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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

RIN 0648-XC222

#### Fraser River Sockeye Salmon Fisheries; Inseason Orders

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

**ACTION:** Temporary orders; inseason orders.

**SUMMARY:** NMFS publishes Fraser River salmon inseason orders to regulate treaty and non-treaty (all citizen) commercial 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 2012 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 commercial 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.

**FOR FURTHER INFORMATION CONTACT:** Peggy Mundy at 206-526-4323.

**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 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 salmon tribal and non-tribal commercial 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 77 FR 25915 (May 2, 2012). 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 2012 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 2012 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 77 FR 25246 (May 2, 2012); 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.

#### Fraser River Panel Order Number 2012-01: Issued 12:30 p.m., July 24, 2012

Treaty Indian Fisheries:

*Areas 4B, 5, and 6C:* Open to drift gillnets from 12 p.m. (noon), Wednesday, July 25, 2012 to 12 p.m. (noon), Saturday, July 28, 2012.

#### Fraser River Panel Order Number 2012-02: Issued 12:30 p.m., July 30, 2012

Treaty Indian Fishery:

*Areas 4B, 5, and 6C:* Open to drift gillnets 3 p.m., Monday, July 30, 2012, to 12 p.m. (noon), Wednesday, August 1, 2012.

#### Fraser River Panel Order Number 2012-03: Issued 12:30 p.m., July 31, 2012

Treaty Indian Fishery:

*Areas 4B, 5, and 6C:* Extend for drift gillnets from 12 p.m. (noon), Wednesday, August 1, 2012 through 12 p.m. (noon), Saturday, August 4, 2012.

*Areas 6, 7, and 7A:* Open to net fishing from 5 a.m., Thursday, August 2, 2012 through 9 a.m., Friday, August 3, 2012.

All Citizen Fishery:

*Areas 7 and 7A:* Open to purse seines from 5 a.m. to 9 p.m., Wednesday, August 1, 2012.

*Areas 7 and 7A:* Open to reef nets from 5 a.m. to 9 p.m., Wednesday, August 1, 2012.

*Areas 7 and 7A:* Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Wednesday, August 1, 2012.

#### Fraser River Panel Order Number 2012-04: Issued 12:30 p.m., August 3, 2012

Treaty Indian Fishery:

*Areas 4B, 5, and 6C:* Extend for drift gillnets from 12 p.m. (noon), Saturday, August 4, 2012, through 12 p.m. (noon), Tuesday, August 7, 2012.

*Areas 6, 7, and 7A:* Open to net fishing from 5 a.m., Saturday, August 4, 2012 through 9 a.m., Sunday, August 5, 2012.

#### Fraser River Panel Order Number 2012-05: Issued 1 p.m., August 6, 2012

Treaty Indian Fishery:

*Areas 4B, 5, and 6C:* Extend for drift gillnets from 12 p.m. (noon), Tuesday, August 7, 2012 to 12 p.m. (noon), Wednesday, August 8, 2012.

#### Fraser River Panel Order Number 2012-06: Issued 12:30 p.m., August 7, 2012

Treaty Indian Fishery:

*Areas 4B, 5, and 6C:* Extend for drift gillnets from 12 p.m. (noon), Wednesday, August 8, 2012 through 12 p.m. (noon), Saturday, August 11, 2012.

*Areas 6, 7, and 7A:* Open to net fishing from 5 a.m., Wednesday, August 8, 2012 through 9 a.m., Thursday, August 9, 2012.

All Citizen Fishery:

*Areas 7 and 7A:* Open to purse seines from 8 a.m. to 2 p.m., Friday, August 10, 2012.

*Areas 7 and 7A:* Open to reef nets from 5 a.m. to 9 p.m., Saturday, August 11, 2012.

*Areas 7 and 7A:* Open to gillnets from 1 p.m. to 11 p.m., Thursday, August 9, 2012.

#### Fraser River Panel Order Number 2012-07: Issued 12:45 p.m., August 10, 2012

Treaty Indian Fishery:

*Areas 4B, 5, and 6C:* Drift gillnets, previously scheduled to be open through 12 p.m. (noon), Saturday, August 11, 2012, will now close at

6 p.m., Friday, August 10, 2012.

