

<b>FP09-09 Executive Summary</b>	
<b>General Description</b>	Proposal FP09-09 requests the following changes to Federal subsistence regulations for the Cook Inlet Area: 1) better definition of when and where fish need to be marked and information entered on permits, 2) clarification of the lower boundary for the Kasilof River fishing area, and 3) alignment of permit due dates so only one permit could be used for both salmon and resident species. <i>Submitted by the U.S. Fish and Wildlife Service</i>
<b>Proposed Regulation</b>	See analysis for the proposed regulatory language.
<b>Southcentral Regional Council Recommendation</b>	<b>Support</b>
<b>Interagency Staff Committee Comments</b>	See comments following the analysis.
<b>ADF&amp;G Comments</b>	<b>Support with modification.</b> See comments following the analysis.
<b>Written Public Comments</b>	<b>1 Support</b>

**REGIONAL ADVISORY COUNCIL RECOMMENDATION  
FP09-09**

**SOUTHCENTRAL REGIONAL ADVISORY COUNCIL**

**Support** Proposal FP09-09. The proposal will clarify the current regulations by including more specific language on recording and marking of the boundary of the lower Kasilof fishing area. It would also simplify permit requirements by allowing a single permit. The changes will benefit subsistence users and will not affect fish populations or other uses.

## STAFF ANALYSIS FP09-09

### ISSUES

Proposal FP09-09, submitted by the U.S. Fish and Wildlife Service, requests the following changes to Federal subsistence regulations for the Cook Inlet Area: 1) better definition of when and where fish need to be marked and information entered on permits, 2) clarification of the lower boundary for the Kasilof River fishing area, and 3) alignment of permit due dates so only one permit could be used for both salmon and resident species.

### DISCUSSION

The proponent states that current regulatory language for the Cook Inlet Area is unclear concerning when and where harvested fishes must be recorded and marked, and the location of the lower boundary of the Kasilof River fishing area. Additionally, current regulations that require Federally qualified subsistence users to return fishing permits by the end of the fishing season also require these users to obtain separate permits for the salmon dip net and the salmon or resident species rod and reel fisheries. The proponent states that including return dates on the permits would allow Federally qualified subsistence users to participate in all fisheries within the same drainage using a single permit.

### Existing Federal Regulation

§ \_\_\_\_.27(i)(10) *Cook Inlet Area*

(ii) *You may take fish by gear listed in this part unless restricted in this section or under the terms of subsistence fishing permit (as may be modified by this section).*

(iv)(A) *Residents of Ninilchik may take sockeye, Chinook, coho, and pink salmon through a dip net and a rod and reel fishery on the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to a marker on the river at Silver Salmon Rapids. Residents using rod and reel gear may fish with up to 2 baited single or treble hooks. Other species incidentally caught during the dip net and rod and reel fishery may be retained for subsistence uses, including up to 200 rainbow/steelhead trout taken through August 15. After 200 rainbow/steelhead trout have been taken in this fishery or after August 15, all rainbow/steelhead trout must be released unless otherwise provided for in this section. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing location.*

(C)(4)(iii) *All harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing location. Reported information must include number of each species caught; number of each species retained; length, depth (number of meshes deep) and mesh size of gillnet fished; location fished; and total hours fished. Harvest data on the permit must be filled out before transporting fish from the fishing area.*

(vi) *Incidentally caught fish may be retained and must be recorded on the permit.*

(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, late-run Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for early-run Chinook salmon (unless otherwise provided for), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for early- and late-run Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager at the end of the season. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Hope and Cooper Landing may retain incidentally caught resident species.

(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (i)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager at the end of the fishing season. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (i)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.54), except for the following bag and possession limits:

### **Proposed Federal Regulation**

§ \_\_\_\_.27(i)(10) Cook Inlet Area.

