

2009–2011 Federal Subsistence Fisheries Proposals



Comment period open through June 30, 2008

Send your written comments on the enclosed proposals to:

Federal Subsistence Board
Office of Subsistence Management
1011 East Tudor Rd., MS-121
Anchorage, Alaska 99503
E-mail: subsistence@fws.gov
Fax: 907-786-3898 (attn: Theo Matuskowitz)

UPDATE

FEDERAL SUBSISTENCE BOARD DEFERS ACTION ON YUKON FISHERIES REGULATORY PROPOSALS

The Federal Subsistence Board has deferred consideration of two regulatory proposals (FP09-12 and FP09-13, pages 20–24) in this book. These proposals seek changes to the mesh size and depth of gillnets used for subsistence fishing on the Yukon River. They will be taken up by the Board at a special meeting next spring.

The deferral will allow the Board to consider results of an ongoing study that could aid in understanding the effects of mesh size on the harvest of Chinook salmon. The study is expected to be completed prior to the winter round of Federal subsistence regional advisory council meetings. The deferral means that the advisory councils representing regions affected by these proposals would develop recommendations at their meetings in February and March 2009.

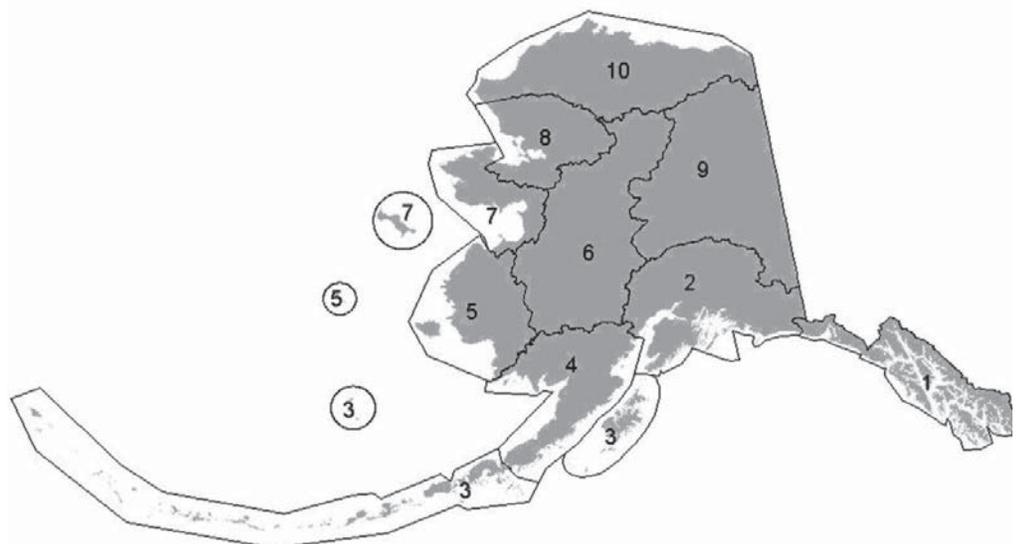
The date(s) and location of the special Board meeting have not been determined, but will be posted on the Federal Subsistence Management Program Website, <http://alaska.fws.gov/asm/home.html>, and announced on radio and in newspaper ads at least 30 days prior to the meeting.

FEDERAL SUBSISTENCE FISHERY MANAGEMENT AREAS



Ten Federal Subsistence Regional Advisory Councils represent the following regions:

1. Southeast
2. Southcentral
3. Kodiak/Aleutians
4. Bristol Bay
5. Yukon-Kuskokwim Delta
6. Western Interior
7. Seward Peninsula
8. Northwest Arctic
9. Eastern Interior
10. North Slope



INTRODUCTION

The Federal Subsistence Board invites your comments on the enclosed proposals to change Federal subsistence fisheries regulations for the 2009–2011 regulatory years (April 1, 2009 to March 31, 2011). These proposals seek changes to existing regulations for the taking of fish and shellfish on Federal public lands and waters in Alaska.

You may mail your comments to the Federal Subsistence Board at the address shown on the front cover of this book, fax them to (907) 786-3898, or e-mail them to subsistence@fws.gov. Please refer to a specific proposal number in your comments. All comments received by June 30, 2008 will be included in the meeting materials for the appropriate Subsistence Regional Advisory Councils to discuss at their fall meetings. Comments received after the fall regional council meetings will be submitted to the Board at its winter meeting.

Before making decisions on these proposals, the Board considers technical analyses prepared by its staff, recommendations from the 10 subsistence regional advisory councils and the State of Alaska, and any public comments or testimony it receives on the proposals. Once the Board makes its decisions, it will publish the changes as final regulations for the 2009–2011 regulatory years, effective April 1, 2009, and distribute the regulations book throughout Alaska.

If you have questions or need additional information, please contact the Office of Subsistence Management at (800) 478-1456 or (907) 786-3888 or visit the website <http://alaska.fws.gov/asm/home.html>. You can also contact the Regional Council Coordinators for assistance, contact information is on the following page.

GENERAL INFORMATION

Federal Subsistence Board

The Federal Subsistence Board oversees the Federal Subsistence Management Program. Board members include the Alaska directors of five Federal agencies: The U.S. Fish and Wildlife Service (USFWS), National Park Service (NPS), Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), and U.S. Forest Service (USFS). The Chair is a representative of the Secretary of the Interior.

Federal Subsistence Regional Advisory Councils, State of Alaska representatives, and the general public play an active role in the regulatory process. You can find information about the Federal Subsistence Board on the Subsistence website at

<http://alaska.fws.gov/asm/home.html>

or by contacting the Office of Subsistence Management at (800) 478-1456 or (907) 786-3888.

Regional Advisory Councils

The Federal Subsistence Management Program has ten subsistence resource regions in Alaska, each represented by a Subsistence Regional Advisory Council. These ten Councils provide an opportunity for rural Alaskans to contribute in a meaningful way to the management of subsistence resources. Resource users have the opportunity to comment and offer input on subsistence issues at Council meetings. Regional Councils normally meet twice a year. The Councils develop proposals to change Federal subsistence regulations and review proposals submitted by others.

Council membership

The Secretaries of the Interior and Agriculture appoint Council members. Members must reside in the area they wish to represent and have knowledge of subsistence uses and needs. Each year the Office of Subsistence Management accepts applications and nominations for membership during October–December. If you are interested in applying for membership, please contact Michelle Chivers or the regional coordinator for your region.

