

Quinault Indian Nation

Grays Harbor Off-Reservation Fishing General Regulations



Chairman, Quinault Off-Reservation River Committee

Persons wishing to comment on this regulation should file comments with the secretary of the Quinault Fish & Game Office within 10 days of this posting: August 8, 1997. The Off-Reservation River Committee will consider whether or not to enact this regulation as a permanent regulation on or before August 19, 1997.

Approved on August 19, 1997

SECTION 1: GENERAL REGULATION

These regulations shall apply to all Grays Harbor watershed salmon, steelhead, and sturgeon gillnet fisheries of the Quinault Indian Nation (QIN).

Participation in QIN Grays Harbor gillnet fisheries shall be limited to able-bodied enrolled members of the Quinault Indian Nation authorized to fish pursuant to this regulation. A fisher must personally participate in all fishing operations. Helpers, spouse, and off-spring may assist an authorized fisher, but the authorized fisher must be present and involved in the fishery and fishing activity as required by QTC Title 51, except as provided in Section 1.2.3.5 of these regulations governing emergencies.

1.1 **DEFINITIONS** - Area definitions for Chehalis, Humptulips, and Area 2-C fishing sub-areas.

1.1.1 **CHEHALIS RIVER SUB-AREAS:**

CHEHALIS RIVER - The Chehalis River upstream of the powerline crossing at Cosmopolis and downstream of the powerline crossing below the confluence of the Wynoochee River approximately 13 miles above the mouth of the Wishkah River.

AREA 2A-1 - Those waters of the Chehalis River upstream from a line projected from the Standard Oil Dock at a right angle to the thread of the stream to a fishing boundary marker set on the opposite shore to the powerline crossing at Cosmopolis, approximately three (3) miles above the mouth of the Wishkah River. All subsequent references to Area 2A shall be construed to include Area 2A-1 unless specifically stated otherwise.

AREA 2A - Those waters of Grays Harbor and the Chehalis River estuary upstream from the Chehalis River Bridge on Hwy. 101 at Aberdeen to a line projected from the Standard Oil Dock at a right angle to the thread of the stream to a fishing boundary marker set on the opposite shore.

AREA 2D - Those waters of Grays Harbor and the Chehalis River estuary lying west of the Chehalis River Bridge on Hwy. 101 and easterly of a line drawn from the tripod station at Breckenridge Bluff southward through Buoy 8 and extending through the mainland, and westerly (downstream) of the State Route 105 bridge on Johns River.

AREA 2B - Those waters of Grays Harbor easterly of a line projected from the Point Chehalis light through Buoy 13 to where it intersects with Point Brown southerly of a line projected from the north easterly tip of Point Brown to a fishing boundary marker on Sand Island and thence to the tripod station at Breckenridge Bluff westerly of a line projected from the tripod station at Breckenridge Bluff southward and extending through Buoy 8 in the south channel at the mouth of Johns River to the mainland and northerly of the State

Route 105 bridge at Bay City.

- 1.1.1.2 **AREA 2-C** - Those waters of Grays Harbor lying northerly of line from the northeasterly tip of Point Brown to a fishing boundary marker on Sand Island and extending northeasterly to the tripod station at Breckenridge Bluff.

The boundary lines between Area 2-C and Grass and Chenois Creek are straight lines extending between fishing boundary markers placed on each side of the mouth of the two streams. Boundary lines between Area 2-C and Humptulips River are defined in Section 1.1.1.3.

- 1.1.1.3 **HUMPTULIPS RIVER** - The downstream boundary of the Humptulips River shall be a line due west of the dirt bluff west of Chenois Creek to the conspicuously tall piling thence north 20 west to Matt Blooms house. The upstream boundary shall be the railroad bridge at Newton.

- 1.1.2 **GILLNET** - Any net of single panel construction designed to take fish by means of entangling them in the strand of net material. Any material not specifically prohibited is allowed for construction of gillnets.

- 1.1.3. **SET NET** - Any gillnet which is attached to a stationary object or objects.

- 1.1.4. **DRIFT NET** - Any gillnet which is not attached to a stationary object or objects and which drifts with the current or tide when fishing.