(ii) You may take fish by gear listed in this part unless restricted in this section or under the terms of subsistence fishing permit (as may be modified by this section). **For all fish that must be marked and recorded on a permit in this section, they must be marked and recorded prior to leaving the fishing site. The fishing site includes the particular Federal public waters and/or adjacent shoreline from which the fish were harvested.**

(iv)(A) Residents of Ninilchik may take sockeye, Chinook, coho, and pink salmon through a dip net and a rod and reel fishery on the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to a marker on the river **approximately 2.8 miles below the Tustumena Lake boat ramp at Silver Salmon Rapids**. Residents using rod and reel gear may fish with up to 2 baited single or treble hooks. Other species incidentally caught during the dip net and rod and reel fishery may be retained for subsistence uses, including up to 200 rainbow/steelhead trout taken through August 15. After 200 rainbow/steelhead trout have been taken in this fishery or after August 15, all rainbow/

*steelhead trout must be released unless otherwise provided for in this section. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing location.*

*(C)(4)(iii) All harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing location. Reported information must include number of each species caught; number of each species retained; length, depth (number of meshes deep) and mesh size of gillnet fished; location fished; and total hours fished. Harvest data on the permit must be filled out before transporting fish from the fishing ~~site area~~.*

*(vi) Incidentally caught fish may be retained and must be recorded on the permit **before transporting fish from the fishing site**.*

*(D) Residents of Hope, Cooper Landing, and Ninilchik may take only sockeye salmon through a dip net and a rod and reel fishery at one specified site on the Russian River, and sockeye, late-run Chinook, coho, and pink salmon through a dip net/rod and reel fishery at two specified sites on the Kenai River below Skilak Lake and as provided in this section. For Ninilchik residents, salmon taken in the Kasilof River Federal subsistence fish wheel, and dip net/rod and reel fishery will be included as part of each household's annual limit for the Kenai and Russian Rivers' dip net and rod and reel fishery. For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for early-run Chinook salmon (unless otherwise provided for), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released. For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for early- and late-run Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing site, and permits must be returned to the manager **by the due date listed on the permit at the end of the season**. Chum salmon that are retained are to be included within the annual limit for sockeye salmon. Only residents of Hope and Cooper Landing may retain incidentally caught resident species.*

*(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (i)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Ninilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager **by the due date listed on the permit at the end of the fishing season**. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (i)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.54), except for the following bag and possession limits:*

## Extent of Federal Public Waters

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 50 CFR 100.3. For the Kenai River drainage, Federal public waters under consideration for this proposal analysis include waters within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge and Chugach National Forest (**Map 1**). This includes Kenai Lake and its tributaries and all waters downstream to the confluence of the upper branch of the Killey River, approximately 2 river miles of the mainstem Kenai River at approximately river mile 25 (known locally as Moose Range Meadows), and most of the upper reaches of tributaries below Skilak Lake including the Moose, Killey and Funny rivers.

For the Kasilof River drainage, Federal public waters under consideration for this proposal include waters within and adjacent to the exterior boundaries of the Kenai National Wildlife Refuge (**Map 2**). This includes Tustumena Lake and its tributaries and the upper seven river miles of the Kasilof River down to Silver Salmon rapids (about 2.8 river miles downstream of the Tustumena Lake boat ramp).

## Customary and Traditional Use Determinations

In the Kenai Peninsula District for waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest, residents of Cooper Landing and Hope have a positive customary and traditional use determination for all fish and residents of Ninilchik have a positive customary and traditional use determination for salmon. In the Kasilof River drainage, residents of the community of Ninilchik have positive customary and traditional use determinations for all fish.