Federal Subsistence Regional Advisory Council Coordinators

Regional Council Coordinators facilitate communication between the Subsistence Regional Advisory Councils and the Federal Subsistence Board. Each regional coordinator is responsible for one or two regions and serves as a contact for the Councils, Federal agency staff, and the public. Contact a regional coordinator for more information on the activities of each Council.

Southeast Region

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Southcentral and Bristol Bay Regions

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Kodiak/Aleutians

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Yukon-Kuskokwim Delta Region

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Western Interior and Eastern Interior Regions

Vince Mathews
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Seward Peninsula, Northwest Arctic, and North Slope Regions

Barbara Armstrong
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For information on Regional Advisory Council membership, contact:

Michelle Chivers
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michelle_chivers@fws.gov

2009–2011 FISHERIES PROPOSALS

PROPOSAL	PROPONENT	SPECIES	GENERAL DESCRIPTION	PAGE
Statewide				
FP09-01	ADF&G	§ .25 General Regulations	Harvest limit accumulation	4
Southeastern Alaska Area				
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FP09-03	ADF&G	Dolly Varden, Trout, Smelt, and Eulachon	Harvest limit accumulation, use of bait, snagging, and permits	5
FP09-04	ADF&G	Salmon, Trout, Grayling, and Char	No subsistence fishing permits to be issued for taking fish in any streams flowing across or adjacent to the Juneau road system	8
FP09-05	Sitka Tribe	Herring	Closure of the Makhnati Island area	9
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PROPOSAL FP09-01

Existing regulation: Statewide—Subsistence taking of fish, wildlife, and shellfish: general regulations

§__.25(c)(1) Harvest limits authorized by this section and harvest limits established in State regulations may not be accumulated.

And

(3) A harvest limit applies to the number of fish, wildlife, or shellfish that can be taken during a regulatory year; however, harvest limits for grouse, ptarmigan, and caribou (in some Units) are regulated by the number that may be taken per day. Harvest limits of grouse and ptarmigan are also regulated by the number that can be held in possession.

Proposed regulation: Statewide—Subsistence taking of fish, wildlife, and shellfish: general regulations

§__.25(c)(1) Harvest limits authorized by this section and harvest limits established in State regulations may not be accumulated.

And

*(3) A harvest limit applies to the number of fish, wildlife, or shellfish that can be taken **daily and/or** during a regulatory year; however, harvest limits for **fish**, grouse, ptarmigan, and caribou (in some Units) are regulated by the number that may be taken per day. Harvest limits of **fish**, grouse, and ptarmigan are also regulated by the number that can be held in possession.*

Reason for changing the regulation: The general federal subsistence regulations prohibiting accumulation of harvest limits are not usually effective for fish because most harvest limits for fish are based on daily limits. It appears the federal subsistence regulation definitions were written to more specifically describe wildlife harvest limits and not fish harvest limits. The lack of enforceable prohibitions on accumulation creates concerns where effective daily limits are needed for effective management and conservation. Lack of a clear prohibition may also result in state enforcement actions where federal subsistence users mistakenly believe that they can take additional fish in a state fishery after filling their federal limit.

Effect of change on fish or shellfish populations: Adoption of this proposal may protect fish populations from over exploitation by preventing development of conservation concerns resulting from excessive harvest that could occur in federal subsistence fisheries if users are allowed to accumulate daily and seasonal harvests from both the federal subsistence and State fisheries.

Effect of change on subsistence users: This change will have little or no effect on federal subsistence uses because a meaningful preference is provided in federal regulations without accumulating state limits. This may impact some federal subsistence fishery users who may intend on accumulating harvest limits of both the federal subsistence and State fisheries. This change will reduce the likelihood of state enforcement actions being taken against federal subsistence users who might otherwise incorrectly believe that they can take additional fish in a state fishery after filling their federal limit.

Effect on other uses, i.e. sport/recreational and commercial: This regulation would not impact/restrict other users except in situations where a conservation concern is avoided by more effectively preventing accumulation of limits.

Proposed by: Alaska Department of Fish and Game

PROPOSAL FP09-02

Existing regulation: Southeastern Alaska Area—Special Provisions

§ ____.27(i)(13) *Southeastern Alaska Area*

(vii) *You may accumulate annual Federal subsistence harvest limits authorized for the Southeastern Alaska Area with harvest limits authorized under State of Alaska sport fishing regulations.*

Proposed regulation: Southeastern Alaska Area—Special Provisions

§ ____.27(i)(13) *Southeastern Alaska Area.*

(vii) *You may **not** accumulate ~~annual~~ Federal subsistence harvest limits authorized for the Southeastern Alaska Area with **daily or annual** harvest limits authorized under State of Alaska sport fishing regulations.*

Reason for changing the regulation: This proposed change may prevent unnecessary confusion by users and State prosecution of Federal subsistence users who mistakenly believe that they can take a harvest limit under state regulations after taking their Federal harvest limit.

Effect of change on fish or shellfish populations: The proposed correction to the above regulation will help ensure the conservation of steelhead trout in Southeastern Alaska by preventing overharvesting of fragile stocks through accumulation of limits.

Effect of change on subsistence users: The change will continue to provide a meaningful preference for subsistence use of steelhead trout while conserving steelhead stocks, will prevent unnecessary confusion of users, and could prevent State prosecution of Federal subsistence users who mistakenly believe that they can take a harvest limit under state regulations after taking their Federal harvest limit.

Effect on other uses, i.e. sport/recreational and commercial: It will not change current sport/recreational or commercial uses.

Proposed by: Alaska Department of Fish and Game

PROPOSAL FP09-03

Existing regulation: Southeastern Alaska Area—Special Provisions

§ ____.27(i)(13) *Southeastern Alaska Area*

(iv) *In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. If you use bait, you must retain all Federally regulated fish species caught, and they apply to your applicable daily, seasonal, and annual harvest limits for that species.*

(A) *For streams with steelhead, once your daily, seasonal, or annual limit of steelhead is harvested, you may no longer fish with bait for any species.*

(B) *Unless otherwise specified in this § 100.27(i)(13), allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.*

(v) *Unless otherwise specified in this § 100.27(i)(13), you may use a handline for snagging salmon or steelhead.*

(vii) *You may accumulate annual Federal subsistence harvest limits authorized for the Southeastern Alaska Area with harvest limits authorized under State of Alaska sport fishing regulations.*

(x) *You must immediately remove both lobes of the caudal (tail) fin of subsistence-caught salmon when taken.*

(xi) *You may not possess subsistence-taken and sport-taken salmon on the same day.*

(xviii) *Unless otherwise specified in this § 100.27(i)(13), you may take steelhead under the terms of a subsistence fishing permit. The open season is January 1 through May 31. The daily household harvest and possession limit is one with an annual household limit of two. You may only use a dip net, gaff, handline, spear, or rod and reel. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

