas 7 and 7A Gillnet:* Will remain closed after 11:59 p.m. (midnight) on Thursday, September 10, 2009; and will not reopen on Friday, September 11, 2009.

*Areas 7 and 7A Reef net:* Will remain closed after 9 p.m. on Thursday, September 10, 2009; and will not reopen Friday, September 11, 2009.

*Order Number 2009-08: Issued 11:45 a.m., September 11, 2009*

#### Treaty Indian Fisheries

*Areas 4B, 5, and 6C:* Open to drift gillnets from 12 p.m. (noon) Saturday, September 12, 2009 to 11:59 p.m. (midnight) on Monday, September 14, 2009.

*Areas 6, 7, and 7A:* Open to drift gillnets and purse seines from 11 a.m. Saturday, September 12, 2009 to 9 p.m. Monday, September 14, 2009. Iwersen Dock Line restriction is not in effect. Iwersen Dock Line restriction rescinded effective 11:05 a.m. Friday, September 11, 2009.

The Fraser River Panel approved the following relinquishment of regulatory control in U.S. Puget Sound Panel waters:

*Area 4B, 5, and 6C:* Relinquish regulatory control effective 12:01 a.m., Tuesday, September 15, 2009.

*Order Number 2009-09: Issued 1:20 p.m., September 12, 2009*

#### Treaty Indian Fisheries

*Areas 6, 7, and 7A:* Fishery closed at 9:00 p.m. Sunday, September 13, 2009.

*Order Number 2009-10: Issued 12:01 a.m., September 18, 2009*

The Fraser River Panel approved the following relinquishment of regulatory control in U.S. Puget Sound Panel waters:

*Area 7:* Relinquish Regulatory Control effective 12:01 a.m. Friday, September 18, 2009.

#### Classification

The Assistant Administrator for Fisheries NOAA (AA), finds that good cause exists for the inseason orders to be issued without affording the public

prior notice and opportunity for comment under 5 U.S.C. 553(b)(B) as such prior notice and opportunity for comments is impracticable and contrary to the public interest. Prior notice and opportunity for public comment is impracticable because NMFS has insufficient time to allow for prior notice and opportunity for public comment between the time the stock abundance information is available to determine how much fishing can be allowed and the time the fishery must open and close in order to harvest the appropriate amount of fish while they are available.

The AA also finds good cause to waive the 30-day delay in the effective date, required under 5 U.S.C. 553(d)(3), of the inseason orders. A delay in the effective date of the inseason orders would not allow fishers appropriately controlled access to the available fish at that time they are available.

This action is authorized by 50 CFR 300.97, and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 3636(b).

Dated: November 20, 2009.

**Emily H. Menashes,**

*Acting Director/Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E9-28319 Filed 11-24-09; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 09100091344-9056-02]

RIN 0648-XT10

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2009 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore

component of the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), November 22, 2009, until 2400 hrs, A.l.t., December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA is 14,558 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the 2009 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 14,508 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is