## Regulatory History

### Pre- and Early Statehood Fisheries

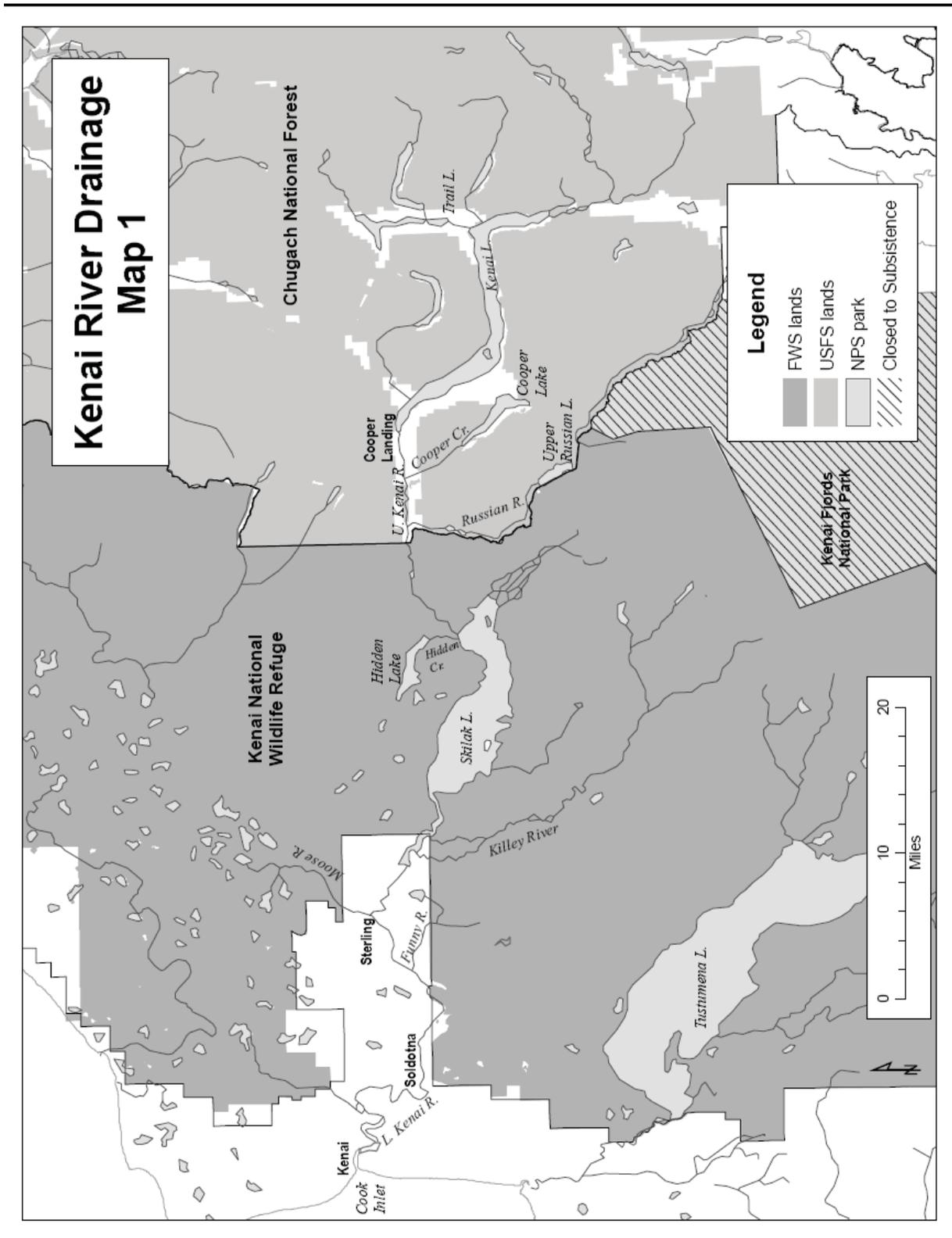
Until 1952 freshwater streams in the Kenai Peninsula were open to subsistence fishing, but poorly regulated commercial fisheries decimated salmon runs. In 1952, as part of efforts to rebuild salmon runs, all streams and lakes of the Kenai Peninsula were closed to subsistence fishing under Territory of Alaska regulations. Only rod and reel was allowed for “personal use” (Fall et al. 2004).

