

Proposed Rule regarding Regulation of Fishing in the Reservation Zones of Lake Roosevelt
Submitted by the Confederated Tribes of the Colville Reservation and the Spokane Tribe
of Indians

Section 1: Purpose and Findings

- (a) The purposes of these regulations are:
- (1) To assist in protecting the paramount fishing rights secured to the Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians under Public Law 76-690, 54 Stat. 703 (June 29, 1940) on Lake Roosevelt;
 - (2) To promote the proper management, conservation, and protection of fishery resources subject to federal jurisdiction;
 - (3) To further the self-determination of the Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians by enhancing Tribal enforcement of fishing regulations within the Reservation Zones;
 - (4) To provide clarity to anglers and law enforcement officers and agencies regarding applicable fishing regulations on the portions of Lake Roosevelt within the Colville Reservation Zone and the Spokane Reservation Zone;
 - (5) To maintain meaningful subsistence, commercial, and recreational fishing opportunities for tribal members and recreational fishing for non-members consistent with Tribes' paramount rights; and
 - (6) To assist in the orderly administration of Indian Affairs.
- (b) The regulations of this part are appropriate and necessary to ensure that the paramount fishing rights secured to the Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians under Public Law 76-690, 54 Stat. 703 (June 29, 1940) are adequately protected.

Section 2: Definitions

As used in this part:

- (a) "Colville Reservation Zone" means the portion of Lake Roosevelt within the Colville Indian Reservation.
- (b) "Fishing" or "to fish" means any activity, other than scientific research conducted by a scientific research vessel, that involves the actual or attempted catching, taking, or harvesting of fish.
- (c) "Lake Roosevelt" means the reservoir created by Grand Coulee Dam and all lands acquired by the United States pursuant to Public Law 76-690, 54 Stat. 703 (June 29, 1940).

- (d) “Person” means a natural person as well as a corporation, business association, partnership, society, club, trust, or any other entity, organization, or group, including governmental entities.
- (e) “Regional Director” means the Regional Director for the Northwest Regional Office of the Bureau of Indian Affairs.
- (f) “Reservation Zones” means collectively the Colville Reservation Zone and the Spokane Reservation Zone. The Reservation Zones correspond to the “Indian Zone” established by the Secretary of the Interior under Public Law 76-690, 54 Stat. 703 (June 29, 1940).
- (g) “Spokane Reservation Zone” means the portion of Lake Roosevelt within the Spokane Indian Reservation.
- (h) “Tribe” means the Confederated Tribes of the Colville Reservation or the Spokane Tribe of Indians and “Tribes” refers to them collectively.

Section 3: Tribal Fishery Management Plan

- (a) The Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians may submit a Tribal Fishery Management Plan for their respective Reservation Zone to the Regional Director for approval. A Tribal Fishery Management Plan submitted for approval under this section shall contain the following:
 - (1) A summary of the Tribe’s priorities and goals for management of Lake Roosevelt fisheries;
 - (2) A list of the fish species subject to management under the Tribal Fishery Management Plan;
 - (3) A description of the population size and habitat objectives for each species subject to management under the Tribal Fishery Management Plan;
 - (4) A summary of the management strategies, including any tribal fishing regulations, that will be used to obtain the population size and habitat objectives described in the Tribal Fishery Management Plan;
 - (5) A monitoring plan to evaluate the effectiveness of the management strategies described in the Tribal Fishery Management Plan;
 - (6) A description of the manner in which the Tribal Fishery Management Plan will ensure that Tribal members and non-members will have meaningful fishing opportunities the Reservation Zone;

- (7) A description of coordination with federal, state, and local governmental entities with regulatory jurisdiction on any portion of Lake Roosevelt to promote consistent regulation of fishing activities to the greatest extent practicable; and
 - (8) A description of the manner in which the public will be informed of applicable fishing regulations within the Reservation Zone.
 - (9) Copies of applicable tribal laws governing procedures for enforcing the Tribal permitting requirement in [section 4] of this part and establishing any civil penalties for violations of Tribal fishing regulations or the Tribal permitting requirement in [section 4] of this part.
- (b) The Regional Director shall approve a Tribal Fishery Management Plan submitted pursuant to this section upon determining that the requirements of [section 3(a)] are satisfied, that the Tribal Fishery Management Plan is consistent with the requirements of Public Law 76-690, 54 Stat. 703 (June 29, 1940).
- (c) A Tribe with an approved Tribal Fishery Management Plan may submit to the Regional Director proposed amendments to the Plan, which shall be subject to the same requirements and review procedures as the initial Tribal Fishery Management Plan.
- (d) The Tribes are encouraged to coordinate with each other in the development and submission of Tribal Fishery Management Plans and in the regulation of fishing within the Tribes' respective Reservation Zones. The Tribes are authorized to submit a joint Tribal Fishery Management Plan for both the Colville Reservation Zone and the Spokane Reservation Zone in lieu of individual Tribal Fishery Management Plans. Any joint Tribal Fishery Management Plan shall be subject to the same requirements and review procedures as an individual Tribal Fishery Management Plan submitted pursuant to this Section.