- 1.1.5 **MESH SIZE** - The size of the mesh of any net shall be defined as the distance between the inside of one knot to the outside of the opposite knot of one mesh. The mesh size shall be measured by vertically stretching three consecutive meshes of wet net under a tension of ten pounds and measuring the size of the middle mesh while under tension.

- 1.1.7 **CLOSED AREA** - Any body of water or portion thereof wherein fishing is not expressly permitted by regulation.

- 1.1.8 **CLOSED SEASON** - Any time, except the open season as specified by regulation.

- 1.1.9 **FISH** - Any of its derivatives "fishing", "fished", etc... means any effort made to kill, capture, possess, injure, or catch fish, including shellfish.

- 1.1.10 **MEMBER** - Any person entitled to exercise the rights of a member of the QIN under provisions of the constitution of the QIN.

- 1.1.11 **QUINAULT SEAFOOD ENTERPRISE** - The Quinault Tribal Seafood Processing Plant, its management, its operation wherever located, headquartered in Taholah, on the

Quinault Indian Reservation.

- 1.1.12 **FISH AND GAME COMMISSION** - The Fish and Game Commission of the Quinault Indian Nation as constituted by Title 51 of the Quinault Indian Nation.
- 1.1.13 **REGULATION** - Any rule governing the conduct of fishing established as set forth herein or pursuant to QTC Title 51.
- 1.1.14 **CEREMONIAL FISH** - Any fish used by a tribal member and his family for traditional ceremonial purposes.
- 1.1.15 **SUBSISTENCE FISH** - Any fish used by a tribal member and his family for personal consumption.
- 1.1.16 **NAVIGATION CHANNEL** - Any waterway used for commercial transportation and marked by appropriate Coast Guard buoys or other navigation aids.
- 1.1.17 **BOAT RAMP** - Any area accessible to general public and commonly used to launch or retrieve boats from the water.
- 1.1.18 **PUBLIC FISHING AREA** - Any publicly or privately owned land area adjacent to a body of water which is improved to aid fishing from the shore and which is designated as a "public fishing area" by the WDF&W (Washington Dept. of Fish & Wildlife).
- 1.1.19 **FISHER** - An individual tribal member authorized by the Off-Reservation River Committee to participate in the fisheries governed by this regulation.
- 1.1.20 **OFF-RESERVATION RIVER COMMITTEE** - The Off-Reservation River Committee as constituted by Section 51.05.010 of Title 51.
- 1.1.21 **ABLE BODIED** - Personally able to fish.

1.2. **FISHER APPLICATION, SELECTION, & IDENTIFICATION PROCEDURES**

1.2.1 **APPLICATION** - For Off-Reservation fishing privileges.

- 1.2.1.1 All tribal members wishing to take part in the off-reservation fishery in Grays Harbor, and the Humptulips, and Chehalis Rivers must annually apply for and receive approval from the Off-Reservation River Committee before fishing off-reservation. Application forms are available at and should be returned to:

Quinault Off-Reservation River Committee
P.O. Box 189

1.2.1.2 Applications received each year by 5:00 p.m. on the deadline day for fisher applications will be given first consideration for available fishing positions. Individuals submitting applications after the deadline shall be placed at the bottom of the alternate list in order of receipt..

1.2.1.3 Deadline day for application is June 15 each year.

1.2.2. **FISHER SELECTION**

1.2.2.1 Members authorized to fish the previous year and who re-apply before the deadline shall be selected first for the off-reservation fishery, provided the member actively participated in the preceding year's fall fishery and has not committed more than 3 fishing violations in the previous three years.

Members previously authorized to fish who lose their preference for annual selection as the result of failure to actively participate in the fishery or excessive fishing violations shall be placed at the bottom of the alternate list.

A fisher shall be considered to have not actively participated in the preceding year's fall fishery, if he averages less than one (1) delivery for every 3 days the fishery is open during the fall season. The Off-Reservation River Committee may in its discretion waive the minimum delivery requirement upon a showing of good cause (e.g. catastrophic equipment failure) for a fisher's failure to actively participate.

1.2.2.2 Fisher selection will be made prior to the proposed opening of each fall fishing season. Fisher may not fish without written notification from the Off-Reservation River Committee that includes the fisher's name, type of gear the area and season to be fished.

1.2.2.3 In no case may a fisher fish in two major areas without written approval from the Off-Reservation River Committee. Permission will be given only if the specified effort ceiling for each area has not been reached.

