

NISGA'A ANNUAL FISHING PLAN 2015-16

GENERAL

Introduction

- 1) This Nisga'a Annual Fishing Plan is a legal document as prescribed in the *Nisga'a Fisheries and Wildlife Act* and in the *Nisga'a Fisheries Regulations*. The Nisga'a Annual Fishing Plan, like the legislation which prescribes it, has been developed in accordance with Chapter 8 of the Nisga'a Final Agreement. Following the general provisions, the Nisga'a Annual Fishing Plan is divided into four parts, dealing with salmon, intertidal bivalves, crabs and oolichan respectively. The plan does not apply to the harvest of wildlife fish.

Interpretation

- 2) In this Nisga'a annual fishing plan,

“DFO” means the Department of Fisheries and Oceans;

“Director” means the Director of Fish and Wildlife under the *Nisga'a Fisheries and Wildlife Act*;

“enforcement officer” means a Nisga'a fish and wildlife enforcement officer or Nisga'a fish and wildlife guardian as defined in the *Nisga'a Fisheries and Wildlife Act* or a fishery officer or fishery guardian as defined in the federal *Fisheries Act*;

“fork length”, in respect of a fish, means the length of the fish measured from the tip of the nose to the fork of the tail;

“harvest” mean fishing for, catching or attempting to catch, fish by any method;

“Harvest Agreement” means the Harvest Agreement referred to in paragraph 21 of chapter 8 of the Nisga'a Final Agreement;

“mesh size” means the total length of the twine measured along two contiguous sides of a single mesh, including the distance across the knot joining those sides but not including any other knot;

“Minister” means the federal Minister of Fisheries and Oceans responsible for the federal *Fisheries Act*;

“NAFP” means this Nisga'a Annual Fishing Plan, and includes any in-season adjustment to the plan;

“*Nisga'a Fisheries and Wildlife Act*” means the *Nisga'a Fisheries and Wildlife Act* enacted by the Nisga'a Lisims Government;

“Nisga'a fishing licence” means a valid and current Nisga'a fishing licence as defined in the *Nisga'a Fisheries and Wildlife Act*;

“NLG” means Nisga'a Lisims Government;

“salmon” means Chinook, Chum, Coho, Pink, and Sockeye salmon; and

“tidal waters of the Nass Area” means all marine waters in Pearse Canal, Portland Inlet, Observatory Inlet, and Portland Canal northeast of a line commencing at the Canadian border, midway between Pearse Island and Wales Island, and proceeding along Wales passage southeasterly to Portland Inlet, then northeasterly to the midpoint between Start Point and Trefusis Point, then south to Gadu Point.

- 3) The words and phrases used in this NAFP have the same meaning as in the Nisga'a Final Agreement unless specifically provided otherwise in this NAFP.
- 4) Words in the singular include the plural, and words in the plural include the singular.

Application

- 5) This NAFP applies to persons who harvest fish, other than steelhead, in Nisga'a fisheries. It does not apply with respect to harvests of wildlife fish. Measures for wildlife fish are included in an annual management plan approved under Chapter 9 of the Nisga'a Final Agreement.

In-Season Adjustments

- 6) The Minister may make any in-season adjustments to the NAFP in accordance with the Nisga'a Final Agreement. An in-season adjustment may be made in respect of a species of fish.

Harvest or Sale of Fish

- 7) No person shall harvest fish in Nisga'a fisheries or sell any fish harvested in Nisga'a fisheries unless the person harvests or sells in accordance with the Nisga'a Final Agreement, the Harvest Agreement, the *Nisga'a Fisheries and Wildlife Act* and its regulations, the person's Nisga'a fishing licence, and this NAFP.

Nisga'a Fishing Licences

- 8) No person shall harvest in Nisga'a fisheries unless they have, in their possession, a Nisga'a fishing licence issued to that person.
- 9) Every holder of a Nisga'a fishing licence shall carry the licence at all times while harvesting in Nisga'a fisheries and produce the licence on the demand of an enforcement officer.

Use of Fish

- 10) No person shall use any fish, other than salmon, harvested in Nisga'a fisheries for any purpose other than a domestic purpose.