(xix) *You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*

(xx) *There is no subsistence fishery for any salmon on the Taku River.*

(A) *The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

(B) *The spring season is March 1 through May 31, with a harvest limit of five fish per household. You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

(xx) *In addition to the requirement for a Federal subsistence fishing permit, the following restrictions for the harvest of Dolly Varden, brook trout, grayling, cutthroat, and rainbow trout apply:*

Proposed regulation: Southeastern Alaska Area—Special Provisions

§ ____.27(i)(13) Southeastern Alaska Area

(iv) *In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. **Permits shall prohibit use of bait in waters where steelhead may be present unless retention of steelhead is permitted in the waterbody.** If you use bait, you must retain all Federally regulated fish species caught, and they apply to your applicable daily, seasonal, and annual harvest limits for that species. **You may no longer fish with bait for any species when you have harvested your daily, seasonal, or annual limit of any species.***

(A) *For streams with steelhead, **fishing with bait is prohibited unless retention of steelhead is permitted in the stream; retention of steelhead in a stream may be authorized by permit only where ADF&G and OSM agree***

that the steelhead stock in that stream has a harvestable surplus and that adequate monitoring or surveys are in place to ensure that allowing retention will not result in overharvest. ~~once your daily, seasonal, or annual limit of steelhead is harvested, you may no longer fish with bait for any species.~~

(B) Unless otherwise specified in this § 100.27(i)(13), allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.

*(v) Unless otherwise specified in this § 100.27(i)(13), you may use a handline for snagging salmon or steelhead. **You may not snag where a size limit applies to a species present in the area.***

*(vii) You may **not** accumulate annual Federal subsistence harvest limits authorized for the Southeastern Alaska Area with harvest limits authorized under State of Alaska sport fishing regulations.*

*(x) You must immediately remove both lobes of the caudal (tail) fin of subsistence-caught salmon **and steelhead** when taken.*

*(xi) You may not possess subsistence-taken and sport-taken salmon **or steelhead** on the same day.*

*(xviii) Unless otherwise specified in this § 100.27(i)(13), you may take steelhead **only** under the terms of a subsistence fishing permit **and only in waters specifically designated on that permit during seasons designated on that permit; separate permits may be required for winter and spring seasons.** The open season is January 1 through May 31. The daily household harvest and possession limit is one with an annual household limit of two. You may only use a dip net, gaff, handline, spear, or rod and reel. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

*(xix) You may take steelhead trout on Prince of Wales and Kosciusko Islands **in streams designated** under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*

A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(xxi) In addition to the requirement for a Federal subsistence fishing permit, the following restrictions for the harvest of Dolly Varden, brook trout, grayling, cutthroat, and rainbow trout apply:

Reason for changing the regulation: This regulation change will ensure the conservation of fragile steelhead trout stocks in southeast Alaska. It will compliment anticipated changes in state regulations to help ensure conservation of southeast steelhead stocks.

Effect of change on fish or shellfish populations: If the changes are made to the above regulation it will help ensure the conservation of steelhead trout stocks in Southeast Alaska.

Effect of change on subsistence users: The change will continue to provide a meaningful preference for subsistence use of steelhead, while focusing harvest effort on monitored or surveyed streams where permit conditions adequate to prevent overharvest can be developed. It may reduce use of bait in some streams in order to protect steelhead but should not have significant impacts on subsistence harvests.

Effect on other uses, i.e. sport/recreational and commercial: It will not change current sport/recreational or commercial uses. However, it will compliment anticipated changes to state regulations for the conservation of steelhead.

Proposed by: Alaska Department of Fish and Game

PROPOSAL FP09-04

Existing regulation: Southeastern Alaska Area—Special Provisions

§ __.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char. You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1C or 1D.

Proposed regulation: Southeastern Alaska Area—Special Provisions

*§ __.27(i)(13)(ii) You must possess a subsistence fishing permit to take salmon, trout, grayling, or char. You must possess a subsistence fishing permit to take eulachon from any freshwater stream flowing into fishing Sections 1C or 1D. **No subsistence fishing permits will be issued to take fish in any streams flowing across or adjacent to the road systems within the City and Borough boundary of Juneau.***

Reason for changing the regulation: The two dozen Juneau area streams support small populations of fish and can be easily accessed from the local road system. Seven of the streams have been closed to all fishing and four streams have salmon retention prohibitions in order to assure continued sustainability. All other streams open to fishing have severely restricted methods and means, size limits, harvest limits, fishing schedules (e.g., no bait, seasonal closures, slot limits, species prohibitions) and will only remain open to fishing so long as fishers largely practice non-retention, or the streams are conservatively restricted for high use. If any fishing occurs under Federal subsistence fishing regulations, these fish stocks could be impacted before evidence of unsustainable harvests would be available.

Effect of change on fish or shellfish populations: This change will protect small, fragile populations of fish from over harvest.

Effect of change on subsistence users: There will be no impact on subsistence uses because no one presently fishes under a Federal subsistence permit in the Juneau road system freshwaters.

Effect on other uses, i.e. sport/recreational and commercial: There will be no change for other uses.

Proposed by: Alaska Department of Fish and Game

PROPOSAL FP09-05

Existing regulation: Southeastern Alaska Area—Herring

No existing regulation.

Proposed regulation: Southeastern Alaska Area—Herring

§ __.27(i)(13)(xxv) The Federal public waters in the Makhnati Island area, as defined in 36 CFR 242.3(b)(5) and 50 CFR §100.3(b)(5), and newly identified Federal waters as defined in Executive Order 8216, are closed to the harvest of herring and herring spawn except for subsistence harvests by Federally qualified subsistence users.

Reason for changing the regulation: A closure of these waters is necessary to ensure the continuation of subsistence uses by Federally qualified subsistence users and to provide a meaningful preference for qualified subsistence users of herring. In recent years (2002-2007) subsistence herring spawn harvest has occurred each year in the Makhnati Island public waters.

Under the current state management plan which has been in effect since 2002, the commercial herring fishery is to be dispersed if the local fisheries manager believes it is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of herring necessary for subsistence uses. Despite this regulation, subsistence users have been unable to harvest the amount of herring necessary for subsistence uses in 2005 and 2007. In these same years, the commercial fishery has met its quota each year. Without closing the Federal public waters near Makhnati Island to all users except Federally qualified subsistence users, subsistence users are not being afforded a meaningful preference.