1.2.2.4 When more fishers apply than are selected for a given area they shall be put on an alternate list for that area. The following procedures shall be followed:

- (1) **Alternate Fisher's List**
Those persons reapplying as an alternate for a given area according to Section 1.2.1.2 of these regulations shall maintain their rank number from the previous year or advance if ranking alternates fail to reapply or reapply after the deadline.

New and late applicants shall be ranked by the date of their application. If more than one person applies on the same day they shall be ranked alphabetically for that particular fishery.

- (2) Openings in any area will be filled by the highest ranking alternate for that area.
 - a. The opening shall be offered first to ranking alternate for an area even though he may be fishing in another area at any time. The alternate then may have his/her choice of remaining in his present location or moving to the new one.
 - b. Openings will occur when a fisher withdraws from fishing or is not reauthorized to participate in a fishery by the Off-Reservation River Committee.
 - c. If the ranking alternate is not 18 years of age; or declines to take the position offered, the alternate will be moved to the bottom of the alternate list.

1.2.2.5 **RECONSIDERATION AND APPEAL** Affected parties may seek reconsideration of any decision of the Off-Reservation River Committee with respect to authorization to participate in fisheries. Requests for reconsideration must be made within 15 days of the decision reconsideration of which is sought and be submitted in writing to the Secretary of the Fish and Game Commission. Each request for reconsideration shall identify the decision for which reconsideration is sought, the date of the decision, the identity of the parties affected by the decision, and the reasons why the request for reconsideration should be granted. The Secretary shall promptly transmit the Request for Reconsideration to the Committee which shall notify the appellant and all affected parties of the time and place the Committee will hear and consider the Request for Reconsideration. Any party aggrieved by a final decision of the Off-Reservation River Committee may file an appeal therefrom in the Quinault Tribal Court as provided in QTC Title 51.

1.2.3. **FISHER AND GEAR IDENTIFICATION PROCEDURES:**

- 1.2.3.1 Each fisher participating in fisheries subject to this regulation must be authorized to participate by the Off-Reservation River Committee, and shall carry on his person a valid Tribal identification card showing his name, ID number, a recent photograph, and his signature.
- 1.2.3.2 Each set net must have the fisher's identification number burned, carved, or written with waterproof ink on the outermost float on both ends of each net in such a manner as to be easily readable. If a net is set such that the identification float is submerged, a line connecting the outermost end of the net to a properly identified float on the surface must be present if water flow or tidal conditions

permit.

- 1.2.3.3 Each boat used in the fisheries subject to this regulation must be registered with the Quinault Indian Nation and properly display the boat number issued by the Nation.
- 1.2.3.4 When authorized by the Off-Reservation River Committee enrolled members exercising treaty Indian fishing rights may be assisted in fishing operations by their legally recognized spouse or off-spring. The member must be present during all fishing and delivery operations and the member's identification number and signature must be on the fish ticket. The spouse or off-spring must also carry on their person at all times a proper identification card issued by the QIN/ORRC.

- 1.2.3.5 **HELPER PERMIT** - Authorized fishers may apply for a helpers permit to be assisted in fishing by another Quinault tribal member. Authorized fisher must notify the Fish & Game Office or Quinault Tribal Enforcement and complete a helpers permit at the respective buying stations within 12 hours of notification. The authorized fisher must be present during all fishing operations. An authorized helper may deliver fish for his fisher. Only in emergency situations may a helper fish unassisted by his fisher, and then an extra helper may be permitted for safety purposes if deemed necessary by the Off-Reservation River Committee.

Emergency situations are 1) sickness, 2) doctor's appointments, 2) funeral, and 4) meetings, and other Off-Reservation River Committee approved emergencies. Permission for a helper to fish outside of the presence of his/her fisher for reasons 1- 4 above may be granted by the Chair or Vice-Chair of the ORRC.

Each helper must have on his person at all times a proper identification card issued by the QIN/ORRC.

- 1.2.3.6 The holder of a Quinault identification card by his or her acceptance of the card, agrees to obey all fishing laws and regulations of the QIN and agrees and stipulates to the jurisdiction of the QIN and its officers and court with respect to all fishing related activities, including but not limited to the delivery, sale, or transportation of fish, vessel operation, and the use of the identification card.
- 1.2.3.7 No person not authorized pursuant to these regulations to fish or assist a fisher, authorized spouse or off-spring, or helper shall participate in any fishing activity subject to this regulation, including but not limited to vessel operation, delivery or sale of fish.