Timing and Location of Harvests

- 11) No person shall harvest any fish, other than intertidal bivalves and oolichans, in Nisga'a fisheries unless the person harvests the fish in the Nass Area and conducts the harvest during the period from the date on which the Minister approves this NAFP to the date on which the Minister approves the NAFP for 2015-2016. The timing and location of harvests for intertidal bivalves and oolichans are set out in sections 40, 41, 60, and 61 of this NAFP.
- 12) No person shall harvest, for domestic purposes, a species of fish in Nisga'a fisheries in any part of the Nass Area that has been closed, by the Director, to the harvest of that species for domestic purposes.
- 13) No person shall sell a species of fish caught in Nisga'a fisheries in any part of the Nass Area that has been closed, by the Director, to the harvest of that species for purposes of sale.
- 14) Fishers are advised to check public notices posted by NLG at the principle office of NLG and in each Nisga'a Village Government office and Nisga'a Urban Local office for any openings and closures with regard to Nisga'a fisheries.
- 15) The Director will consider traditional knowledge when planning the timing and location of harvests of fish.

Inspection, Enumeration and Sampling

- 16) Every person who harvests fish in Nisga'a fisheries shall produce the fish for inspection, enumeration and sampling on request of an enforcement officer.

Catch Reporting

- 17) Every person who harvests fish in Nisga'a fisheries shall provide such information on their catch by species, fishing effort, gear used and locations and times fished as is requested by an enforcement officer.

Enforcement

- 18) In accordance with paragraph 93 of Chapter 8 of the Nisga'a Final Agreement, NLG is seeking to enter into agreements with Canada and British Columbia on the enforcement of laws in respect of fisheries. Once the agreements are entered into, enforcement will be conducted in accordance with those agreements.
- 19) No person shall harvest fish in Nisga'a fisheries unless the fishing gear used is marked in accordance with Section 15 of the Nisga'a Fisheries Regulations made under the Nisga'a Fisheries and Wildlife Act.

Subsection 33.1(2) of the Fisheries Act

- 20) Subsection 33.1(2) of the Fisheries Act applies to sections 7 to 13, 15, 16, 18, 21, 27-30, 35, 36, 40, 41, 43, 44, 48-50, 53-56, 60 of this NAFP.

PART I

SALMON

Introduction

- 21) This Part applies with respect to salmon.

- 22) No person shall, in Nisga'a fisheries, conduct a directed harvest on a species of Nass salmon if
 - (a) there is a minimum escapement level for that species of Nass salmon; and
 - (b) the number of that species of Nass salmon returning to Canadian waters, less incidental harvests, is less than or equal to the minimum escapement level for that species unless the fishery is a terminal fishery and a harvesting protocol has been developed and agreed to by all parties to the NFA for that specific river system.

- 23) The minimum escapement levels for each species of Nass salmon are:
 - (a) 100,000 for Sockeye,
 - (b) 150,000 for Pink,
 - (c) 10,000 for Chinook,
 - (d) 40,000 for Coho, and
 - (e) 30,000 for Chum.

- 24) The escapement goals required to calculate the Nisga'a fish allocation for Nass Area stocks of Sockeye and Pink salmon are:
 - (a) 200,000 for Sockeye, and
 - (b) 225,000 for Pink.

- 25) The escapement goals required for annual catch accounting related to Nass Area stocks of Chinook, Coho and Chum salmon are:
 - (a) 15,000 for Chinook,
 - (b) 60,000 for Coho, and
 - (c) 45,000 for Chum.

- 26) The goals, objectives and biological considerations for Nisga'a fisheries with regard to the management of Nass Area stocks for the year 2015 include:
 - (a) Projected returns of Kwinageese Sockeye salmon in 2015 are from the 2010 and 2011 brood year escapements of 48 and 10,273 spawners, respectively. It is anticipated that, with a good return of Age 4 fish, this will result in a return of Kwinageese Sockeye salmon that is above the returns experienced in 2013 and 2014. However, poor brood year returns in 2012 (3,700 spawner), 2013 (400 spawners), and 2014 (450 spawners) will necessitate continued stock rebuilding measures in future years. Accordingly, DFO and NLG are recommending a cautious approach to fishery management in 2015;
 - (b) A conservation concern for Nass Area Chum salmon has been identified by DFO and NLG where fishery management measures and stock rebuilding measures will be required in 2015 and beyond; and
 - (c) Prior to the 2015 salmon season, NLG fishery managers will work with DFO fishery

managers to implement appropriate strategies to address the concerns identified in 26a and 26b.

