

**NISQUALLY
ANNUAL FISHING REGULATION
Title 14
2015 / 2016
Final**

BE IT ENACTED BY: The Nisqually Indian Tribe of the Nisqually Reservation, Washington, an Indian Tribe organized and existing pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat.984), as amended, acting in accordance with the Constitution and By-Laws approved by the Assistant Secretary of Interior on September 9, 1946, the following Annual Fishing Regulations for the year ending June 30, 2016.

ARTICLE I: Net fisherman shall adhere to the provisions as set forth in Nisqually Tribal Code, Title 14, Chapter II-Fishing, dated July 31, 1991, (Ordinance 1 – 1981, dated June 1981) governing the exercise of fishing rights reserved by and secured to the Nisqually Indian Tribe by the Treaty of Medicine Creek.

ARTICLE II: The Nisqually Indian Tribe reserves the right to conduct ceremonial and subsistence fisheries in all usual and accustomed fishing areas, subject to the regulations established by the Nisqually Fish Commission.

ARTICLE III: The Nisqually Indian Tribe further reserves the right to exercise emergency openings and closures or Tribal fishing activities in all usual and accustomed ground and stations, on condition that promulgated fishing activities or test fishing warrant an opening or closure on the basis of availability of a fish species to the Tribal fishery or for necessary spawning escapement. In the event escapement data warrant such action, an area within the usual and accustomed fishing places of the Nisqually Indian Tribe may be OPENED at the discretion of the Nisqually Fish Commission for the purpose of fishing for the benefit of the Community Council. The Nisqually Fish Commission is hereby authorized to enter into contractual agreements on behalf of the Nisqually Indian Tribe with any enrolled Nisqually Tribal member establishing the terms and conditions of such fishing activities. Any monies accruing from test fisheries as a result of these contractual agreements shall be deposited in a local bank to the credit of the Nisqually Tribal test fisheries fund.

ARTICLE IV: Violations of these Annual Fishing Regulations shall subject the offender to those penalties as provided by Nisqually Tribal Code, Title 14, Chapter II-Fishing, Section 14.23.09.

ARTICLE V: The Tribal fish tax for the 2015/2016 fishing season shall be \$0.02 (2%) on each dollar from the sale of fish caught by enrolled members or authorized assistants as provided by Nisqually Tribal Code, Title 14, Chapter II-Fishing, Section 14.22.01.

**I. NISQUALLY EXCLUSIVE FRESHWATER USUAL AND ACCUSTOMED AREA
COMMERCIAL FISHERY**

Area 83D: Nisqually River – from Nisqually River delta (see map 1) to the upstream end of Frank’s Camp (see map 2).

Area 83F: Shenahnum (McAllister) Creek; all waters of the creek upstream of the boat launch ramp at Luhr Beach (see map 2).

Special Freshwater Closure Areas: The Nisqually River above Frank’s Camp and all freshwater courses of Sequelitchew Creek, Chambers Creek, Red Salmon Creek, all lakes between Steilacoom and Shenahnum Creek, tributaries of the Nisqually River, and all other fishing places within the usual and accustomed area of the Nisqually Indian Tribe shall be closed to all fishing pursuant to these regulations and Nisqually Tribal Code, Title 14, Chapter II – Fishing.

2015/2016 NISQUALLY AND MCALLISTER CREEK REGULATIONS

<u>Management Period</u>	<u>Gear Type</u>	<u>Harvest Rate 1</u>	<u>Comments</u>
July 1 – Sept 26, 2015 (NR)	GN, TN, BS	~24%	Unmarked Chinook
July 1 – Oct 3, 2015 (McA.Ck)	GN		Chinook
Sept 27 – Nov 21, 2015(NR)	GN, TN, BS	Low	Coho
Sept 27 – Nov 28, 2015(McA.Ck)	GN		Coho
Nov 22, 2015– January 31, 2016	GN, TN	Moderate	Late Chum
Dec 1, 2015– January 31, 2016	GN, TN	Incidental	Steelhead

LIST OF AGREED TO FISHERIES (LOAF)

The 2015 LOAF has been ratified by the Pacific Fisheries Management Council (PFMC) in April. All fisheries are modeled to assure coverage under the 4(d) take permit. The Nisqually section of the LOAF is listed below. Fishing beyond the LOAF is a violation of the take permit.