**Fraser River Panel Order Number  
2012-08: Issued 11:30 a.m., August 21,  
2012**

Relinquish regulatory control of all United States Panel Area waters effective 12:01 a.m., Sunday, September 2, 2012.

**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: October 1, 2012.

**Lindsay Fullenkamp,**

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

[FR Doc. 2012-24541 Filed 10-3-12; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 120416016-2469-02]

**RIN 0648-BB96**

**Atlantic Highly Migratory Species;  
Silky Shark Management Measures**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS implements the International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendation 11-08, which prohibits retaining, transshipping, or landing of silky sharks (*Carcharhinus falciformis*) caught in association with ICCAT fisheries. In order to facilitate domestic compliance and enforcement, NMFS also prohibits the storing, selling, and purchasing of the species. This rule primarily affects the commercial Atlantic highly migratory species (HMS) pelagic longline fishery for tuna and tuna-like species in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico. This rule does not affect commercial fishermen fishing for sharks with bottom longline, gillnet, or handgear, and it does not further affect recreational fishermen because harvesting silky sharks is already prohibited in the recreational fishery. This action implements the ICCAT recommendation, consistent with the Atlantic Tunas Convention Act (ATCA), and furthers domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective November 5, 2012.

**ADDRESSES:** Supporting documents, including the Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA), and others, such as the Fishery Management Plans described below, may be downloaded from the Highly Migratory Species (HMS) Management Division Web site at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/). These documents also are available by request at the telephone number below.

**FOR FURTHER INFORMATION CONTACT:** Peter Cooper or Karyl Brewster-Geisz by phone: 301-427-8503 or by fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The U.S. Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The U.S. Atlantic tuna and tuna-like species fisheries are managed under the dual authority of the Magnuson-Stevens Act and ATCA, 16 U.S.C. 971 *et seq.* Under ATCA, the Secretary of Commerce (Secretary) shall promulgate such regulations as may be necessary and appropriate to carry out ICCAT recommendations. ICCAT is responsible for the conservation of tuna and tuna-like species in the Atlantic Ocean and adjacent seas. ICCAT recommendations are binding on Contracting Parties, unless Parties object pursuant to the treaty. All ICCAT recommendations are

available on the ICCAT Web site at <http://www.iccat.int/en/>. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries (AA), NOAA. The implementing regulations for Atlantic HMS are at 50 CFR part 635.

**Background**

At the 22nd Regular Meeting of ICCAT in 2011, ICCAT adopted Recommendation 11-08 (the "Recommendation by ICCAT on the Conservation of Silky Sharks Caught in Association with ICCAT Fisheries"), which requires the United States to initiate rulemaking in order to fulfill obligations as a Contracting Party to the Convention. Recommendation 11-08 requires fishing vessels operating in ICCAT-managed fisheries to release all silky sharks whether dead or alive, and prohibits retaining on board, transshipping, or landing any part or whole carcass of a silky shark (*Carcharhinus falciformis*). The ICCAT recommendation cites the fact that silky sharks were ranked as the species with the highest degree of vulnerability in ICCAT's 2010 ecological risk assessment for Atlantic sharks.

Further background information, including the need for these silky shark management measures, was provided in the preamble to the proposed rule (77 FR 37647, June 22, 2012) and is not repeated here.

NMFS prepared an EA/RIR/FRFA, which presents and analyzes anticipated environmental, social, and economic impacts of each alternative contained in this final rule. The complete list of alternatives and related analyses is provided in the EA/RIR/FRFA, and is not repeated here. A copy of the EA/RIR/FRFA prepared for this action is available from NMFS (see **ADDRESSES**).

In this final action, NMFS prohibits the retention of silky sharks on Atlantic HMS commercially-permitted vessels that have pelagic longline gear on board. As described in the Changes from the Proposed Rule section below, this final action also prohibits the retention of silky sharks on vessels that are issued both an HMS Charter/Headboat permit and a commercial shark permit, when tuna, swordfish or billfish are on board the vessel. Additionally, as described in the response to comments below and in the EA, NMFS prohibits the storing, selling, or purchasing of silky sharks to facilitate domestic compliance and enforcement.