The effect of commercial fishing effort in and near subsistence herring spawn harvest sites cannot be overstated. Herring have not been consistently spawning in traditional subsistence areas. Traditional ecological knowledge and local observation support that the commercial harvest of herring displaces subsistence users from traditional harvesting sites, disrupts herring spawning such that good quality deposition of herring eggs does not take place at traditional sites, causes herring to spawn away from subsistence sites, and may seriously reduce the biomass of spawning herring upon which subsistence users depend.

Closure is also necessary to ensure subsistence uses can continue in the Federal waters because in-season management to protect subsistence uses is virtually impossible because the commercial fishery precedes the subsistence fishery so that by the time subsistence users realize they are unable to harvest herring eggs, the commercial fishery is already completed.

Effect of change on fish or shellfish populations: No major effect is expected, since the herring guideline harvest level will be taken from other waters in Sitka Sound. If there is significant herring spawning location fidelity, reducing harvest on herring stocks spawning in the Makhnati Island Federal public waters could result in improved spawning in this area in future years.

Effect of change on subsistence users: This change would have a positive impact on subsistence users. An area will be set aside for subsistence use only.

Effect on other uses, i.e. sport/recreational and commercial: A very small area will be off limits to herring sac roe seining. Fisheries managers will need to manage the sac roe fishery such that harvesting activity takes place away from the closed areas.

Proposed by: Sitka Tribe of Alaska

PROPOSAL FP09-15

Existing regulation: Southeastern Alaska Area – All fish

§ ____.24(a)(2) *Fish determinations.* The following communities and areas have been found to have a positive customary and traditional use determination in the listed area for the indicated species:

<i>Remainder of the Southeastern Alaska Area.</i>	<i>Dolly Varden, trout, smelt, and eulachon.</i>	<i>Residents of Southeastern Alaska and Yakutat Areas.</i>
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Districts 11 and 15 do not have a specific regulation. Current regulations affecting all waters connected to roads within the City/Borough of Juneau are included within a ‘no specific’ customary and traditional determination, authorizing all southeast rural residents a federal subsistence priority for all fish and a subsistence harvest of salmon by all rural residents.

Proposed regulation: Southeastern Alaska Area – All fish

§ ____.24(a)(2) *Fish determinations.* The following communities and areas have been found to have a positive customary and traditional use determination in the listed area for the indicated species:

Southeastern Alaska Area.

<i>District 11—Juneau Road System Area. (All waters crossed by or adjacent to roads connected to the City and Borough of Juneau road system)</i>	<i>All fish</i>	<i>No Federal Subsistence Priority</i>
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<i>District 15—Juneau Road System Area. (All waters crossed by or adjacent to roads connected to the City and Borough of Juneau road system.)</i>	<i>All fish</i>	<i>No Federal Subsistence Priority</i>
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Reason for changing the regulation: Because the Juneau non-rural area has no specific customary and traditional use determination, it currently falls in the category “Remainder of the Southeastern Alaska Area” and is open to subsistence harvest for salmon, Dolly Varden, trout, smelt, and eulachon by all rural residents of the Southeast Alaska and Yakutat Areas and to subsistence harvest of salmon by all rural residents. There is no evidence of a customary and traditional use of Juneau area fish stocks by any rural resident. Eligible rural residents have to travel substantial distances by boat or airplane in order to participate in Juneau road system federal subsistence fisheries. In the Board’s analysis of FP06-31 in January 2006 and in the threshold analysis of the Board’s denial of the State’s Request for Reconsideration FRFR 06-05, dated August 22, 2006, the Federal Board suggested it would be appropriate to adopt a determination of “no Federal subsistence priority.” In December 2007, the Federal Board rejected the State’s proposal requesting such a determination but did not evaluate the eight regulatory factors concerning customary and traditional use of each fish stock by specific rural communities. The federal analysis acknowledged that the couple of dozen rural residents who harvested along the Juneau road system over the past 10 years did so as a recreational use. No federal subsistence permits have ever been issued as required for rural residents to participate in the existing federal subsistence fishery within streams adjacent to and crossed by the Juneau road system within the current City and Borough boundary.

Effect of change on fish or shellfish populations: This change would protect the small populations of fish in waterways connected to the Juneau road system from possible high levels of harvest authorized under current federal subsistence regulations by eliminating the authorization for non-Juneau area rural residents to engage in fishing at unsustainable levels, methods, and sizes of harvest under federal subsistence regulations.

Effect of change on subsistence users: Rural residents only participate in fishing along the Juneau road system for recreational purposes, and no rural residents from any community in Southeast Alaska or the Yakutat Area currently travel to Juneau to participate in federal subsistence fisheries for any specific fish stock. Most rural residents participate in fisheries more plentiful and closer to their residences where there is a meaningful preference provided under state and federal regulations.

Effect on other uses, i.e. sport/recreational and commercial: This will reduce the need to implement additional restrictions on other fisheries, such as reduced limits, increased sizes, closures, and other conservative measures in order to protect fragile, resident fish stocks along the Juneau road system. These additional restrictions are anticipated due to the unsustainable current federal subsistence fishery authorizations if even a few rural residents participate.

Communities which have used this resource: Residents of the community of Juneau utilize this resource under State sport fishing regulations.

Where the resource has been harvested: Montana, Fish, Peterson, and Cowee Creeks and Windfall Lake drainage.

When the resource has been harvested: Most harvest occurs during the months from April to November, but some harvest may occur at other times.

Proposed by: Alaska Department of Fish and Game.

PROPOSAL FP09-06

Existing regulation: Cook Inlet Area—Steelhead

§ __.27(i)(10)(i) Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time in the Cook Inlet Area. If you take rainbow/steelhead trout incidentally in subsistence net fisheries, you may retain them for subsistence purposes, unless otherwise prohibited or provided for in this section. With jigging gear through the ice or rod and reel gear in open waters there is an annual limit of 2 rainbow/steelhead trout 20 inches or longer, taken from Kenai Peninsula fresh waters.

(iv) You may only take salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein. Additionally for Federally managed waters of the Kasilof and Kenai River drainages:

(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) Resident fish species including lake trout, rainbow/steelhead trout, and Dolly Varden/Arctic char may be harvested in Federally managed waters of the Kasilof River drainage. Resident fish species harvested in the

Kasilof River drainage under the conditions of a Federal subsistence permit must be marked by removing the dorsal fin immediately after harvest and recorded on the permit prior to leaving the fishing site.