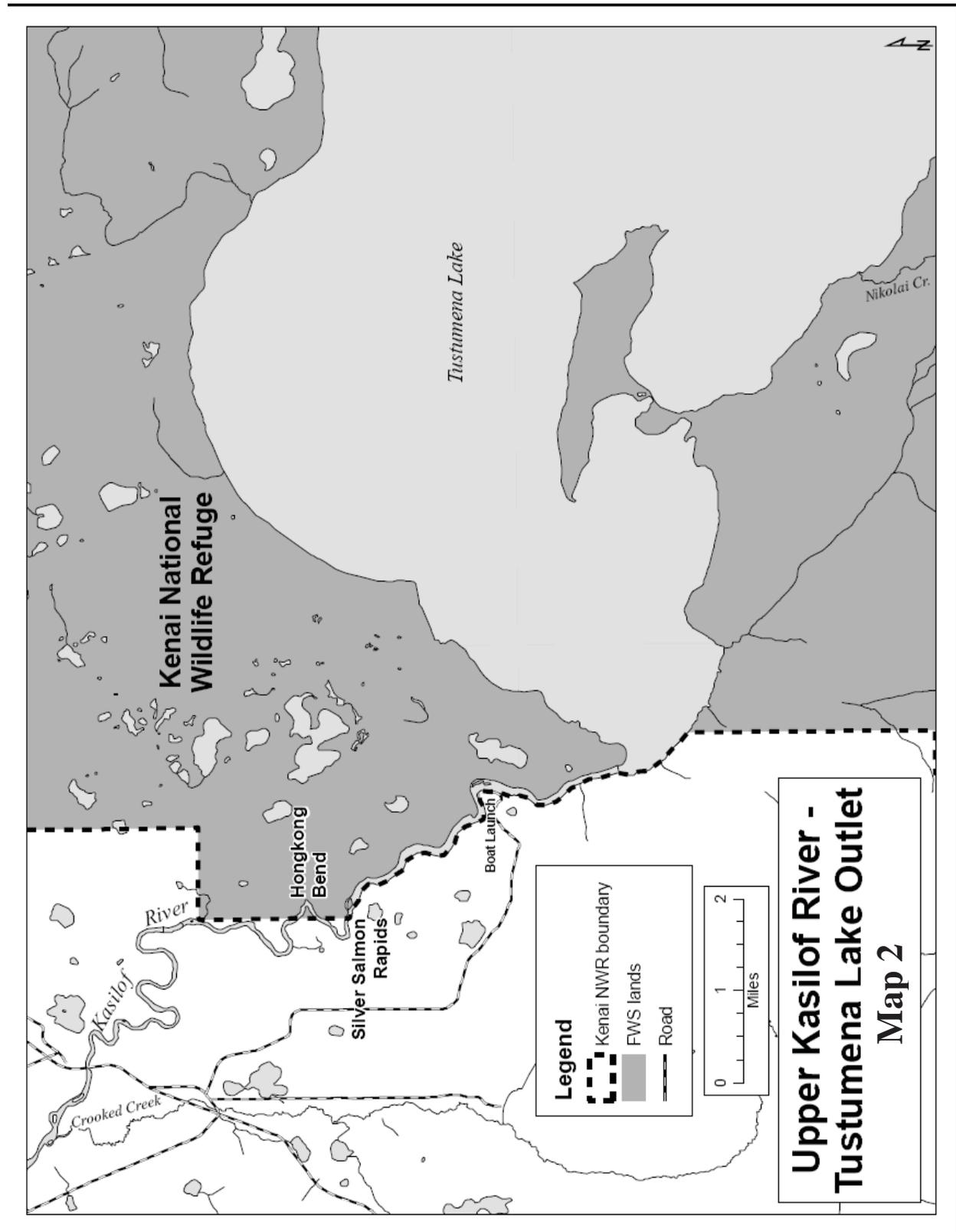
After 1952, subsistence salmon users in the Cook Inlet Area harvested fish under personal use and sport fish regulations alongside allocation priorities directed toward recreational fisheries for Chinook, sockeye, and coho salmon runs and commercial fisheries for sockeye, chum and pink salmon runs (Braund 1980:15–18).

### State Fisheries

In 1992, the State classified most of the Cook Inlet Area, including the Kenai and Kasilof River drainages, as a non-subsistence area (5AAC 99.015(3)). The only State subsistence fisheries in Cook Inlet occur in areas that are not accessible from the road system, including the Tyonek, Windy Bay, Port Chatham, Kyuktolik, and Port Graham subdistricts, as well as portions of Seldovia Bay and the Yentna River drainage.