Nisqually River (Area 83D) Treaty Net (Ntrty net closed)	
Chinook/Pink	<p>Gill Net 2 days/wk during the following weeks: wk 31 (wb 7/26) through wk 34 (wb 8/16). One day wk 35 (wb 8/23).</p> <p>Beach Seine (all freshwater immersion beaches from Luhr Beach to East Bank of Red Salmon Slough, McAllister Creek, Red Salmon Slough, and the Nisqually River) 3 daylight days/wk during the following weeks: wk 36 (wb 8/30) through wk 39 (wb 9/20). Release all wild Chinook.</p> <p>Tangle Net 1 daylight day a week wk 36 (wb 8/30) and wk 39 (wb 20). Release all unmarked Chinook. If at any point the weekly average of UM retention is above 10% the TN fishery will close.</p> <p>Experimental Pound Trap: 7 days/wk during the following weeks: wk 32-39; Total Chinook encounter cap of 500.</p>
Coho	<p>Beach Seine (all freshwater immersion beaches from Luhr Beach to East Bank of Red Salmon Slough, McAllister Creek, Red Salmon Slough, and the Nisqually River) 3 daylight days a week wk 40 (wb 9/27) and wk 41 (wb 10/4). Release all unmarked Chinook.</p> <p>Tentative Tangle Net: 1 daylight day a week wk 40 (wb 9/27) and wk 41 (wb 10/4). Release all unmarked Chinook. If at any point the weekly average of UM retention is above 10% the TN fishery will close. *If there are remaining UM savings from previous TN days, co-managers will meet to discuss schedule for opening.</p> <p>Experimental Pound Trap: 7 days/wk during the following weeks: wk 40 – 47; Total Chinook encounter cap of 500.</p> <p>Gill Net 3 days/wk during the following weeks: wk 42 (wb 10/11) through wk 47 (wb 11/15).</p>
Chum	<p>Proposed schedule: Gill Net 3-4 days/wk during the following weeks: wk 48 (wb 11/22) through wk 5 (wb 1/24/2016) per annual Nisqually River Chum/steelhead management plan.</p>
McAllister Creek (Area 83F) Treaty Net (Ntrty net closed)	
Chinook/Pink	Wk 27 (wb 6/28) - wk 40 (wb 9/27); 3 days/wk.
Coho	Wk 41 (wb 10/4) - wk 48 (wb 11/22); 3-4 days/wk.
Chum	Proposed schedule: Wk 49 (wb 11/29) - Wk 5 (wb 1/24/2016); 4 days/wk per annual Nisqually River Chum/steelhead management plan.
Area 13 Recreational	
5/1-6/30	2 fish limit (Chinook 22" min. size), Release wild Chinook, Minter Creek mouth closed. 2 pole endorsement

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Comments

- 1) Harvest rate (HR) goals for Chinook are based on the five year Endangered Species Act 4(D) take rule negotiated with NOAA fisheries. The ~24% HR on unmarked Chinook in river

coincides with negotiated in-river harvest rate to produce an exploitation rate of 52% on unmarked Nisqually Chinook.

- 2) Selective fishing will be used to target hatchery Chinook and provide fishing time on water while allowing unmarked fish to continue to the spawning ground. Fishermen will harvest Chinook with no adipose fin and release Chinook with an adipose during. It is illegal for anyone to retain an unmarked Chinook during a selective fishery. See figure 1.