Proposed regulation: Cook Inlet Area—Steelhead

§ __.27(C)(10)(i) *Unless restricted in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time on **Federal public lands** in the Cook Inlet Area. If you take rainbow/steelhead trout incidentally in subsistence net fisheries, you may retain them for subsistence purposes, unless **and except as** otherwise prohibited or provided for in this section. With jigging gear through the ice or rod and reel gear in open waters there is a **combined** annual limit of 2 rainbow/steelhead trout 20 inches or longer, taken from Kenai Peninsula fresh waters **under a subsistence fishing permit and/or State of Alaska sport fishing regulations, except that rainbow/steelhead trout 20 inches or longer may not be taken from the Kasilof River or Kasilof River drainage by rod and reel or dip net, incidentally or otherwise, under a Federal subsistence permit and must be immediately released to the water instead.***

*(iv) You may only take salmon, trout, Dolly Varden, and other char under authority of a Federal subsistence fishing permit. Season, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) **unless modified herein.** Additionally . . . **in the Kasilof and Kenai River drainages, the seasons, harvest and possession limits, and methods and means for take are modified to permit only the following (except that the annual limit of 2 rainbow/steelhead trout 20 inches or longer where not otherwise limited and the prohibition against taking grayling or burbot also apply):***

*(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 **less than 20 inches long** 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) Resident fish species including lake trout, rainbow/steelhead trout, and Dolly Varden/Arctic char may be harvested in Federally managed waters of the Kasilof River drainage **except as otherwise provided.** Resident fish species harvested in the Kasilof River drainage under the conditions of a Federal subsistence permit must be marked by removing the dorsal fin immediately after harvest and recorded on the permit prior to leaving the fishing site.*

Reason for changing the regulation: This regulation correction/update is necessary to ensure the conservation of rainbow/steelhead trout, grayling, and burbot in the Kenai Peninsula fresh waters and will eliminate language in the present regulation that could be construed to permit accumulation of state and Federal bag limits. This will also establish consistency between Federal and state regulations and be consistent with the direction of the Federal Subsistence Board in May 2007. It will also reduce user confusion and the likelihood of State enforcement actions against Federal subsistence users who might mistakenly interpret the regulation to allow accumulation of Federal and state bag limits.

Effect of change on fish or shellfish populations: If the proposed corrections are made to the above regulation they should ensure the conservation of rainbow/steelhead trout, grayling, and burbot and prevent the accumulation of state and Federal bag limits in these important Kenai Peninsula fisheries.

Effect of change on subsistence users: The change will continue to provide a meaningful preference by allowing subsistence use at present levels proposed without harming the conservation of the rainbow trout, steel head trout, grayling, or burbot. It will prevent the taking of more than 2 rainbow/steelhead trout in possession and prevent any taking of grayling or burbot. It will also reduce user confusion and the likelihood of State enforcement actions against Federal subsistence users who might mistakenly interpret the regulation to allow accumulation of Federal and state bag limits.

Effect on other uses, i.e. sport/recreational and commercial: It will not change the current use of the sport/recreational or commercial use of rainbow trout, steelhead trout, grayling, or burbot as this is consistent with present State of Alaska regulations.

Proposed by: Alaska Department of Fish and Game

PROPOSAL FP09-07

Existing regulation: Cook Inlet Area—Resident Species

<i>Kenai Peninsula District—Waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest</i>	<i>All fish.</i>	<i>Residents of the communities of Hope and Cooper Landing.</i>
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Proposed regulation: Cook Inlet Area—Resident Species

<i>Kenai Peninsula District—Waters north of and including the Kenai River drainage within the Kenai National Wildlife Refuge and the Chugach National Forest</i>	<i>All fish.</i>	<i>Residents of the communities of Ninilchik, Hope and Cooper Landing.</i>
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Reason for changing the regulation: We propose that residents of Ninilchik be allowed to harvest resident species in the Federal waters of the Kenai River drainage and that access on Federal property including trails, banks, catwalks, and all other Federal access be specifically allowed for Federally qualified subsistence users using dip and rod and reel methods and means in Federal areas.

Subsistence users in Ninilchik would like to harvest from traditional areas on the Kenai River because the Federal waters available for subsistence harvest are not always effective harvest areas. Since the Federal waters cannot be changed it is truly beyond the control of the community. We believe this would provide meaningful opportunity to harvest resident species and offer alternate areas for harvest.

Effect of change on fish or shellfish populations: None, subsistence users will be provided the Federally mandated preference under section 804 of ANILCA.

Effect of change on subsistence users: This will allow for meaningful and effective subsistence fishing opportunities under Federal subsistence regulations..

Effect on other uses, i.e. sport/recreational and commercial: Not applicable under section 804 of ANILCA.

Communities which have used this resource: Ninilchik, and other Federally qualified rural residents.

Where the resource has been harvested: Please refer to the record of testimony from the SCRAC and the Federal Subsistence Board Meetings.

When the resource has been harvested: Year around.

Proposed by: Ninilchik Traditional Council

PROPOSAL FP09-08

Existing regulation: Cook Inlet Area—Kenai River Salmon

§ ____.27(i)(10)(iv)(D)

(i) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to 2 baited single or treble hooks from June 15–August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).

Proposed regulation: Cook Inlet Area—Kenai River Salmon

§ ____.27(i)(10)(iv)(D)

*(i) At the Kenai River Moose Range Meadows site, dip netting is allowed **only** from **the bank or** a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to 2 baited single or treble hooks from June 15–August 31. Seasonal riverbank closures and motor boat restrictions are the same as those listed in State of Alaska fishing regulations (5 AAC 56 and 5 AAC 57 and 5 AAC 77.540).*

Reason for changing the regulation: Subsistence users are being excluded from utilizing effective means of harvesting resources because of the requirement of using boats for harvest. Not all of the subsistence users have boats.

Effect of change on fish or shellfish populations: None, subsistence users will be provided the federally mandated preference under section 804 of ANILCA.

Effect of change on subsistence users: This will allow for meaningful effective subsistence fishing opportunities under federal subsistence regulations.

Effect on other uses, i.e. sport/recreational and commercial: Not applicable under section 804 of ANILCA.

Proposed by: Ninilchik Traditional Council

PROPOSAL FP09-09

Existing regulation: Cook Inlet Area—All Fish

§ ____.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).

(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 regulation: Cook Inlet Area—All Fish

§ __.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 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:*

Reason for changing the regulation:

1. The reporting and recording requirements are worded in a way that make 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.

Effect of change on fish or shellfish populations: These changes help clarify implementation of the existing fisheries and would adjust Federal regulations following Alaska Board of Fisheries actions. The only substantive change to fish populations would be the reduction in harvest limits for lake trout in Hidden Lake.

Effect of change on subsistence users: Most of these changes would not impact subsistence users much, if at all.