The State has a regulatory management plan for Upper Cook Inlet salmon (5 AAC 21.363) that provides the Alaska Board of Fisheries with guiding principles and mandatory criteria to use when adopting management plans for specific stocks. Commercial and sport fisheries are complex and intensively managed, and there are five management plans specific to Kenai River salmon stocks (5 AAC 21.359, 5





AAC 21.360, 5 AAC 21.363, 5 AAC 21.365, and 5 AAC 56.070). These management plans provide goals for sustained yield, guidance for mixed-species and mixed-stock fisheries, and instructions for allocation between competing fisheries.

The State has a regulatory management plan for Upper Cook Inlet personal use salmon fisheries (5 AAC 77.540). This plan established four personal use fisheries in Upper Cook Inlet: Kasilof River dip net, Kasilof River set gillnet, Kenai River dip net, and Fish Creek dip net. Unlike subsistence fisheries, personal use fisheries do not have a priority over other existing uses. Personal use fisheries are open to all residents of Alaska, require a sport fishing permit and household permit, and occur in marine and intertidal waters outside of Federal public lands. These fisheries target sockeye salmon, the species of greatest abundance and for which the best stock assessment information is available. The current annual harvest limit is 25 salmon and 10 flounder for the head of each household and 10 salmon for each additional household member. Incidentally caught coho, pink, and chum salmon may be retained as part of the annual limit. No retention of Chinook salmon is allowed in the Kasilof River dip net fishery, while Chinook salmon may be retained in the Kasilof River set gillnet fishery as part of the annual limit. The annual household limit is the combined harvest from all personal use fisheries, and cannot include more than one Chinook salmon.

The State administers educational fisheries for 5 groups in the Central (Kenaitze Tribal Group, Ninilchik Traditional Council, Ninilchik Native Descendants, Ninilchik Emergency Services, and Anchorage Point VFW) and 6 groups in the Northern (Knik Tribal Council, Big Lake Cultural Outreach, Intertribal Native Leadership, Eklutna Village, Tyonek Village, and Tim O'Brien) Districts of Upper Cook Inlet under the provisions of 5 AAC 93.200 - 93.235 (Shields 2007). Educational fisheries are based upon applications that address standards set out in regulation. Specific provisions for these fisheries have varied, but permits have allowed operation of either one or two set gillnets in marine waters in addition to use of traditional methods in freshwaters, including stick fence weirs, grass baskets, and dip nets made from tree roots using materials that naturally occur in the area. For the Kenai River, only the Kenaitze Tribal Group has been issued an educational permit. The permit currently allows this group to harvest 8,000 salmon annually, including up to 300 Chinook and 1,000 coho salmon. In 2007, the Kenaitze Tribal Group total harvest was 4,628 salmon, consisting of 25 Chinook, 3,941 sockeye, 543 pink, and 119 coho salmon.

The State also administers sport fisheries in which both salmon and resident species can be harvested. The sport fisheries for salmon and resident species in the middle and upper Kenai River drainage, within the boundaries of Kenai National Wildlife Refuge and Chugach National Forest, comprise the largest sport fisheries in the state (Pappas and Marsh 2005). There are no participation limits for non-guided anglers, but the number of guides that take anglers fishing in Federal public waters of the Upper Kenai River (Russian River to Skilak Lake) is limited by the Kenai National Wildlife Refuge through a system of special and incidental use permits.

### Federal Subsistence Fisheries

Federal regulations for subsistence fisheries were first established in 1999. For salmon, trout, Dolly Varden, and char in Cook Inlet there was no customary and traditional use determination; therefore, all rural residents of Alaska qualified under the Federal program as eligible subsistence users. In 2002, regulations for take in Cook Inlet were established for salmon, trout, Dolly Varden, and char. This subsistence fishery required a permit, and seasons, harvest and possession limits, and methods and means for take were identical to State of Alaska sport fishing regulations. The Federal Subsistence Board (Board) established this fishery as an interim measure to provide some subsistence opportunity in Cook Inlet for rural residents, pending collection of additional information on community and area-specific

harvest patterns to refine customary and traditional use determinations as well as regulations for take. The Board concluded that this information was necessary because of the unique circumstances of the Kenai Peninsula. Rural communities are interspersed among much larger non-rural communities, and no subsistence fishing has been allowed in the freshwaters of the Kenai Peninsula for over 50 years.