Section 4: Tribal Permitting Requirement

- (a) Upon approval of a Colville Reservation Zone Tribal Fishery Management Plan or a joint Tribal Fishery Management Plan pursuant to [section 3] of this part, no person shall engage in fishing within the Colville Reservation Zone except pursuant to a tribal fishing permit issued by the Confederated Tribes of the Colville Reservation. Tribal fishing regulations adopted by the Confederated Tribes of the Colville Reservation for the Colville Reservation Zone shall be consistent with the approved Colville Reservation Zone Tribal Fishery Management Plan or joint Tribal Fishery Management Plan.
- (b) Upon approval of a Spokane Reservation Zone Tribal Fishery Management Plan or a joint Tribal Fishery Management Plan pursuant to [section 3] of this part, no person shall engage in fishing within the Spokane Reservation Zone except pursuant to a tribal fishing permit issued by the Spokane Tribe of Indians. Tribal fishing regulations adopted by the Spokane Tribe of Indians for the Spokane Reservation

Zone shall be consistent with the approved Spokane Reservation Zone Tribal Fishery Management Plan or joint Tribal Fishery Management Plan.

Section 5: Annual Reporting

No later than [date] of any year in which a Tribal Fishery Management Plan is in effect, the Tribe responsible for implementing the approved Tribal Fishery Management Plan shall submit an annual report to the Regional Director that contains the following:

- (a) A copy of tribal regulations governing fishing in the Reservation Zone for the upcoming year;
- (b) A summary of monitoring results and progress towards achieving the management objectives and goals described in the applicable Tribal Fishery Management Plan; and
- (c) A summary of any actions taken to enforce Tribal fishing regulations in the Reservation Zones of Lake Roosevelt and the dispositions of such enforcement actions.

Section 6: BIA Oversight

- (a) The Regional Director is hereby delegated and maintains ultimate regulatory authority over fishery management and enforcement in the Reservation Zone.
- (b) The Regional Director may suspend, limit, or revoke the tribal permitting requirement and Tribal enforcement authority described in [sections 4 and 9] of this part if the Tribe responsible for implementing an approved Tribal Fishery Management Plan fails to comply with the terms of this rule or takes management or enforcement actions, including the issuance of fishing regulations, inconsistent with the approved Tribal Fishery Management Plan.
- (c) Prior to finalizing any suspension, limitation, or revocation authorized under this section, the Regional Director shall provide notice to the implementing Tribe of the proposed suspension, limitation, or revocation and provide a reasonable opportunity for the Tribe to correct any condition serving as the basis for such proposed suspension, limitation, or revocation.

Section 7: Public Participation

- (a) The Regional Director shall notify the public of receipt of a Tribal Fishery Management Plan submitted pursuant to [section 3] by publication in the Federal Register.
- (b) The Regional Director shall provide the public with a reasonable period not exceeding 30 days to submit written comments on any Tribal Fishery Management Plan submitted pursuant to [section 3].
- (c) The Regional Director shall only consider public comments on a Tribal Fishery Management Plan relating to the consistency of the proposed Tribal Fishery

Management Plan with the requirements of [section 3(a)] and the provisions of Public Law 76-690, 54 Stat. 703 (June 29, 1940).

Section 8: Limitations

- (a) This part shall not be construed as establishing or affecting in any way the precise location of the boundary between the Spokane Indian Reservation and the Colville Reservation along the Columbia River or in Lake Roosevelt. The Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians are authorized to decide by joint resolution the location of the common boundary between the Colville Reservation Zone and the Spokane Reservation Zone for the purposes of this part.
- (b) This part shall not be construed as affecting in any way the rights of the Tribes to the use of their respective Reservation Zones of Lake Roosevelt, as provided in Public Law 76-690, 54 Stat. 703 (June 29, 1940).

Section 9: Enforcement

The Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians are authorized to enforce the tribal permitting requirements in [section 4] of this part within the Tribes' respective Reservation Zones, *provided* that the Tribal enforcement activities are consistent with the terms of the approved Tribal Fishery Management Plan that has been approved by the Regional Director, and *provided further* that any such enforcement activities shall be civil in nature and subject to all procedural rights afforded under the Tribes' respective laws.

Section 10: Severability

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Regional Director's intention that the remaining provisions shall continue in effect.