Effect on other uses, i.e. sport/recreational and commercial: There will be very little, if any, impact to other fisheries in the Cook Inlet area.

Proposed by: U.S. Fish and Wildlife Service

PROPOSAL FP09-10

Existing regulation: Cook Inlet Area—Chinook Salmon, Lake Trout

§____.27(i)(10) Cook Inlet Area

(E)(2) For early-run Chinook salmon less than 44 inches or 55 inches or longer, daily bag and possession limits are 2 per day and 2 in possession.

(G)(1) For lake trout 20 inches or longer, daily bag and possession limits are 4 per day and 4 in possession. For fish less than 20 inches, daily bag and possession limits are 15 fish per day and 15 in possession. For Hidden Lake, daily limits are 4 per day and 4 in possession regardless of size.

Proposed regulation: Cook Inlet Area—Chinook Salmon, Lake Trout

§____.27(i)(10) Cook Inlet Area.

(E)(2) For early-run Chinook salmon less than ~~44~~ **46** inches or 55 inches or longer, daily ~~bag~~ **harvest** and possession limits are 2 per day and 2 in possession.

(G)(1) For lake trout 20 inches or longer, daily ~~bag~~ **harvest** and possession limits are 4 per day and 4 in possession. For fish less than 20 inches, daily ~~bag~~ **harvest** and possession limits are 15 fish per day and 15 in possession. For Hidden Lake, daily **harvest and possession** limits are ~~4~~ **2** per day and ~~4~~ **2** in possession regardless of size.

Reason for changing the regulation: The changes to the early run Chinook salmon slot limit and the Hidden Lake harvest limit are similar to changes made by the Alaska Board of Fisheries in February 2008.

Effect of change on fish or shellfish populations: These changes would adjust Federal regulations following Alaska Board of Fisheries actions. The only substantive change to fish populations would be the reduction in harvest limits for lake trout in Hidden Lake. A study is being conducted by the Kenai Fish and Wildlife Field Office during the 2008 field season to help assess the population status of lake trout in Hidden Lake.

Effect of change on subsistence users: The change to the early run Chinook salmon slot limit will provide more fish available for harvest and the reduced harvest limit for lake trout in Hidden Lake would reduce potential daily harvests.

Effect on other uses, i.e. sport/recreational and commercial: There will be very little, if any, impact to other fisheries in the Cook Inlet area. The early run Chinook salmon slot limit would be the same for all fisheries and the daily harvest limit for lake trout in Hidden Lake would remain double the daily sport harvest limit which is consistent with the original intent of the Federal subsistence regulations for this area when they were first put into place in May of 2007.

Proposed by: U.S. Fish and Wildlife Service

PROPOSAL FP09-11

Existing regulation: Chignik Area—Salmon

§____.27(i)(8)(ii) Chignik River/Black and Chignik Lakes areas. You may not take salmon in the Chignik River, from a point 300 feet upstream of the ADF&G weir to Chignik Lake from July 1 through August 31, in Black Lake, or any tributary to Black or Chignik Lakes.

Proposed regulation: Chignik Area—Salmon

*§____.27(i)(8)(ii) 7 Chignik River/Black and Chignik Lakes areas. You may not take salmon in the Chignik River, from a point 300 feet upstream of the ADF&G weir to Chignik Lake from July 1 through August 31, in Black Lake, or any tributary to Black or Chignik Lakes, **except those waters of Clark River and Home Creek from their confluence with Chignik Lake upstream one linear mile.***

Reason for changing the regulation: The Alaska Board of Fisheries recently adopted this change which provides additional opportunities for people fishing under State subsistence regulations. However, this regulatory change makes Federal regulations more restrictive than State regulations, since people fishing under a Federal subsistence permit could not legally take salmon in the Chignik Lake tributaries of the Clark River and Home Creek.

Effect of change on fish or shellfish populations: None.

Effect of change on subsistence users: None, it would allow Federally qualified subsistence users to fish in other areas where salmon was traditionally harvested before the area was closed.

Effect on other uses, i.e. sport/recreational and commercial: None.

Proposed by: Bristol Bay Subsistence Regional Advisory Council

PROPOSAL FP09-12

Existing regulation: Yukon-Northern Area—Salmon

§ ____.27(i)(3)(xiii) *You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.*

Proposed regulation: Yukon-Northern Area—Salmon

§ ____.27(i)(3)(xiii) *You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.*

(B) In the Yukon River drainage, the maximum gillnet size is 7.5 inch stretch mesh for subsistence and commercial salmon fishing in Federal public waters, with a three-years phase-in period for subsistence fishers, and a one-year phase-in period for commercial fishers.

Reason for changing the regulation: Larger nets have a detrimental effect on the stock composition and quality of escapements for Yukon River Chinook salmon and tend to target the larger female Chinook salmon. There have been continued poor returns of Yukon River salmon in most years since 1998 including 2007. This has led to conservation concerns on the spawning grounds. These poorer returns are also not allowing subsistence users to have reasonable opportunity to meet their subsistence salmon needs. The continued use of the larger gillnets has changed, and will continue to change the composition of the Chinook stocks harvested. Subsistence fishers in the middle and upper Yukon Rivers have repeatedly noted that the returning Chinook salmon are getting smaller and conservation measures are needed to protect the larger fish that in turn protects the genetic variability and integrity of the Yukon River Chinook salmon stocks.

The Yukon River Chinook stocks once had great diversity in age and structure. In 1980, eight-year old fish comprised 3.2 percent of the Canadian component. Today they are extinct. The currently used 8.5 inch mesh nets electively over-harvests the larger six- and seven-year old fish. Their steep decline, as a percentage of the total run, reflects their exploitation in the lower river gillnet fisheries. An Alaska Department of Fish and Game study in 2004 proved that 8.5 inch mesh net size catch mostly the larger six year old fish while the 7.5 inch mesh net size catch mostly five year old fish. Recent studies provided to the Council and discussions Council members have had with researchers, show that the optimum net size to allow the larger fish, (generally females) to escape and spawn, is the 7.5 inch stretch mesh net. The reduction in net size would be phased in over a three-year period for subsistence users to reduce the economic burden on the subsistence fisher and match the viable use life of nets. Most nets have a useful life of three to four years before new nets need to be purchased.