The Board did not consider any further regulatory proposals for Cook Inlet until 2005. With new information available (Fall et al. 2004), the Board took up consideration of customary and traditional use determinations, and continued to defer proposals for take until completion of those deliberations. During this time, no proposals for harvest were under consideration, and regulations for subsistence harvest were identical to State of Alaska sport fishing regulations with one exception. In November 2006, the Board adopted FSA06-01b which provided a temporary 2006-2007 winter subsistence fishery for resident species in Tustumena Lake. The Board considered fishery regulatory proposals for Cook Inlet in both 2007 and 2008, and adopted several proposals establishing subsistence fisheries for salmon and resident fish species in the Kenai and Kasilof River drainages. These include dip net salmon fisheries at designated sites in the Kenai, Russian, and Kasilof Rivers; rod and reel salmon and resident species fisheries in the Kenai and Kasilof River drainages; an under-the-ice gillnet and jig resident species fishery in Tustumena Lake, and a temporary fish wheel salmon fishery in the Kasilof River.

### **Biological Background and Harvest History**

Salmon populations in the Kenai and Kasilof River drainages are healthy, and harvests, while large, have been within sustainable limits. Resident species populations in both drainages are also healthy, and harvests have also been kept within sustainable limits. The proponent is not requesting changes to household, daily, possession, or annual total harvest limits for any salmon or resident fish species.

### **Effects of the Proposal**

The regulatory language changes requested by the proponent would clarify existing regulations concerning when and where harvested fishes must be recorded and marked, and where the lower boundary of the Kasilof River fishing area is located. Existing regulations may be misinterpreted by both enforcement officers and Federally qualified subsistence users. Additionally, current regulations require Federally qualified subsistence users to return fishing permits by the end of the fishing season, which makes it necessary for users to obtain separate permits for the salmon dip net fishery and the salmon or resident species rod and reel fishery. Requiring the return date to be printed on the permit would reduce the amount of paperwork for subsistence users and management agencies, since only one permit would be needed for the dip net fishery and both rod and reel fisheries in each drainage. These proposed regulatory changes would not affect fish populations or other uses.

### **OSM CONCLUSION**

**Support** Proposal FP09-09.

### **Justification**

The proposed regulatory language changes would clarify Federal subsistence harvest regulations by including more specific language describing when and where harvested fishes need to be recorded and marked, and where the lower boundary of the Kasilof River fishing area is located. It would also simplify permit requirements by allowing a single permit to be used for the dip net and the rod and reel fisheries for each drainage. Improved clarity and simplification of paperwork would benefit Federally qualified subsistence users, and would not affect fish populations or other uses.

**LITERATURE CITED**

Braund, S. R. 1980. Revised 1982. Cook Inlet subsistence salmon fishery. ADF&G, Division of Subsistence Technical Paper No. 54. Juneau, AK. 83 pages.

Fall, J., R. Stanek, B. Davis, L. Williams, and R. Walker. 2004. Cook Inlet customary and traditional subsistence fisheries assessment. USFWS, Office of Subsistence Management, Fisheries Resource Monitoring Program and ADF&G, Division of Subsistence. Anchorage, AK. 190 pages.

Pappas, G. E. and L. E. Marsh. 2005. 2004 Recreational fisheries overview and historic performance information for the North Kenai Peninsula: fisheries under consideration by the Alaska Board of Fisheries, January 2005. ADF&G, Fishery Management Report No. 04-17, Anchorage, AK.

USFWS. 2008. Draft Revised Comprehensive Conservation Plan and Environmental Impact Statement for the Kenai National Wildlife Refuge, May 2008. USFWS, Anchorage, AK.

**INTERAGENCY STAFF COMMITTEE COMMENTS  
FP09-09**

The Interagency Staff Committee (ISC) found the staff analysis for Proposal FP09-09 to be a thorough and accurate evaluation of the proposal and provides sufficient factual basis for the Regional Council recommendation and Federal Subsistence Board action on the proposal.