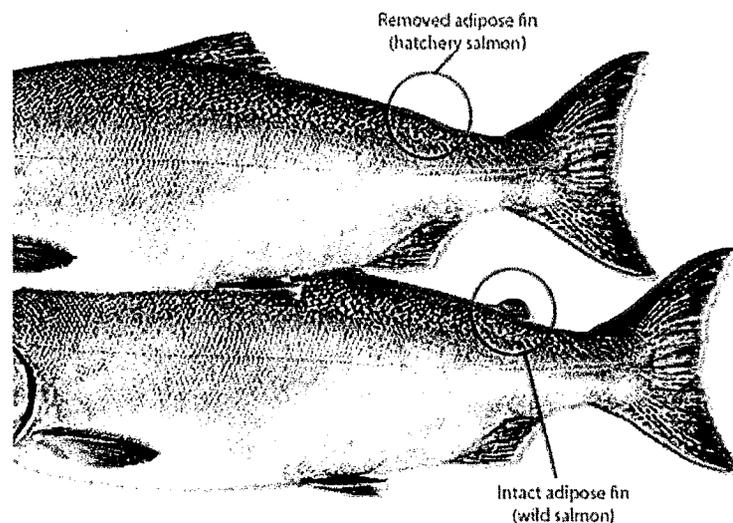


Figure 1.

Provisions

1. Chinook and Coho -Any combination of 2 gill nets per person combined cannot exceed 250 feet in length. No singular set net can exceed 150 feet in length. No drift gill net can exceed 85 feet in length.
2. Chum and C&S Fisheries- Any combination of 3 nets combined, cannot exceed 250 feet in length. No singular set net can exceed 150 feet in length. No drift gill net can exceed 85 feet in length.
3. No net shall extend beyond 1/2 the width of the channel of the Nisqually River at low tide.
4. No net shall exceed beyond 2/3 the width of the channel below I-5 on McAllister Creek at low tide.
5. All nets shall be clearly identified with owner's name (first and last) and fishing ID number to allow net identification by tribal enforcement staff.

6. All nets can be tended only by owner and or authorized assistant, whose name is on the net and gill nets shall be tended not less than once every 24 hours. In the case of an emergency and a fisherperson is unable to check his/her net call Chet Tweed 589-8311, Ray Hicks 280-9635, or Dave Blanksma 556-6776 or 701-6696.
7. Fishing locations in freshwater areas shall be not less than 250 feet apart, unless otherwise agreed as per section 14.23.04 of the Nisqually Tribal Code, Title 14, Chapter II-Fishing.
8. It is the fisherman's responsibility to check the actual Emergency Regulation, by calling the Natural Resource Department 438-8687 or Chet Tweed 589-8311, Ray Hicks 280-9635, or Dave Blanksma 556-6776 or 701-6696.
9. All net mesh restrictions refer to stretched mesh.
10. Tangle nets are to be used during daylight hours only. Mesh restriction on tangle nets is 4 inches. Only one tangle net can be fished, and must be attached to a boat with the fishermen present and tended constantly. Tangle net length not to exceed 150 feet. When Tangle Net openings are in affect all unmarked Chinook are to be released.
11. Beach Seining-Beach Seine minimum mesh restriction of 3" and maximum of 4" Maximum length 600'. Daylight hours only during the selective Chinook beach seine fishery and all unmarked Chinook are to be released.
12. Upon notification by the Nisqually Fish Commission that the fishing season has ended, all Nets must be removed from the river bank. After two weeks following this notification, any remaining nets shall be considered abandoned and shall be removed by the Tribal Law Enforcement Patrol.

II. NISQUALLY EXCLUSIVE MARINE USUAL AND ACCUSTOMED AREAS AND COMMERCIAL SALMON NET FISHERY (See Map 3)

Nisqually Exclusive Marine Area: All salt waters south and east of a line drawn from Mahnckes Point on the Key Peninsula to the westernmost point of McNeil Island boarding on Pitt Passage, then extending from Hyde Point on McNeil Island to Gordon Point on the mainland, and east of a line drawn from Johnson Point to Devils Head.

2015 Beach Seine Fishery Area 13:

Nisqually Tribe Beach Seine fishery on mainland beaches from northern end of Solo Point Boat Launch to Luhr Boat Launch. Pink directed. Release all unmarked Chinook. Beach Seines not to exceed 900 feet.