Since the Federal Subsistence Board took up a similar proposal during the 2008 regulatory cycle, two new studies and a second year of an ongoing study to address this issue will be available for the Board to consider. First, the Alaska Department of Fish and Game (ADFG) funded a new study to confirm that the scale aging historically available for Yukon Chinook salmon was accurate. Three independent assessments of ADFG scale aging data confirmed that 7 and 8 year old salmon as well as other age classes were being accurately determined. Second, a study being conducted by the US Fish and Wildlife Service will evaluate the potential longterm effects of large-mesh gillnet fisheries on Yukon River Chinook salmon by stochastic modeling of population dynamics. Parameters of primary interest will include the productivity and age, sex, and size structure of Yukon River Chinook salmon. If results suggest that long-term effects are probable, the resiliency of the population to alternative harvest strategies will be explored. The results of this new study are scheduled to be available by the summer of 2008. Finally, second year results of the ongoing ADFG mesh size study being conducted in the lower Yukon River will also be available.

Effect of change on fish or shellfish populations: Returning salmon, especially the larger females, will be provided additional opportunity to reach their spawning grounds, which would help improve the quality of escapement of Chinook salmon throughout the Yukon River drainage. Passage of this proposal would address the genetic shift to smaller fish that subsistence users are noticing. Local subsistence users in the upper Yukon River area, including Canada, are reporting harvesting smaller fish. Conservation actions are necessary now to protect the genetic variability and integrity of the Yukon River Chinook salmon stocks.

Effect of change on subsistence users: The Council is keenly aware passage of this proposal would place restrictions on subsistence users but the conservation concern of the genetic impacts of large mesh nets on the larger female Chinook salmon needs to be addressed now in order to protect the Yukon River Chinook Salmon runs for subsistence needs in the future. The Council understood the need to phase in use of 7.5-inch nets to eliminate the economic burden of purchasing a new net. Without viable salmon stocks that have the genetic makeup to face the challenges of climatic changes and other impacts on salmon habitat, subsistence fishing could be significantly impacted in the near future.

Stabilizing the Yukon River Chinook salmon stocks and preventing a decrease in their size is consistent with sound management principles and the conservation of healthy populations of fish. Passage of this proposal will provide for a reasonable opportunity to meet subsistence needs during a time of rebuilding the stocks and to guarantee a realistic subsistence priority for future generations of all subsistence fishers throughout the Yukon River drainage.

Passage of this proposal would restrict subsistence users to a gear type which may require additional fishing time and effort, but it is being requested because of biological concerns and to provide for future subsistence needs. Recent studies indicate that the 7.5-inch net size is the optimum size net to catch fish. This proposal was written to be consistent with Section 802 of ANILCA, which defines the Federal subsistence management policy to be consistent with sound management principles and conservation of healthy populations of fish and wildlife in order to have the least adverse impact on rural residents who depend on those resources for their subsistence needs. Management actions are needed now in order to have the least adverse impact on all subsistence users, but especially on future generations of subsistence users.

Effect on other uses, i.e. sport/recreational and commercial: Adoption of this proposal would restrict all users, both Federally qualified and non-Federally qualified, in Federal public waters to using 7.5-inch stretch mesh, or smaller nets. The Federal Subsistence Board has the authority to close Federal public waters to Federally qualified and/or non-Federally qualified users “for the conservation of healthy populations of fish and wildlife resources”, and also has the authority to impose methods, means, time and harvest restrictions on those users, options which are less restrictive than closures. It may result in additional fishing time and effort for the current fisheries. The restriction on the fisheries is necessary for the conservation of healthy populations of fish and for the continuation of subsistence uses of those populations (ANILCA Section 815). It would also provide additional protection for the salmon stocks and allow them to return to their historic levels. Taking necessary conservation actions now will provide for the subsistence as well as commercial fisheries needs in the future. Not taking action will hurt future fisheries across the drainage as they face the challenges of climatic and human population changes.

Additional Information: This proposal was passed by the Council during their public meeting in March 2008 in Tok, Alaska.

Proposed by: Eastern Interior Alaska Subsistence Regional Advisory Council

PROPOSAL FP09-13

Existing regulation: Yukon-Northern Area—Salmon

§ __.27(i)(3)(xiii) *You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.*

Proposed regulation: Yukon-Northern Area—Salmon

§ __.27(i)(3)(xiii) *You may take salmon only by gillnet, beach seine, fish wheel, or rod and reel, subject to restrictions set forth in this section.*

(A) In the Yukon River drainage, all gillnets with greater than six-inch stretch mesh, may not be more than 35 meshes in depth in Federal public waters.

Reason for changing the regulation: Deeper nets are having a detrimental affect on the stock composition and quality of escapements for Yukon River Chinook salmon and tend to target the larger female Chinook salmon. There have been continued poor returns of Yukon River salmon in most years since 1998 including 2007. This has led to conservation concerns on the spawning grounds bringing into question the sustained yield principle used in State management. These poorer returns are also not allowing subsistence users a reasonable opportunity to harvest their subsistence salmon needs.

The use of the deeper drift gillnets has and will continue to change the composition of the Chinook stocks harvested. Stationary set gillnet and fish wheel gear likely harvest more local Chinook salmon stocks, while the mobile drift gillnet gear will most likely harvest more Canadian origin Chinook salmon stocks which are know to be larger on average than Alaska stocks. This knowledge is commonly accepted along the river. Allowing the use of greater than 35 mesh depth nets would be inconsistent with the conservation of natural and healthy populations of fish.

For test fish wheels and net monitoring projects, the break point for recording a larger Chinook salmon is 655 mm in length from the center of the fish eye to the fork of the tail. Fish less than 655 mm in length are considered small fish. For the average fisher, this translates to a 28 inch fish or greater that are considered large fish for management purposes. Published monitoring data from these projects list 655 mm fish to be 14 pounds or larger in weight. Dr. Kocan's Ichthyophonous studies on Chinook salmon in the Tanana and Rampart Rapids area, weighed as well as measured, the fish he collected. The 655 mm fish he collected weighed 7 to 8 pounds. This confirms what the fishers in the middle and upper Yukon Rivers have noted that the returning Chinook salmon are getting smaller and conservation measures are needed to protect the larger fish that in turn protects the genetic integrity of the Yukon River Chinook salmon stocks.