The ISC noted that the proposal as supported by the Regional Council recommendation would provide clarification in the Cook Inlet Area Federal subsistence fishing regulations and more flexibility to the Federal in-season manager.

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**Alaska Department of Fish and Game**  
*Comments to the Federal Subsistence Board*

**FP09-09 Clarify Kenai Peninsula Fishery Regulations**

**Introduction:** Proposal FP09-09 is intended to streamline the federal subsistence fishery permitting process, to improve enforceability of permit reporting requirements, and to further define fishery regulatory boundary limits of the fisheries. The Alaska Department of Fish and Game (Department) supports the intent of the proposal but proposes modifications to better achieve this intent without creating new unintended ambiguities and conflicts.

Additionally, current federal subsistence fisheries regulations do not allow for the reporting resolution necessary to accountably manage multiple fisheries which may take place concurrently at the same location targeting the same species, with the same or different gear types, seasons, reporting requirements, and varying individual household, seasonal, community, and fishery quota limits. Improvement in reporting resolution will assist with management of individual fisheries by year or season, will help with tracking of harvest allocations among fisheries, communities, and gear types, and will assist with fisheries management decisions when necessary. Current federal subsistence regulations do not provide inseason managers with the tools necessary to make informed decisions.

The Department's recommended modifications are offered to assist with improving the manageability of the multiple federal subsistence fisheries on the Kenai Peninsula.

**Impact on Subsistence Users:** Adoption of this proposal should not result in significant impacts on federal subsistence users. It chiefly provides for streamlined processes, eliminating the need for separate seasonal permits, while also providing clarification of regulatory requirements to aid enforcement and prevent unnecessary enforcement actions. The intent of proposal FP09-09 is to increase permitting efficiency and clarify regulations. The proposed changes, if accompanied by the modifications suggested below to avoid unintended conflicts and ambiguities in the proposal, will make it easier for federal subsistence users to obtain necessary permits, better understand the federal regulations, and avoid violating the law or being charged with a violation.

In particular, the provisions clarifying the requirement that harvests must be recorded on site should help prevent federal subsistence users from being cited while in possession of unmarked and/or unrecorded fish in areas outside of claimed federal jurisdiction or away from the fishery. With slight modification, the proposed physical definition of the federal subsistence fishery on the Kasilof River is a clearer specification of the claimed boundary, which should help federal subsistence users identify the physical limits of the fishery and avoid citations for illegal fishing in waters closed to federal subsistence fishing.

**Opportunity Provided by State:** Kenai and Kasilof rivers are located in the Anchorage-MatSu-Kenai Nonsubsistence area designation under state law. The State provides a broad array of opportunities to participate in personal use, sport, and educational fisheries in these rivers and nearby areas to meet needs for personal and family consumption as well as cultural purposes.

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**Conservation Issues:** No stocks of salmon or resident species from the Kenai or Kasilof rivers have been designated as a stock of concern by the Alaska Board of Fisheries. However, extensive Department comments previously submitted during 2006-2008 to the Federal Subsistence Board and Southcentral Regional Advisory Council described conservation issues that could develop for the Kenai and Kasilof rivers with implementation of the federal subsistence fisheries.

**Jurisdiction Issues:** The Department requests detailed land status maps that distinctly illustrate land ownership, easements, and exact boundaries within which it is claimed that federal regulations would apply and justification for claiming those boundaries. Portions of both the upper and lower Kenai and Kasilof rivers are bordered by state, private lands, and claimed areas of federal jurisdiction. While standing on state and private lands (including state-owned submerged lands), persons must comply with state law and cannot harvest under conflicting federal regulations. Fishers need to be provided copies of these detailed maps and advised that the State of Alaska will enforce its regulations on fishers standing on nonfederal land.