Sequalitchew Area 13:

From the northern end of Solo Point to the tip of old Dupont dock spit at cement barge.

Special Exclusive Marine Area Closures :

- 1) No fishing within 200 yards of shoreline from Johnson Point south to a point due east of Zittle's Marina.
- 2) No fishing inside the orange buoys within a 1000 foot radius of the mouth of Minter Creek.

An open fishery during these management periods is authorized only upon promulgation of an Emergency Fishing Regulation by the Nisqually Fish Commission.

Comments

- 1) Harvest rates are proposed only based on pre-season run size estimates and may be revised if in-season run size updates become available.
- 2) Marine set nets in the Fox Island area shall be jack-lighted at both ends.
- 3) **NO** Marine drift gill net fishing hours in the Sequatchew Creek Fishing area.
BEACH SEINE ONLY.

Provisions

- 1) All gill net and beach seine mesh restrictions.
- 2) No marine drift gill net shall exceed 1800' in length, no beach seines shall exceed 900' in length, no marine set net shall exceed 900' in length, and no fisherman shall operate more than one marine gillnet (refer to in-common regulations).
- 3) No drift gillnet shall be left unattended.
- 4) Each drift gill net shall be buoyed at the end with a buoy. Each buoy must be lighted and marked with owner's full name and Tribal name.
- 5) Marine set nets shall be tended not less than once every 24 hours, all set nets shall be clearly identified with owner's full name (and Tribal name) to allow net identification. All marine set nets must be attached to the shore or to another stationary object. The offshore end must be marked with a floating buoy. Said buoy must be clearly marked with owner's name and Tribal name.
- 6) No person shall operate more than two set net(s). Length shall not exceed 600' in length.

III. IN-COMMON MEDICINE CREEK MARINE AREA COMMERCIAL FISHERY

In-Common Medicine Creek Area: The salt water area south of the Tacoma Narrows Bridge to the north and east border of the Nisqually exclusive area. More specifically, from the Narrows Bridge South to Mahnckes Point on the Key Peninsula to the westernmost point of McNeil Island boarding on Pitt Passage, then extending from Hyde Point on McNeil Island to Gordon Point on the mainland.

2015/2016 MEDICINE CREEK AREA FISHERY

Area	Chinook	Coho	Chum
Fox Island 13	8/1-9/15, 7 days/wk	9/15-10/20, 7 days/wk	Closed unless opened by Medicine Creek Treaty Tribes' agreement
Carr Inlet 13A	8/1 - 9/20, 7 days/wk, opens in sections.	9/14 - 10/25, 7 days/wk, in-season monitoring to meet hatchery escapement need.	10/26 - 12/6, 7 days/wk
Chambers Bay 13C	To be determined	To be determined	To be determined

- 1) All gill net and beach seine mesh restrictions.
- 2) No marine drift gill net shall exceed 1800' in length, no beach seines shall exceed 900' in length, no marine set net shall exceed 900' in length, and no fisherman shall operate more than one marine gillnet.
- 3) Each drift gill net shall be buoyed at the end with a buoy; each buoy must be lighted and marked full name and Tribal name.
- 4) Marine set nets shall be tended not less than once every 24 hours, all set nets shall be clearly identified with owner's full name (and Tribal name) to allow net identification. All marine set nets must be attached to the shore or to another stationary object. The offshore end must be marked with a floating buoy. Said buoy must be clearly marked with owner's name and Tribal name.
- 5) No person shall operate more than two set net(s). Length shall not exceed 600' in length.

IV. NISQUALLY CEREMONIAL AND SUBSISTENCE FISHERIES

Ceremonial and Subsistence Fishery Definition:

Ceremonial: Traditional tribal ceremonies.

Subsistence: Personal subsistence consumption by tribal members and their immediate families.

United States v. Washington, 384 F. Supp. 312, 343 (1974).

Authorized C&S Fisherman: Any enrolled member of the Nisqually Tribe. Enrolled members who do not possess a valid fisherman identification card, such as children under 16 years of age, may request a special “subsistence” card. This card will be issued free of charge to any enrolled member, it constitutes acceptable identification as specified in Section 14.21.02 of the Tribal Code, Title 14- Fishing.