1.3. **RESPONSIBILITIES OF FISHERS DURING THE SEASON**

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- 1.3.1 All nets must be tended and fish removed at least twice daily so as to prevent wastage. Nets may be left unattended for periods up to, but not exceeding 12 hours during of darkness in those areas open 24 hours a day. Authorized fishers must deliver in their own name. Fish delivered by a helper shall be deemed to be delivered by the authorized fisher. The Quinault Seafood Enterprise will only make payments for fish to authorized fishers.
- 1.3.2 Catches must be transported to a designated tribal buying station at the end of each day's fishing (intervals not to exceed 24 hours). Fish may not be sold to a non-authorized buyer unless the Quinault Seafood Enterprise or its designee has first declined to buy the fish.

If the Enterprise is not opened for 12 hours fishers may sell to a non-authorized buyer. When fish are sold to a buyer other than the Quinault Seafood Enterprise, the fisher shall provide the Quinault Fisheries Division with his/her copy of the fish ticket by the end of the day following the sale.

- 1.3.3 In addition to recording the species, number, weight, price and fishing area of caught fish, the daily fish ticket must also show the number and species of fish not sold and whether they were for subsistence or ceremonial use. Each fisher is responsible to see that all information is accurately recorded on the fish ticket.
- 1.3.4 In the absence of Quinault tribal regulations, Washington State regulations are hereby adopted as Quinault tribal regulations and shall govern the taking and retention of all species other than salmon, steelhead, and sturgeon.
- 1.3.5 While fishing with a drift net, a fisher and boat must remain within 150 yards of his or her net.
- 1.3.6 No person shall participate in a fishery while under the influence of drugs or alcohol.

1.4. **IN-SEASON MANAGEMENT PROCEDURES**

1.4.1 **CHANGE IN FISHING REGULATIONS**

It will usually be necessary to modify fishing regulations during the season as more information becomes available on the magnitude of the various runs. It shall be the responsibility of the ORRC to promulgate and implement in-season changes as necessary for conservation, to maintain an orderly and safe fishery, to assure wise use of the resource, or for other reasons. In-season regulations shall be adopted and revised as necessary pursuant to the procedures established in QTC Title 51.

- 1.4.2 Written notices of regulation changes shall be posted by the Quinault Fisheries Department at the following locations:
- (1) Receptionists at the Quinault Department of Natural Resources. (Phone 360-276-8211):
 - (2) The front door of the Quinault Seafood Enterprise and all designated buying stations.
- 1.4.3 It shall be the responsibility of the Fisheries Division to inform the proper state agencies of all regulations and changes.
- 1.4.4 Any aggrieved person may appeal a regulation change to the Off-Reservation River Committee, but such appeal must be filed with a member of the Committee within 72 hours of the time the regulation was approved. A full committee meeting to consider the appeal must be held within 48 hours after the appeal has been received. Failure to hold a meeting will not invalidate the change.
- 1.4.5 All emergency regulations adopted without a meeting of the Off-Reservation River Committee will automatically be placed on the agenda of the next Off-Reservation River Fish Committee meeting for explanation. Full Committee approval of these regulations will not be required, however, unless an appeal is pending.

1.5. **TAXATION**

A tax of one percent (1%) is hereby imposed on the landed value of the catch of each off-reservation fisher.

- 1.5.1 If fish are sold to a buyer other than the Quinault Tribal Enterprise or its authorized buyer(s) it shall be the responsibility of the off-reservation fisher to pay the 1% tax to the QIN.

1.6. **TEST FISHERIES**

The Quinault Fishery management staff may establish at various times and places test fisheries for the purpose of gear development and testing and/or gathering data necessary to setting tribal fishing seasons and improving fishery management. These test fisheries must be under the direct supervision of the Fisheries Division and must be conducted by tribal employees or contractors.

- 1.6.2 The Department of Fish and Wildlife will be notified at least 24 hours in advance of any test fishery as to the location of fishing, species to be taken, and names of persons conducting the test fishery.
- 1.6.3 Income derived from the sale of fish caught in a test fishery will be placed in an account to help pay for the cost of conducting test fisheries.