- 27) The goals, objectives and other considerations of NLG for management and harvesting for salmon in Nisga'a fisheries include
- (a) that Nisga'a citizens be able to harvest the Nisga'a fish allocation using reasonable efforts at traditional fishing locations near Nisga'a communities;
 - (b) that Nisga'a fisheries be managed so that Nisga'a harvesting for domestic purposes has priority over Nisga'a harvesting for the purpose of sale;
 - (c) that Nisga'a fisheries be conducted in an organized and orderly manner;
 - (d) that the value of Nisga'a harvests be maximized, bearing in mind the need for the integrated and efficient management of all fisheries;
 - (e) that opportunities be provided for communal fisheries where salmon may be sold for the benefit of the Nisga'a Nation;
 - (f) that employment opportunities be maximized for Nisga'a citizens; and
 - (g) where individual Nisga'a fishers are permitted to sell salmon harvested in Nisga'a fisheries, the Director will attempt to balance the fishing opportunities for all Nisga'a fishers by providing specific periods for each fishing area and gear type.

Vessels – Harvest for Domestic Purposes

- 28) Where a person harvests salmon for domestic purposes in Nisga'a fisheries, the person shall not use a vessel that is licensed under the federal *Pacific Fishery Regulations, 1993* to participate in a commercial salmon fishery unless the person off-loads the vessel before it is used in the next opening for a commercial salmon fishery.

Size Limits

- 29) No person shall sell salmon harvested in Nisga'a fisheries if the salmon is less than 30 cm in fork length.

Gear Restrictions

- 30) No person shall use a gill net that has a mesh size that is less than 10 cm to harvest salmon in Nisga'a fisheries.

Catch Reporting

- 31) Persons contracted to harvest fish for the purpose of sale on behalf of the Nisga'a Nation shall report the number of salmon harvested to a Nisga'a official designated by the Director prior to the sale of these fish.
- 32) The Director will provide DFO with information on
- (a) the methods, times and locations of harvesting, and
 - (b) the delivery location for fish harvested,
- by persons contracted to fish on behalf of the Nisga'a Nation.
- 33) Every week the Director will, for each salmon species, give DFO estimates of the number of that salmon species caught in Nisga'a fisheries in the previous week.

34) The Director will give DFO a final annual report for the salmon harvested in Nisga'a fisheries on a date agreed by the JFMC. The final annual report will set out, for each salmon species, the number of fish harvested, the sampling results, the quantity sold, and the total landed value of the salmon caught.

35) The Director will:

- (a) keep records and supporting documentation that set out the information referred to in section 33;
- (b) preserve the records and supporting documentation referred to in paragraph (a) for two years after submitting the annual report that relied upon such records and documentation; and
- (c) on demand, provide to DFO any of the records and supporting documentation referred to in paragraph (a) for examination and audit by any person that DFO may from time to time designate.

Sale of Salmon

36) No person shall harvest salmon in Nisga'a fisheries for the purpose of sale unless

- (a) the person is a Nisga'a citizen or is contracted to harvest in Nisga'a fisheries on behalf of the Nisga'a Nation, and
- (b) the harvest takes place at a location and during a time that is not closed for harvest for the purpose of sale.

37) No person shall sell salmon harvested in Nisga'a fisheries unless

- (a) the person has a Nisga'a fishing licence,
- (b) the person,
 - (i) if a Nisga'a citizen, sells the salmon to the Nisga'a Nation, or a Nisga'a Corporation designated under Nisga'a law, at a designated Nisga'a landing site, or
 - (ii) if contracted to sell salmon on behalf of the Nisga'a Nation, sells the salmon in accordance with the requirements of the contract,
- (c) the salmon meet any health standards and minimum quality standards set by NLG, and
- (d) the person supplies reporting information required by Nisga'a law to a Nisga'a official designated by the Director at the time of sale.

38) The Nisga'a official who receives the reporting information referred to in section 36(d) and prepares the required reporting form of the sale transaction will give the DFO a copy of the reporting form within 7 days of the sale, if required.

39) The Nisga'a landing site(s) will be designated by the Director under Nisga'a law.

PART II

INTERTIDAL BIVALVES

Introduction

40) This Part applies with respect to intertidal bivalves.

Timing and Location of Harvests

41) No person shall harvest intertidal bivalves in Nisga'a fisheries unless the person harvests the bivalves in those portions of the Nass Area set out in Appendix I of the Nisga'a Final Agreement.

42) Subject to an opening pursuant to section 47, no person shall harvest intertidal bivalves in Nisga'a fisheries unless the person harvests the bivalves between 00:01 hours, October 1 to 23:59 hours, March 31 of the following year.

Size Limits

43) Minimum size limits are set out in section 43.