Current management plans for sustainable fishing ignore the consequence of selective harvesting that gear types can have on returning salmon. The Council supports that size-selective mortality causes genetic changes because they hear from the fishers and elders across the drainage that the returning fish are smaller in size and weight. Alaska Department of Fish and Game studies have shown gill nets to be size selective for Chinook Salmon ("A study of Chinook salmon in Southeast Alaska" Sport Fish Division (1975, Volume 17 AFS 41); "Age, sex, and length composition of Chinook salmon from the 2002 Kuskokwim River subsistence fishery (2004 Regional Information Report No. 3A04-13)). The U.S. Fish and Wildlife Service study, "Chinook Salmon Age, Sex, and Length Analysis from Selected Escapement Projects on the Yukon River (Alaska Fisheries Technical Report Number 87) clearly states the scope of their analysis was limited since they could only examine a smaller number of spawning populations over a short time period when both the fisheries and the environment were changing, The report went on further that "without accurate baseline data on age, sex, and length composition of the Yukon River Chinook salmon stocks, it is not possible to determine whether any of the trends we found were due to selectivity of the gill-net fishery". The data from fishers and others clearly show a decline in the size of the fish which demands action be taken to address the decline. Even if the ASL study cannot definitively show it is because

of gill-net fishery, reducing the depth of nets will allow more fish and bigger fish to reach the spawning grounds, thereby protecting the genetic viability of salmon stocks for future generations across the drainage including Canada.

Effect of change on fish or shellfish populations: Returning salmon, especially the larger females, will be provided additional opportunity to reach their spawning grounds which would help improve the quality of escapement of Chinook salmon throughout the Yukon River drainage.

Passage of this proposal would afford protection of the larger Chinook salmon migrating to their spawning grounds. Passage would address the potential genetic shift to smaller fish that subsistence users are noticing. Local subsistence users in the upper Yukon River area, including Canada, are reporting harvesting smaller fish. Conservation actions are necessary now to protect the genetic integrity of the Yukon River Chinook salmon stocks. Nets need to be raised in depth so the larger fish can migrate under the nets and provide a more reasonable opportunity for upriver subsistence users.

The Tozitna River fisher monitoring project is one example showing that the composition of Chinook salmon escapement is heavily skewed toward smaller, male fish or jacks. Conservation measures need to be taken now in order to maintain the genetic integrity and productivity of the Yukon River Chinook salmon stocks that face ocean competition with hatchery fish, commercial by-catch, and climatic changes. Maintaining strong genetic diversity provides flexibility and safeguards for both management and users who depend on this valuable natural resource.

Effect of change on subsistence users: The Council is keenly aware passage of this proposal would place restrictions on subsistence users, but the conservation concern of the genetic impacts of deeper nets on the larger female Chinook salmon needs to be addressed now in order to protect the Yukon River Chinook Salmon runs for subsistence needs in the future. Without viable salmon stocks that have the genetic makeup to face the challenges of climatic changes and other impacts on salmon habitat, subsistence fishers on the Yukon River could have a rural priority for no fish or a priority for smaller fish that requires they fish harder and longer.

Subsistence fishing opportunity would be spread more equably across the drainage and necessary conservation measures would be in place to allow the salmon to rebuild their genetic and stock composition for future subsistence and commercial needs.

Stabilizing the Yukon River Chinook salmon stocks and preventing a decrease in their size is the right step for the fisheries and is good for subsistence in the future. Passage of this proposal will provide for a reasonable opportunity for all subsistence fishers across the drainage.

Passage of this proposal would restrict subsistence users to a shallower depth net which may require additional fishing time and effort, but is being requested because of biological concerns and to provide for future subsistence needs. Section 802 of ANILCA defines the policy of the law; subsistence management is to be consistent with sound management principles and conservation of healthy populations of fish and wildlife in order to have the least adverse impact on rural residents who depend on those resources for their subsistence needs. This proposal was written to be consistent with sound management principles and to conserve healthy populations of fish. Management actions are needed now in order to have the least adverse impact on all subsistence users but especially for future generations of subsistence users.

Effect on other uses, i.e. sport/recreational and commercial: Adoption of this proposal would restrict all users, both Federally qualified and non-Federally qualified, in Federal public waters. The Federal Subsistence Board has the authority to close Federal public waters to Federally qualified and/or non-Federally qualified users “for the conservation of healthy populations of fish and wildlife resources,” and also has the authority to impose methods, means, time and harvest restrictions on those users, options which are less restrictive than closures. It may result in additional fishing time and effort for the current commercial fisheries. The restriction on the commercial fisheries is necessary for the conservation of healthy populations of fish and for the continuation of subsistence uses of those populations (ANILCA Section 815). It would also provide additional protection for the salmon stocks and allow them to return to their historic levels.

Taking necessary conservation actions now will provide for the subsistence as well as commercial fisheries needs in the future. Not taking action will hurt future fisheries across the drainage as they face the challenges of climatic and human population changes.

It would have the beneficial effect on sport/recreational uses by increasing the opportunity for these uses to harvest larger fish throughout the drainage.

Additional Information: This proposal was passed by the council during their public meeting in March 2008 in Tok, Alaska.

Proposed by: Eastern Interior Alaska Subsistence Regional Advisory Council

PROPOSAL FP09-14

Existing regulation: Norton Sound-Port Clarence Area—Chinook Salmon

No existing regulation.

Proposed regulation: Norton Sound-Port Clarence Area—Chinook Salmon

Federal public waters of the Unalakleet River, upstream from the mouth of the Chirosky River will be closed to the taking of Chinook salmon from June 15 to July 5, except by Federally qualified subsistence users.

Reason for changing the regulation: To protect spawning Chinook stocks identified by the State of Alaska as a stock of concern since the year 2000.

Effect of change on fish or shellfish populations: Guarantee spawners to travel unmolested to their spawning grounds.

Effect of change on subsistence users: No immediate effect. However more spawners escaping mean more fish returning in the future. Also, subsistence caught Chinook occur in the marine waters and near the mouth of the Unalakleet River.

The Chinook salmon spawning grounds are mostly upriver from the confluence of the Chirosky River located about 20 miles east of Unalakleet. To protect the spawners, a boundary must be established. The Alaska Department of Fish and Game and residents of Unalakleet are concerned about the quality of escapement of Chinook (high male count ratio) and the protection of the escapement once up river must occur. For the first time in history, the Chinook subsistence fishery was restricted in marine waters, because of 2 years not meeting escapement. The set net Chinook commercial fishery was closed for two years. Three years ago, the commercial season for Chinook was opened and only approximately 100 Chinook were harvested in a 24 hours period. Conservation of the Chinook is the ADF&G and Unalakleet's main concern, and the proposal will help in cooperation with conservation proposals that were adopted.

Effect on other uses, i.e. sport/recreational and commercial: Minimal change. Most sport fishing for Chinook occur near the mouth of the Unalakleet River to 10 miles upriver.

Proposed by: Native Village of Unalakleet



FISH and WILDLIFE SERVICE
BUREAU of LAND MANAGEMENT
NATIONAL PARK SERVICE
BUREAU of INDIAN AFFAIRS



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