2015/2016 FRESHWATER C&S HOOK AND LINE C &S REGULATIONS

Open all year for all species. Closed to the taking of any other species, if the Tribe has enacted a conservation closure for that species in the river. No bag limit. All catches must be reported weekly to the Nisqually Department of Natural Resources.

- Open Areas:** Nisqually River from the mouth of the glacier, Ohop Creek, Mashel River.
- Gear Type:** Hook and Line.
- Season:** Open all year for all species unless the Tribe has enacted a conservation closure for a species.
- Bag Limit:** None unless noted otherwise below. All adult salmon and adult steelhead catches must be reported weekly to the Tribal Natural Resources Department..
- Species:** Chinook, Coho, Pink, Chum, Trout (Rainbow or Cutthroat), and Steelhead.
- Minimum Size:** 6” all year above LaGrande Dam and from July 1 through February 28th in all open waters below LaGrande Dam. 10” from March 1 through June 30th for all trout below LaGrande Dam on the river and on the Mashel River, and Ohop Creek.
- NOTE:** Muck Creek is closed to fishing.

2015/2016 MARINE C&S HOOK & LINE FISHING REGULATIONS

- Open Areas:** All waters of Puget Sound South of an East-West line through the Northern tip of Vashon Island (commercial catch reporting areas 11, 11A, 13, 13A, 13C,

13D-K, or Sport Punch card areas 11 and 13).

- Gear Types:** Hook and Line
- Season:** Open all year for all species July 1, 2015 to June 30, 2016 unless the Tribe has enacted conservation or an allocation closure for a species.
- Bag Limit:** None – all salmon catches must be reported weekly to the Nisqually Department of Natural Resources
- Eligibility:** Any enrolled member of the Nisqually Tribe. Enrolled members who do not possess a valid fisherman identification card, such as children under the age of 16 years of age, may request a special “subsistence” card. This card will be issued free of charge to any enrolled member, it constitutes acceptable identification as specified in Section 14.21.02 of the Tribal Code Title 14- Fishing.
- Conservation Restriction:** Spring Chinook protection measures. Upper Carr Inlet and Minter Bay (Area 13-A) is closed to the taking of Chinook salmon from April 15 until commercial openings for Chinook are allowed for the respective areas.

V. SPECIAL FISHERIES

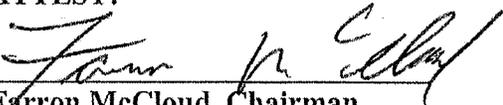
Traps, Fish-wheels, Traditional, or other innovative harvest tool: The Nisqually Fish Commission may, as data indicates, determine specific stocks of salmon or steelhead to constitute an over escapement, i.e., numbers beyond the needs of natural spawning or hatchery goals. The Tribe may then be directed to harvest this surplus through use of a Tribal operated fishing trap or dip net (See Article III, Annual Fishing Regulations).

Test Fishery: Test fisheries may be operated at the discretion of the Nisqually Fish Commission for purposes of biological research. Twenty-four hours prior to the test fishery all interested parties will be given notice of 1) Number of fishing units; 2) Area; 3) Identification of fisherman.

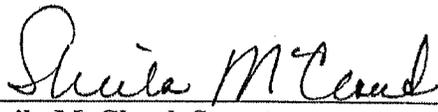
CERTIFICATION

I certify that the above Annual Fishing Regulations were presented at a Public Hearing held on , as stated in a notice sent by mail to the last known address of all fisherman of the Nisqually Indian Community above the age of 18. Said notice was mailed ten days prior to the hearing. The above Annual Fishing Regulations 2015/2016, were then presented to the Nisqually Tribal Council at a meeting held on the 30 day of July, 2015, at which a quorum was present by a vote of 6 FOR, 0 AGAINST, and 0 ABSTAINED.

ATTEST:



Farron McCloud, Chairman
Nisqually Indian Tribe



Sheila McCloud, Secretary
Nisqually Indian Tribe