**Recommendation:** Support the proposal with modification (shown as underlined), as follows:

- (1) The following requested modification under .27(i)(10)(ii) Cook Inlet Area is intended to help ensure that fish harvests are properly allocated to a specific gear type and location of a subsistence fishery. These changes are needed because different limitations and requirements apply to different gear types, areas, and fisheries and, as stated above, there are often several fisheries occurring at the same time. The modification qualifies language regarding the fishing site to avoid misleading fishers into incorrectly believing that all shorelines adjacent to claimed federal public waters can be fished from under federal regulations. For example, fishing from state and private shorelines located outside of the Kenai Refuge boundaries alongside the upper Kasilof River is subject to state regulation.

§ \_\_.27(i)(10) *Cook Inlet Area.*

*(ii) You may take fish by gear listed in this part unless restricted in this section or under the terms of a subsistence fishing permit (as may be modified by this section). **For all fish that must be marked and recorded on a permit in this section, they must be marked and recorded by species, harvest site, fishery, and harvest method (such as “dipnet” or “rod and reel”), prior to leaving the fishing site or switching to a different method of harvest or fishery. The fishing site includes the particular Federal public waters, and/or adjacent shoreline where allowed, from which the fish were harvested.***

The following additional modification is requested to assist users in locating the regulatory marker located “approximately 2.8 miles” below the boat ramp.

§ \_\_.27(i)(10) *Cook Inlet Area.*

*(iv)(A) Residents of Ninilchik may take sockeye, Chinook, coho, and pink salmon through a dip net and a rod and reel fishery on the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream*

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*to a marker on the river **approximately 2.8 miles below the Tustumena Lake boat ramp in the vicinity of Silver Salmon Rapids** ~~at Silver Salmon Rapids~~. Residents using rod and reel gear may fish with up to 2 baited single or treble hooks. Other species incidentally caught during the dip net and rod and reel fishery may be retained for subsistence uses, including up to 200 rainbow/steelhead trout taken through August 15. After 200 rainbow/steelhead trout have been taken in this fishery or after August 15, all rainbow/steelhead trout must be released unless otherwise provided for in this section. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Harvests must be reported within 72 hours to the Federal fisheries manager upon leaving the fishing location.*

- (2) The following modification is intended to ensure that the due date listed on the permit is for the same year as the fishing season, while retaining the administrative benefits of one permit.

§\_\_\_\_.27(i)(10) Cook Inlet Area.

*(E) For Federally managed waters of the Kenai River and its tributaries, in addition to the dip net and rod and reel fisheries on the Kenai and Russian rivers described under paragraph (i)(10)(iv)(D) of this section, residents of Hope, Cooper Landing, and Niniilchik may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage. Before leaving the fishing site, all retained fish must be recorded on the permit and marked by removing the dorsal fin. Permits must be returned to the Federal fisheries manager **that year by the due date listed on the permit** ~~at the end of the fishing season~~. Incidentally caught fish, other than salmon, are subject to regulations found in paragraphs (i)(10)(iv)(F) and (G) of this section. Seasons, areas (including seasonal riverbank closures), harvest and possession limits, and methods and means (including motor boat restrictions) for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.54), except for the following bag and possession limits:*

NOTE: The Department's comments and support for clarifying federal regulations and better defining the permitting and harvest recording requirements and fishery area boundaries represented by this proposal do not indicate Departmental support for the content of the regulations as a whole. The past and present record, including requests for reconsideration still pending, documents the State's objections to and concerns with many of the regulations.

## WRITTEN PUBLIC COMMENTS

**Support.** This proposal seeks to address ambiguity in the regulatory language regarding reporting requirements, clarify management area boundaries, and adjust the reporting dates.

Specifically the proposals state:

1. The reporting and recording requirements are worded in a way that makes it difficult for officers to enforce the regulations as currently written.
2. The lower boundary limit on the Kasilof River will not change but there has been confusion because of different maps available that show Silver Salmon Rapids at different locations.
3. The permit due dates need to be aligned so that only one permit is needed for salmon and one for resident species. The season ends dates are different for the dip net season versus the rod and reel fishing season which would require multiple permits for the same species caught with different gear types.

We believe these changes help clarify implementation of the existing fisheries and would adjust Federal regulations following Alaska Board of Fisheries actions.

We view these changes as principally housekeeping and therefore recommend the Board pass them.

*Kenai River Sportfishing Association*