44) No person shall harvest littleneck clams, butter clams or cockles that, as measured in a straight line through the greatest breadth of the shell, measure less than:

- (a) 38 mm in the case of littleneck clams;
- (b) 63 mm in the case of butter clams; and
- (c) 38 mm in the case of cockles.

Catch Reporting

45) Where a person harvests an intertidal bivalve in Nisga'a fisheries, the person shall provide the information required by Nisga'a law to a Nisga'a official designated by the Director within 7 days of the date of harvest.

46) The Director shall provide a summary of intertidal bivalve harvest information to DFO upon request.

Other Restrictions and General Information

47) The minimum size limit set out in section 43 is necessary to ensure that these species can spawn once or twice before reaching legal size. Harvesters should refrain from harvesting clams on beaches where high numbers of under-sized bivalves are found. Harvesters are requested to rebury all undersized clams. Harvesters are also requested to avoid leaving holes in the beach from digging activities.

48) Openings for bivalve fisheries require monitoring for Paralytic Shellfish Poisoning (PSP) and for water quality in accordance with the Canadian Shellfish Sanitation Program. Water quality sampling is conducted once every three years by Environment Canada. Sanitary surveys are conducted periodically. PSP and other marine biotoxins are monitored through submission of bi-weekly samples of blue mussels (*Mytilus edulis*) according to a protocol established by the Canadian Food Inspection Agency (CFIA) and samples are collected regularly by the Nisga'a Fisheries Program. Three clean mussel samples and one clean sample of each targeted food species are required before CFIA will recommend to the Regional Director General for Fisheries and Oceans and the Director of Nisga'a Fisheries and Wildlife that beaches within the Nass Area be opened for bivalve harvest. Harvesting of intertidal bivalves may take place only after the PSP closure has been lifted by CFIA and the

area is opened for harvest by DFO through issuance of a fishery notice.

PART III

CRABS

Introduction

49) This Part applies with respect to crabs.

Size Limits

50) In Nisga'a fisheries, no person shall harvest a dungeness, red rock or king crab that, as measured in a straight line through the greatest breadth of the shell, measures less than:

- (a) 165 mm in the case of a dungeness crab;
- (b) 115 mm in the case of a red rock crab; and
- (c) 178 mm in the case of a king crab.

51) Where a person harvests a dungeness, red rock or king crab that is less than the size permitted for that crab as set out in section 48, the person shall immediately return the crab to the water at the place where it was harvested.

Catch Reporting

52) Where a person harvests crab in Nisga'a fisheries, the person shall provide the information required by Nisga'a law to a Nisga'a official designated by the Director within 7 days of the date of harvest.

Other Restrictions and General Information

53) Retention of female crabs or their roe (eggs or larvae) or undersize male crabs represents a serious threat to conservation of crab stocks.

54) No person shall harvest and retain or possess any female crab unless the crab is infected by the parasite *Briarosaccus collosus* and is being brought ashore to avoid any further spread of that parasite. *Briarosaccus collosus* is identified by a reddish-brown, one to four cm diameter capsule(s), which is the egg sac of the parasite, located under the abdomen (i.e. where the crab eggs would normally be carried).

55) Where a person harvests a female crab, the person shall immediately return it to the water at the place where it was harvested unless the crab is infected by the parasite *Briarosaccus collosus*.

56) No person shall harvest crab unless the person uses a crab trap that:

- (a) is fitted with an escape hole that is not less than 110 mm in diameter and the escape hole is not more than 100 mm below the top frame of the trap, and
- (b) is equipped with a biodegradable escape mechanism in the form of either a rot cord or rot panel.

57) Where a person harvests crab with multiple crab traps, the person shall not use a line between the traps unless the line is of a non-floating material. It is important that lines remain below the water surface to minimize navigational hazards.

PART IV

OOLICHAN

Introduction

58) This Part applies with respect to oolichan.

Management Goals and Objectives

59) Oolichan harvest monitoring activities should be coordinated between First Nations to ensure the harvest data required for the management of Nass Area oolichan stocks is collected and exchanged each year.

60) Nisga'a fishers will have opportunities to harvest oolichan at their traditional fishing locations in the Nass Area.

Timing and Location of Harvest

61) No person shall harvest oolichan in Nisga'a fisheries unless the person harvests oolichans between 00:01 hours, February 15 to 23:59 hours, April 30 of the same year.

62) Harvest of oolichans will occur only in the oolichan harvest area as identified in Appendix 1.

Appendix 1

Map: Oolichan harvest area.