1.7 **PENALTIES FOR VIOLATIONS**

Penalties for violation of Quinault Fishing Regulations will be determined by the Quinault Tribal Court as provided by Tribal Law.

2.0 **SPECIFIC GRAYS HARBOR SALMON REGULATIONS** - Regulations in this section are subject to modification during the fishing season. Seasons should be considered preliminary only, prior to beginning of the season. Effort limits and gear restrictions are not likely to change during the salmon season.

2.1 **HUMPTULIPS RIVER**

2.1.1 A maximum of 10 fishermen will be allowed in the Humptulips River. Each fisher will be allowed a maximum of two nets.

2.1.2 Gear Restrictions - Each net in the Humptulips River may not exceed 27 fathoms in length.

2.1.3 Each net fisher in the Humptulips River may use one of the two allowed nets as a drift net. At no time may an individual fisher operate more than two nets.

2.1.4 No set nets may be located so as to interfere with or hinder normal activities at boat ramps.

2.1.5 New set net fishing grounds shall not be closer than 300 feet to a previously established fishing ground. An established ground is one that can be verified by two or more witnesses as one that has been fished for the last two seasons.

2.2. **AREA 2-C**

2.2.1 A maximum of 10 fishermen will be allowed in Area 2-C. A fisher may have a maximum of two nets.

2.2.2 Gear Restrictions - Each set net in Area 2-C may not exceed 120 fathoms in length. Drift nets may not exceed 200 fathoms.

2.2.3 Each fisher in Area 2-C may use one of the two allowed nets as a drift net. At no time may an individual fisher operate more than two nets.

2.2.4 No set nets may be located so as to interfere with or hinder normal activities at boat ramps.

2.2.5 New set net fishing grounds shall not be closer than 300 feet from a previously established fishing ground. An established ground is one that can be verified by two or more witnesses as one that has been fished for the last two seasons.

2.3. **CHEHALIS RIVER**

- 2.3.1 A maximum of fifty (50) fishermen will be allowed on the Chehalis River. Each fisher may operate a maximum of two (2) nets.
- 2.3.2 Each set net may not exceed 55 fathoms in length.
- 2.3.3 Each fisher may operate one drift net not to exceed 200 fathoms in length. At no time may an individual fisher operate more than two nets.
- 2.3.4 No set nets may be located so as to interfere with or hinder normal activities at boat ramps.
- 2.3.5 Area 2-D may be fished by drift net only, provided that those fishers using set nets in the area between the Highway 101 bridge over the Chehalis River and the former location of the Union Pacific railroad bridge during fall 1996 fishing season may continue to fish the same locations with set nets as long as they remain authorized to participate in the fishery.
- 2.3.6 Areas 2A and 2A-1, of the Chehalis River fishery may be fished with a set net or a drift net. Set nets and their lines and anchors shall not in any way impede or obstruct a legitimate drift net fishing zone.
- 2.3.7 Chehalis River from power line crossing at Cosmopolis to confluence of Wynoochee River shall be fished by a set net only.
- 2.3.8 Set nets at the mouth of the Wishkah River shall not impede or hinder boat traffic in and out of the river.
- 2.3.9 Drift nets used in the Chehalis River Fisheries must use orange, red, or highly visible fluorescent floats to mark both ends of nets during daylight hours. During hours of darkness, illuminating lights must be used to mark ends of nets. The floats used during daylight hours and illuminating lights used during hours of darkness must be plainly visible
- 2.3.10 Drift nets shall not be anchored or secured in any manner to a fixed or stationary object.
- 2.3.11 New set fishing grounds shall not be closer than 300 feet from a previously established fishing ground. An established ground is one that can be verified by two or more witnesses as one that has been fished for the least two seasons.

2.4. **AREA 2B**

The fall fishery in Area 2B is on mixed stocks of Chehalis and Humptulips River origins. It is the best management policy to take these fish close to the rivers, where single stock are present. Therefore, Area 2B will be closed unless opened by specific regulation by the Off-Reservation River Committee.

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3.0 A FINDING BY A COURT OF LAW THAT ANY PORTION OF THESE REGULATIONS ARE INVALID SHALL IN NO WAY AFFECT THE STATUS OF THESE REGULATIONS.